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Wednesday 21 November 2018

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Scottish Parliament

Wednesday 21 November 2018

[The Presiding Officer opened the meeting at 14:00]

Portfolio Question Time

Justice and the Law Officers

Hate Crime

1. Tom Arthur (Renfrewshire South) (SNP): To ask the Scottish Government what it is doing to tackle hate crime. (S5O-02570)

The Cabinet Secretary for Justice (Humza Yousaf): Hate crime has hugely damaging effects on victims, their families and communities, and we must all play our part in challenging it. We are doing a number of things as part of our ambitious programme of work to tackle hate crime and build community cohesion. That includes the recent launch, on 14 November, of our consultation “One Scotland: Hate Has No Home Here”, which will inform the content of modernised hate crime legislation that is fit for the 21st century.

In addition, on 26 September, our campaign to tackle hate crime was launched in partnership with Police Scotland. The campaign aims to encourage witnesses to report hate crime and sends a clear message that hatred and prejudice will not be tolerated in Scotland.

Our consultation is open to all individuals, communities and organisations, and it will inform future legislation to address identified needs and afford sufficient protection for those who need it. I hope that everyone with an interest will participate in the consultation process.

Tom Arthur: I welcome the work that the Scottish Government is undertaking. The day after this Parliament rose for the summer recess, my constituent Blair Wilson, who is from Neilston, was subject to homophobic abuse and a physical assault. Had we been subject to such an experience, many of us would have run, hidden or cowered, but Blair did not. He took out his phone. He took a selfie, and that image of his bloodied but smiling and defiant face sent a clear message that resonated not just across Scotland but around the world. Will the cabinet secretary join me in paying tribute to Blair? Does he agree that it is because of the dignity, compassion and values of people like Blair and countless others that, together, we will consign hate crime to history?

Humza Yousaf: I could not have articulated that point better than Tom Arthur. I add my own

admiration for Blair Wilson and how he conducted himself in the aftermath of that terrible hate crime. A number of other people came out with their support for and admiration of Blair.

I have been the victim of hate crime and know how difficult it is to deal with. I know how much of a personal and emotional effect it can have. Nobody would have faulted Blair if he had chosen to deal with the situation in a personal way. However, as Tom Arthur says, instead he defiantly chose to tell his story and put out there some of the terrible hatred that gay people have to deal with and the homophobic abuse that he went through. So, yes, I join Tom Arthur in putting on record my admiration for Blair and for the countless others who stand defiantly in the face of hatred. There is simply no home for hatred in Scotland.

Liam Kerr (North East Scotland) (Con): Lord Bracadale’s expert review recommended that statutory aggravators rather than stand-alone offences should continue to be the core method of prosecuting hate crimes in Scotland. Why does the Scottish Government appear to be departing from that recommendation?

Humza Yousaf: We are not. We are going to consult on Lord Bracadale’s recommendations. We still think that statutory aggravators are the right way to go.

I do not know from where the member’s question stems. If it is about misogyny, we will consult and take views on that. The views that come back to us may well suggest that the issue of misogyny, which is deeply ingrained in our society and our institutions, may be looked at outwith the hate crime framework. I will wait to see the consultation responses, and I will shortly meet Engender and other organisations that are vocal on the issue.

We are definitely consulting on the statutory aggravator that Lord Bracadale thought was the best approach to tackling hate crime. However, I will wait for the consultation responses on misogyny to come back before we undertake detailed consideration and define the best approach to tackling that issue.

Police Scotland (Number of Police Officers)

2. Jamie Greene (West Scotland) (Con): To ask the Scottish Government how many police officers there are. (S5O-02571)

The Cabinet Secretary for Justice (Humza Yousaf): As of 30 September 2018, there were 17,147 full-time equivalent police officers in Scotland, which is an increase of 913 since 2007.

Jamie Greene: If he digs deeper into those figures and looks at the number of divisional

officers, the cabinet secretary will see that it has been cut by nearly 350 since the regional forces were merged. The most recent Scottish crime and justice survey has revealed that the number of Scots who are aware of a local police patrol has dropped by more than 10 per cent since 2012. Given those findings, if the cabinet secretary does not think that there has been a loss of front-line capacity, does he at least accept that that is the public's perception?

Humza Yousaf: I applaud Jamie Greene's brass neck in asking that question and having the audacity to come to the chamber and lecture the Scottish National Party on police numbers when we have increased their number since coming into power and have protected police budgets.

There has been a 5 per cent increase in the number of police officers since 2007; the record of Jamie Greene's party in England and Wales is a reduction of 20,000 officers. His party was in control for the majority of that 13 per cent reduction. If we applied that reduction to Scotland, there would be only 14,000 officers and not 17,147 officers. The member will have to forgive my choosing not to take any lectures from him on police officer numbers.

On the split between divisional, regional and national policing, local communities benefit from having officers in the national structure when it comes to national capabilities for tackling human trafficking and dealing with child protection. That capability is felt at a local level.

We will continue to do what we are doing, which has led to a reduction in the crime rate over the past decade; we will continue to reward our officers with a 6.5 per cent pay increase; we will continue to make sure that they are well resourced; and we will continue to make sure that we have a capable police service.

The next time that Jamie Greene comes to the chamber to question and lecture me on police numbers, he may want to look at what his party is doing south of the border.

Kenneth Gibson (Cunninghame North) (SNP): The cabinet secretary clearly shares my astonishment at the sheer cheek of the Tories, who blindly support a United Kingdom Government that has cut police officer numbers in England and Wales by a whopping 21,330 yet criticise this Government for increasing—yes, increasing—the number of police officers by 913. Does the cabinet secretary agree that, if the Tories really cared about policing, they would demand that the UK Government return to Police Scotland the £125 million in VAT payments that it owes us?

Humza Yousaf: Yes, I associate myself with that request. Receiving the backdated VAT for the

Scottish Fire and Rescue Service would be a nice complement to that.

It is not just me who thinks that the Tories are completely decimating policing south of the border. In its report, the Home Affairs Select Committee said that the Home Office, which is run by Jamie Greene's party, shows a

"complete failure of leadership on policing".

That report was, of course, signed by two Scottish Tory MPs.

We will continue to do the good work that we are doing on policing, which has led to record low levels of crime in Scotland, and I will continue to let Jamie Greene carp from the sidelines.

The Presiding Officer (Ken Macintosh): I urge members to keep their questions and answers short, please.

Police Scotland (Recruitment Vetting Procedures)

3. Alex Cole-Hamilton (Edinburgh Western) (LD): To ask the Scottish Government what discussions it has had with Police Scotland regarding the reform of vetting procedures for recruitment to the police service. (S50-02572)

The Cabinet Secretary for Justice (Humza Yousaf): Vetting procedures are an operational matter for Police Scotland within the overall legal framework provided by the Parliament. Scottish Government officials regularly meet Police Scotland to discuss a range of issues and, on occasion, the meetings cover the operation of vetting procedures for recruitment to Police Scotland.

Alex Cole-Hamilton: Jamie Duff is a 23-year-old constituent of mine. On two occasions, he has applied to join Police Scotland as a police officer and a special constable. He has been rejected both times at the vetting phase for third-party association. Jamie's father has a criminal record. Jamie became estranged from his father aged one. Such a restriction does not apply in other parts of the United Kingdom. Does the cabinet secretary agree that people such as Jamie should not be impeded in their life choices because of the sins of their parents?

Humza Yousaf: Alex Cole-Hamilton will, I hope, forgive me if I do not go into the details of specific cases. I do not have the details of the case to which he refers, but I am more than happy for him to share those details with me and to have a conversation with Police Scotland. In the same vein, I am sure that the member will completely understand that, as a Government minister, I would not look to interfere in the vetting process in individual cases—it simply would not be right for a

Government minister to have the power to decide who was or was not recruited to the police.

On third-party vetting, as Alex Cole-Hamilton says, checks are undertaken not only on the applicant but on third parties who are linked to the applicant, including family members and associates. When there is information that those third parties have convictions or are engaged in criminal activity, the police consider carefully whether the relationship is likely to compromise the applicant or the operations of Police Scotland—or, indeed, its reputation. Police Scotland will always work within a legal framework and, if the risk is considered too great, an applicant can be refused clearance during vetting.

I will make a final general and hypothetical point—it is not at all related to the case that Mr Cole-Hamilton has raised. From my conversations with stakeholders in the criminal justice system and others, I understand that there is a concern about serious organised crime groups attempting to infiltrate the police. Therefore, there is an understanding of why these important vetting procedures have to be in place.

Daniel Johnson (Edinburgh Southern) (Lab):

The issue of vetting goes to the heart of the integrity of our police officers, which is why the issues relating to the inappropriate categorisation of complaints and the process of justice that were raised by Kate Frame at the Justice Committee last week are so serious. Does the cabinet secretary know whether charges have been brought against any of the officers who were implicated in those cases?

Humza Yousaf: I am not sure that that question is directly related to vetting, but I can say that I had a good conversation with Kate Frame, the Police Investigations and Review Commissioner, after her appearance at the Justice Committee. I do not know the specifics of how those cases have progressed, but I advise the member that the Justice Committee has undertaken detailed consideration of the issue of complaints, which he has been involved in. I await the Justice Committee's report and recommendations, and I also await the interim findings of the review of the issue that Dame Elish Angiolini is carrying out. Of course, the Government has an open mind about how we can improve the complaints procedure.

Maurice Corry (West Scotland) (Con): What plans does the cabinet secretary have to recruit more armed forces veterans to either full-time posts in Police Scotland or special constable posts?

Humza Yousaf: I will raise the issue with Police Scotland. However, as I said in response to Alex Cole-Hamilton's question, that is an operational matter for Police Scotland.

Just yesterday, I had a good conversation with the chief constable about how we want to increase the diversity of the police force and ensure that there is a mix of people that reflects wider society. If Maurice Corry wants to write directly to the chief constable about that important issue, he can do that. Equally, if he wants me to raise the issue in my next conversation with the chief constable, I shall be happy to do that.

Forensic Examination Facilities (Orkney)

4. **Liam McArthur (Orkney Islands) (LD):** To ask the Scottish Government what progress is being made in establishing forensic examination facilities in Orkney for victims of rape or sexual assault. (S5O-02573)

The Cabinet Secretary for Justice (Humza Yousaf): NHS Orkney is in the process of establishing a trauma-informed, person-centred forensic medical examination and healthcare service for adult victims of rape and sexual assault. The local pathways of care have been developed in collaboration with multiagency partners including Orkney Rape Crisis.

The Scottish Government has committed £2.25 million in the current financial year to help embed the published Healthcare Improvement Scotland standards and to ensure a consistency in approach to the delivery of these services across the country.

Liam McArthur: I echo the cabinet secretary's support for the work that has been done by Orkney Rape Crisis and NHS Orkney. I also pay tribute to his predecessor, Michael Matheson, who was incredibly supportive of these efforts. I understand from NHS Orkney that there are now two doctors who are trained under the service and that there were 20 expressions of interests as the result of a recent advert. Unfortunately, the training that is required by people who want to take up the posts requires travel off-island, which involves a cost in terms of travel and accommodation.

Will the cabinet secretary encourage colleagues in NHS Education Scotland to help support the delivery of training in Orkney so that we can maximise the resource and the capability domestically in Orkney?

Humza Yousaf: I know that Liam McArthur has had an interest in this issue for a while. I thank him for his recognition of the work that my predecessor did, and I put on record my recognition of the excellent work that is being done by the task force that is led by the chief medical officer, Dr Catherine Calderwood, and the good work that is being done by other partners and stakeholders.

I promise to reflect on the issues that Mr McArthur raises and come back to him with some

updates. It might be possible to deliver the training on Orkney, but, equally, it might not. In the latter case, we should perhaps consider the travel costs that are involved and perhaps come to some sort of agreement on that. I have an open mind in that regard. If Mr McArthur allows me the time, I will reflect on what he has said and see whether I can come up with a solution that satisfies everybody.

Rhoda Grant (Highlands and Islands) (Lab): Can I ask about services for children who have suffered abuse? I understand that moves are being made to protect adults, but children will still need to go off island. Will the cabinet secretary look at that to make sure that children should not have to travel in such circumstances?

Humza Yousaf: I will. Let me also put on record the member's efforts on this—I know that she wrote to and had a conversation with my predecessor on this hugely important issue.

Where travel can be avoided, it absolutely should be. However, because of the specialist training, equipment and sensitivities around children, we know that that might not always be able to be the case. However, where it can be the case, we should absolutely look at that.

I promise to write to Rhoda Grant to update her on where we are in relation to children who have been victims of rape. However, I think that all of us around the chamber understand the sensitivities involved in this. We are working on a better solution for our children, whether they are on islands or on our mainland.

Secure Units

5. Pauline McNeill (Glasgow) (Lab): To ask the Scottish Government what information sheriffs are given regarding the availability of secure unit places when disposing of a case involving a young offender. (S50-02574)

The Cabinet Secretary for Justice (Humza Yousaf): It is a matter for the judge acting independently to decide what information is required when disposing of a case. In remand cases, the local authority should request that the young person be remanded to their care. It is the local authority's responsibility to approach each secure unit to establish whether secure care is available as an option.

If the young person is likely to receive a custodial sentence at a solemn proceeding, it is the Scottish ministers' responsibility to identify, in advance of court, an appropriate placement.

Pauline McNeill: Last week, I raised the case of William Lindsay, who took his own life while on remand in Polmont prison. I want to be clear about what the cabinet secretary is saying: does he agree that the availability of secure places should

not be a consideration for the sheriff who is trying to make a decision about the appropriate disposal? Can the cabinet secretary answer the question about the reduction in secure places, which must surely be a cause for concern?

I fully understand that an investigation is on-going in relation to deaths in Polmont prison. However, while that investigation is taking place, surely the cabinet secretary should satisfy himself that there are adequate alternatives to prison in cases where that is appropriate?

Humza Yousaf: Pauline McNeill raises very important points. I put on record, once again, my sympathy for the family of William Lindsay.

I know that Pauline McNeill has written to me to request a meeting and I am of course happy to meet with her and to keep other members updated.

To reiterate what I said, it is the responsibility of the local authority to find out whether secure accommodation is available.

On the issues around the availability of secure units, Pauline McNeill is absolutely right that there have been issues over the past few years around the lack of capacity in secure units. The Deputy First Minister and I are looking at those issues extremely closely. Some of those issues have been because of cross-border cases—a lot of the cases that come to us are cross-border cases—and there are some sensitivities around ensuring that there is a certain level of occupancy within secure units, so that they can maintain and sustain themselves. However, that should not be at the cost of not having a space available, should it be required. Those are the issues that the Deputy First Minister and I are looking at, and I should be able to say more about what we are looking to do in relation to them in the coming days.

On individual circumstances, I say once again that there will be mandatory fatal accident inquiries into the cases of both William Lindsay and Katie Allan at Polmont. However, as the First Minister said at First Minister's question time last week, we will not wait for those FAIs to make changes and to effect change in a positive manner where we can. I will make sure that Pauline McNeill is kept up to date on that.

Hate Crime

6. Patrick Harvie (Glasgow) (Green): To ask the Scottish Government whether it expects to legislate on hate crime during the current parliamentary session, following the end of the consultation process in 2019. (S50-02575)

The Cabinet Secretary for Justice (Humza Yousaf): Our intention is to legislate on hate crime during the current parliamentary session.

However, before doing so, it is essential that we have heard the voices of communities so that we are sure that the legislation we introduce is relevant, appropriate and fit for the 21st century.

Balancing new legislation with rights to free speech and civil liberties is also essential and we need to look carefully at the outcomes of our consultation—which is open to all individuals, communities and organisations—so that our legislation addresses identified needs and affords sufficient protection for those who need it. I hope that everyone with an interest will participate in the consultation process.

Patrick Harvie: I certainly agree that we should encourage everyone to participate in the consultation and I recognise the importance of that process. However, it is pretty much a decade since the arguments were first made for a comprehensive approach to hate crime instead of the piecemeal approach that we had seen before then, so the commitment to legislation during this parliamentary session is welcome.

I have a question about one of Lord Bracadale's review recommendations. He concluded that specific measures in relation to anti-immigrant sentiment would not be needed because that was already covered under racial grounds. Does the Scottish Government yet have a view on that? We have clearly seen an uptick in anti-immigrant and other far right sentiment, and it seems that a case can be made for some specific measures so that those matters can be dealt with as a distinct strand of hate crime.

Humza Yousaf: I am not the only one in this chamber who is the child of an immigrant. Many of us have seen that rise in anti-immigrant sentiment right across Europe, so Patrick Harvie's point is an important one to make.

In terms of the specifics of whether there should be a statutory aggravator, for example, for anti-immigrant prejudice, there is a section in the consultation that allows for an open, general question on what other issues we need to consider.

I will keep an open mind on the issue that Patrick Harvie raises. I have not taken a view one way or the other. The issue has been raised with me previously. As I say, there is a section in the consultation that allows for additional points to be raised. I encourage the member and others who have an interest in this particular question to respond positively to the consultation.

The Presiding Officer: That concludes questions on justice and the law officers.

Transport, Infrastructure and Connectivity

Shawhead Flyover

1. **Richard Lyle (Uddingston and Bellshill) (SNP):** To ask the Scottish Government what steps are being taken to clear the land near the Shawhead flyover of building materials, barriers and fences from the M8, M73 and M74 motorway improvements. (S5O-02580)

The Cabinet Secretary for Transport, Infrastructure and Connectivity (Michael Matheson): The area on the south side of the A8 at Shawhead junction is a compound for storing construction material for the M8, M73 and M74 motorway improvements project. Scottish Roads Partnership, the contractor for the project, has advised that the materials are likely to be stored at that location until finishing and snagging works are completed, which is expected to be in the coming months.

Richard Lyle: I will be interested to know which coming months, because it is getting to be a bit of an eyesore. I welcome the work that was done, but there is still a lot of clean-up to be done. When will the site be cleared and finally restored to the state that it was in prior to the works, as the current situation is totally unacceptable?

Michael Matheson: The finishing works, as the contractor has stated, will be completed in the coming months, over the winter period, and the site will be cleared and restored to its original condition.

Fulton MacGregor (Coatbridge and Chryston) (SNP): The junction at Shawhead and Kirkshaws has seen a number of accidents since the update was completed. Most recently, there was a very serious accident at the weekend that police have confirmed resulted in no blame being attached to either driver.

The police and the local community have continually raised concerns about the junction. I have visited the site with Transport Scotland and I have had constructive discussions but the changes that have been made as a result have not improved safety. Will the cabinet secretary agree to take up the situation directly with Transport Scotland to get this dangerous junction sorted as quickly as possible?

Michael Matheson: I am aware that Mr MacGregor has been pursuing this matter on behalf of his constituents for some time. Scottish Roads Partnership—the contractor for the project—undertook further works at the Shawhead-Kirkshaws road junction at the end of October. I am disappointed to hear of the

concerns that the member still has about the junction.

We are awaiting further details on the accident in order to investigate it fully. However, I understand that the accident to which Fulton MacGregor referred happened on the approach to the north road junction, not at the Hagmill-Kirkshaws road junction. The contractors have confirmed that the junction is operating as designed and it has no plans to carry out further work at the junction in the short term, although that will continue to be monitored.

Scottish Roads Partnership has confirmed that the junction has been completed in accordance with the relevant standards. Transport Scotland is organising an independent review to be undertaken at the junction to understand whether further work can be done. I will ensure that the member is invited to attend the site when the review takes place, and I will write to him to give him the outcomes of the review when it is completed.

ScotRail Alliance (Meetings)

2. Elaine Smith (Central Scotland) (Lab): In the interest of transparency, I advise the chamber that I am the National Union of Rail, Maritime and Transport Workers parliamentary group convener.

To ask the Scottish Government when the transport secretary last met the ScotRail Alliance and what was discussed. (S5O-02581)

The Cabinet Secretary for Transport, Infrastructure and Connectivity (Michael Matheson): I last met the managing director of the ScotRail Alliance and some of his team on 6 November 2018, when we discussed a number of topics including ScotRail's performance and the impending December 2018 timetable change.

Elaine Smith: Did the cabinet secretary discuss the Government's fair work agenda? That does not seem very fair to the RMT, whose members are once again being affected by what Mick Cash has called

"the filthy and disgusting practice of dumping human excrement on Scotland's railways"

—a practice that the Scottish Government promised had ended in 2017.

Will the cabinet secretary tell us what options have been identified for installation of controlled-emissions toilets prior to the full refurbishment of the new ScotRail rolling stock and its introduction into service on 9 December, or what temporary measures are being identified to mitigate the serious health risks for workers that are associated with effluent discharge?

Michael Matheson: Elaine Smith has raised an important issue, about which a number of members rightly have concerns, as has the RMT on behalf of its members. I did not discuss the matter at the meeting the other week with the ScotRail Alliance, because I had discussed it previously when the alliance indicated that Wabtec would not be able to deliver the new high-speed trains fully refurbished on the timetable that had been agreed.

At that point, I raised concerns about the lack of retention tanks to be held on unrefurbished trains. The ScotRail Alliance agreed to consider whether interim measures could be put in place while the trains that are being used have not been through the full refurbishment programme. It is continuing to look at whether an interim arrangement can be put in place, and I have asked it to look at all possible options to minimise the risk of discharge on to the lines.

I fully understand and recognise that the practice is unacceptable. It has come about as a result of Wabtec's inability to deliver on the programme, and I am committed to making sure that ScotRail considers every possible option to identify an interim arrangement that can minimise the potential risk.

The Presiding Officer: Three members wish to ask supplementaries. The first is from Jamie Greene.

Jamie Greene (West Scotland) (Con): The cabinet secretary may be aware that more than 100 services were cancelled last week due to staff shortages. Can the cabinet secretary explain why that was the case, whether the cancellations are acceptable to him and whether passengers can expect any more disruptions due to staff shortages?

Michael Matheson: The cancellations are not acceptable to me and there are a variety of reasons why there were staff shortages last week. The ScotRail Alliance has no doubt about where its performance is at present; it is not acceptable and there is a need for action to be taken to ensure that there are improvements to address the issues around service quality and standards. In my discussions with the ScotRail Alliance managing director, the alliance accepts that and recognises the need for further progress to be made.

The ScotRail Alliance is very clear about taking forward the recommendations of the Donovan review, which it believes will deliver significant improvements to the way in which it delivers services. That has independent oversight through the Office of Rail and Road process. We need to ensure that the alliance delivers the services that the public expect. We will continue to call upon it to do so and to make sure that it takes the

necessary actions to improve service performance overall.

Emma Harper (South Scotland) (SNP): Has the South Scotland rail task force, which is led by ScotRail, had any discussions on, or put in place, contingency plans to allow for the continuity of rail services south of Ayr should further work be required at the Station hotel to ensure that my South Scotland constituents who live between Stranraer and Ayr are not isolated or again cut off from the central belt?

Michael Matheson: I recognise the inconvenience that is caused to the member's constituents when there are challenges relating to Ayr station as a result of problems with the state of decay of the Station hotel. As the member will be aware, Transport Scotland set up the Ayr station task force to consider what action can be taken to restore full rail services south of Ayr. Interim services have been put in place in recent weeks. South Ayrshire Council and its contractors are currently working to develop a system to encapsulate the Ayr Station hotel roof. That takes account of the commitment that has been made, and it should allow us to get into a position where full services can be restored. That work is ongoing, and we expect South Ayrshire Council to continue to make progress with it. We will continue to offer the council support and assistance to carry out that work as quickly as possible.

Jackie Baillie (Dumbarton) (Lab): The cabinet secretary will be aware that performance of rail services is at an all-time low. Indeed, less than 50 per cent of services arrived at Balloch and Helensburgh on time. Trains have been cancelled and commuters are squeezed in like sardines. Is the cabinet secretary aware that passenger numbers are dropping because of that unreliability? When does he expect performance to improve, and why did he weaken performance targets at a time when he should have been on the side of commuters?

Michael Matheson: The member's final point is incorrect. Actually, the conditions in the franchise continue to be applied in the way in which they would have been, even with the temporary waiver that has been provided.

On the member's points about performance on the line to Balloch, any cancellations of services are unacceptable. Those can occur for a variety of reasons, but the member will recognise that infrastructure challenges have presented ScotRail with significant difficulty. In excess of 60 per cent of the delays and difficulties on the rail network are caused by Network Rail rather than by ScotRail. That situation causes significant challenges for rail operators in addressing those matters.

Jackie Baillie: Alex Hynes is in charge of both.

Michael Matheson: The member may not like to hear the truth, but that is the truth.

Something that will not be lost on the member is the significant investment that we are making in rolling stock to ensure that we have additional capacity and new and refurbished trains on routes. The Government will continue to take forward that work through the timetable changes that will come into place this December, which will allow us to further extend services where they are not available at present. Performance is not as good as it should be, but the member can be assured that we are committed to doing everything that we can to improve services, notwithstanding the fact that Network Rail is the biggest factor that causes problems, delays and cancellations on the network.

Rail Service Reliability (Tweedbank)

3. **Michelle Ballantyne (South Scotland) (Con):** To ask the Scottish Government what assurances it can give rail commuters in Tweedbank regarding service reliability this winter, in light of more than 50 per cent of trains not arriving on time in the last month. (S5O-02582)

The Cabinet Secretary for Transport, Infrastructure and Connectivity (Michael Matheson): Officials at Transport Scotland monitor and challenge rail performance through regular meetings, which have recently included winter preparedness. Significant preparatory work has already commenced, with further actions continuing to manage the challenges of the upcoming winter conditions. That includes work on infrastructure, train fleet, stations and depots, as well as staff briefings to ensure that the ScotRail Alliance delivers a robust and resilient service to customers.

Performance on Scotland's railways is measured by the public performance measure—the PPM—which is the standard measure for train service performance throughout Great Britain. The PPM at Tweedbank in the most recent period, which was up to 10 November, was 86.4 per cent.

Michelle Ballantyne: In September, you reduced ScotRail's public performance measure target to 87.18 per cent and, in October, you granted a ministerial waiver to Abellio. Given that the Scottish Government will not enforce compliance breaches until June next year, what accountability is there through which my constituents in Tweedbank can ensure that ScotRail's PPM does not fall by another percentage point?

The Presiding Officer: I remind members to speak through the chair.

Michael Matheson: I am sure that Michelle Ballantyne will welcome the fact that the PPM for

Tweedbank is above the United Kingdom average, and that she will acknowledge that level of performance. That said, we want the level to be higher, where that can be delivered. The work that is being taken forward under the Donovan review, to which I have already referred, is about ensuring that that improvement takes place.

The member will be aware of the significant financial investment that the Scottish Government is making in new rolling stock to ensure that we have increased capacity—more seats on trains—and more modern trains, which will allow us to cascade other services to other parts of the country.

The member can be assured that we will do everything we can to drive up improvements in the ScotRail Alliance. Alongside that, we expect Network Rail to step up and to start addressing the difficulties that it is causing as a result of the infrastructure failures that have had a dramatic impact on service quality for many customers throughout Scotland.

ScotRail Performance (Impact on Pupils)

4. James Kelly (Glasgow) (Lab): To ask the Scottish Government what impact ScotRail performance is having on pupils who require to use train services to reach school. (S5O-02583)

The Cabinet Secretary for Transport, Infrastructure and Connectivity (Michael Matheson): The ScotRail Alliance is making significant investment to deliver the recommendations that were identified by the Donovan independent review, which will support infrastructure, fleet and operational reliability across the rail network to ensure delivery of a resilient network.

The Scottish Government has no data that details any particular impact of train cancellations or delays specifically on children travelling to school. However, all rail passengers will benefit from the expected improvements to performance when the actions from the Donovan review, which are being progressed, are fully implemented.

James Kelly: I draw the cabinet secretary's attention to the fact that I have been approached by the parents of children who have had their education disrupted because of constant delays and cancellations by ScotRail in the Newton area. Those parents include Virginia Bell, who is the mother of 13-year-old Natasha Humphreys. Does the cabinet secretary agree that it is totally unacceptable for pupils as young as first-year age to be left on cold and dark ScotRail platforms because of cancellations and delays, rather than being in the warmth of school classrooms?

Michael Matheson: Yes, that is unacceptable. That is all the more reason why ScotRail should

address the issues that were identified in the Donovan review, so that concerns and the problems that have caused delays and cancellations can be addressed. That is why ScotRail has made it clear, through the ScotRail Alliance, that it is doing everything that it can to drive forward the improvements that were set out in the Donovan review.

Aberdeen Western Peripheral Route

5. Maureen Watt (Aberdeen South and North Kincardine) (SNP): To ask the Scottish Government whether it will provide an update on the opening of the Aberdeen western peripheral route. (S5O-02584)

The Cabinet Secretary for Transport, Infrastructure and Connectivity (Michael Matheson): My statement to Parliament on 1 November detailed the issues that Aberdeen Roads Ltd reported with regard to opening the road, including the more extensive technical issues at the Don crossing than the contractor had previously thought there would be. I met ARL on 8 November to offer any additional support that was required to get the remainder of the road open as soon as possible, and to understand the timescales for remedial works at the Don crossing.

Since then, my officials and I have been involved in a series of high-level meetings with ARL, which were designed to remove any obstacle to the road being opened while remedial works at the Don crossing progress. Although the dialogue continues to be constructive, I am acutely aware that it cannot go on forever. I continue to be concerned that entirely separate commercial claims that the contractor has indicated it wishes to pursue, relating to other aspects of the project, appear to be being linked to the process.

I have reminded ARL that it stands at the beginning of a 30-year relationship with the north-east, and that it would be unfortunate for all parties if considerable benefits to the north-east were being withheld and if the taxpayer, generally, was being held to ransom in the service of a misguided commercial strategy.

Maureen Watt: I thank the cabinet secretary for that detailed answer. Would it be at all possible for specific parts of the route that are complete, and are safe to open, to be opened, rather than waiting to open the complete route, including the Don crossing?

Michael Matheson: As I said in my statement to Parliament, it is possible for the section that is complete, excluding the Don crossing, to be opened. There is no provision in the contract to allow that to happen, but a contract variation can be put forward in order to allow some sections to open. That is exactly what has been put to the

contractor; we await its response. There is no reason why that action cannot be progressed at an early date, and we continue to get daily updates from ARL to ensure that it is taking action to progress the matter.

As I have made very clear, I am not prepared for us to be put in a position in which a contractor seeks to hold taxpayers to ransom. There is a contract variation that could be agreed to; I expect the contractor to give that due consideration and to make progress on it as soon as possible, so that local people can start to get the benefits of the part of the Aberdeen western peripheral route that is ready for use.

Liam Kerr (North East Scotland) (Con): In the cabinet secretary's statement on 1 November, one of the reasons that was given for the delays was the correction of defects on the bridge over the River Don. What has been done since 1 November, and when does the cabinet secretary expect the work to be completed?

Michael Matheson: As I mentioned, the reasons for the delay are technical issues with the bridge at the River Don that were, at the end of October, identified as being more extensive and complex than was originally expected. The work on the bridge continues, and the contractor's technical experts are being supported by Transport Scotland's technical experts in carrying out the remedial work.

As I also said in my statement, the remedial work is weather sensitive, so the weather will have an impact on when some the work can be completed. However, the contractor continues to do everything possible to get the work on the bridge over the River Don completed as quickly as possible. It expects the work to be completed in December, but it cannot specify a date because of the vagaries of things such as the weather, which can have an impact on completing the work.

Lewis Macdonald (North East Scotland) (Lab): The cabinet secretary mentioned the case for a contract variation. Will he confirm that any price that is attached to a contract variation must reflect the impact on pricing and programming of that contract variation, rather than wider issues? Is that the basis on which he is holding the current discussions with the contractor?

Michael Matheson: As Lewis Macdonald will be aware, the way in which a contract of this nature works is that the lenders and contractors are paid only once the road is open for use. Any contract variation must be on that basis, because it is a requirement for protection of taxpayers' interests.

We have removed any potential obstacle to the contractor opening up the section of the road that could be used by traffic today, and that variation has been put to the contractor for it to share with

its lenders. I can see no further obstacle to its making progress in the matter. I am clear that the contractor needs to make progress and to open the road to cars and traffic that want to make use of it. Lewis Macdonald can be assured that I will continue to apply as much pressure as I can to the contractor to ensure that it does that.

I am also concerned about the way in which the contractor wishes to wrap that up in a wider issue about its claim, which is already in the public domain, relating to the overall contract. That is a separate issue. The contract variation should stand on its own, and the contractor and its lenders should consider it on that basis.

The Presiding Officer: I apologise to Gillian Martin and Peter Chapman, who wanted to ask supplementary questions on that issue, and to members who were to ask the other questions that we did not manage to reach.

Business Motion

14:43

The Presiding Officer (Ken Macintosh): The next item of business is consideration of business motion S5M-14833, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, on the timetable for the Scottish Crown Estate Bill at stage 3.

Motion moved,

That the Parliament agrees that, during stage 3 of the Scottish Crown Estate Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, those time limits being calculated from when the stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended (other than a suspension following the first division in the stage being called) or otherwise not in progress:

Groups 1 to 3: 40 minutes

Groups 4 to 6: 1 hour 40 minutes

Groups 7 to 9: 2 hours 15 minutes

Motion agreed to.—[Graeme Dey]

Scottish Crown Estate Bill: Stage 3

14:44

The Presiding Officer (Ken Macintosh): The next item of business is stage 3 proceedings on the Scottish Crown Estate Bill. In dealing with the amendments, members should have the bill as amended at stage 2—that is, SP Bill 24A—the marshalled list and the groupings.

I remind members that the division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate.

Members who wish to speak in the debate on any group of amendments should press their request-to-speak button as soon as possible after I call the group.

I now ask members to refer to the marshalled list. Amendment 1, in the name of John Scott, is grouped with amendments 2 and 4.

Section 3—Transfer of management function

14:45

John Scott (Ayr) (Con): I will speak to amendments 1, 2 and 4, which are in my name. Amendment 2 would require the creation of a list of assets to be managed by Scottish ministers or Crown Estate Scotland and would create a duty to consult individuals or bodies mentioned in subsection (2)(a) or (b) before making regulations regarding the transfer of assets.

The amendment has been brought forward in response to evidence presented to the committee at stage 1, when the committee came to the view, at recommendation 16, that some assets should remain under national management. That was also the view of the Crown estate tenant working group, NFU Scotland and the Scottish Tenant Farmers Association, and it was the view expressed in evidence taken about the risk of fragmentation and the loss of a critical mass of knowledge within Crown Estate Scotland. The amendment seeks to respond to those concerns and maintain a critical mass of expertise within Crown Estate Scotland.

Amendment 4 would make section 3(1A) subject to the affirmative procedure, thereby ensuring a wide consultation process before making any transfer of assets.

Amendment 1 is a technical amendment supporting amendment 2.

I move amendment 1.

The Cabinet Secretary for Environment, Climate Change and Land Reform (Roseanna Cunningham): I thank John Scott for lodging the amendments in the group and raising the issue for debate.

The committee expressed support for some activities to be managed at the national level and the amendments that Mr Scott has lodged would require regulations to be made that list the assets to be managed at the national level either by the Scottish ministers or by Crown Estate Scotland.

The bill will allow the management of assets to be devolved to public authorities and community groups that wish to take on that responsibility and who can demonstrate that they have the requisite ability and experience to do so effectively. That will allow decisions as to who will manage a particular Scottish crown estate asset to be taken on a case-by-case basis. That is an approach that was supported by respondents to the Scottish Government's consultation on the long-term management of the Crown estate in Scotland; that consultation took place in 2017.

Mr Scott's amendments would undermine the case-by-case approach that the Scottish Government advocated for the transfer or delegation of management of Scottish Crown estate assets.

As I outlined during stage 1, there may be circumstances in which assets need to be managed on a national basis and any proposed transfer of management will be subject to the Parliament's approval. The Scottish Government's response on that matter to the Environment, Climate Change and Land Reform Committee stage 1 report stated that we regard the question of which assets should be managed on a national basis and which can be devolved to a local level to be a strategic matter that could evolve over time. It will also be dependent on the level of interest expressed by persons who wish to manage an asset.

I am aware of tenants' strong preference for the rural estates to continue to be managed at the national level, and I am also aware of views that some other assets need to be managed at the national level. I consider there to be valid arguments for some assets to be so managed—I am thinking, in particular, about the management of rights in the 12 to 200 nautical mile zone and about leasing for strategic national infrastructure, such as telecoms, cables, oil and gas pipelines and offshore wind leasing.

I firmly believe that the case-by-case approach to reforming such management, as provided for in the bill, can achieve the aim of ensuring that each

asset is managed appropriately and at the appropriate level.

I ask Mr Scott not to press the amendments in the group.

John Scott: I hear exactly what the cabinet secretary is saying and I appreciate her tone and tenor. However, my view remains that it would provide clarity for those who are considering whether to take on the management of assets or not if the assets that the Government would consider allowing others to take on, or not, were to be clearly defined; indeed, the publication of a list would not preclude a case-by-case approach, the value of which I understand and support.

I press amendment 1.

The Presiding Officer: I think that I know the answer to this, but the question is, that amendment 1 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division. As this is the first division of the day, Parliament will be suspended for five minutes while we ring the bell to call members to the chamber.

14:50

Meeting suspended.

14:55

On resuming—

The Presiding Officer (Ken Macintosh): We move to the division on amendment 1.

For

Ballantyne, Michelle (South Scotland) (Con)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Corry, Maurice (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Mason, Tom (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Tomkins, Adam (Glasgow) (Con)

Wells, Annie (Glasgow) (Con)
Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Motherwell and Wishaw) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Arthur, Tom (Renfrewshire South) (SNP)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Bibby, Neil (West Scotland) (Lab)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Cole-Hamilton, Alex (Edinburgh Western) (LD)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Denham, Ash (Edinburgh Eastern) (SNP)
Dey, Graeme (Angus South) (SNP)
Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Ewing, Annabelle (Cowdenbeath) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
Finnie, John (Highlands and Islands) (Green)
FitzPatrick, Joe (Dundee City West) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Greer, Ross (West Scotland) (Green)
Griffin, Mark (Central Scotland) (Lab)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hyslop, Fiona (Linlithgow) (SNP)
Johnson, Daniel (Edinburgh Southern) (Lab)
Johnstone, Alison (Lothian) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lamont, Johann (Glasgow) (Lab)
Lennon, Monica (Central Scotland) (Lab)
Leonard, Richard (Central Scotland) (Lab)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Uddingston and Bellshill) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Macdonald, Lewis (North East Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Derek (Renfrewshire North and West) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Marra, Jenny (North East Scotland) (Lab)
Martin, Gillian (Aberdeenshire East) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
McDonald, Mark (Aberdeen Donside) (Ind)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse)

(SNP)
McNeill, Pauline (Glasgow) (Lab)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Rennie, Willie (North East Fife) (LD)
Robison, Shona (Dundee City East) (SNP)
Ross, Gail (Caithness, Sutherland and Ross) (SNP)
Rowley, Alex (Mid Scotland and Fife) (Lab)
Rumbles, Mike (North East Scotland) (LD)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Russell, Michael (Argyll and Bute) (SNP)
Scott, Tavish (Shetland Islands) (LD)
Smith, Elaine (Central Scotland) (Lab)
Smyth, Colin (South Scotland) (Lab)
Somerville, Shirley-Anne (Dunfermline) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, David (Highlands and Islands) (Lab)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Torrance, David (Kirkcaldy) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wightman, Andy (Lothian) (Green)
Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 28, Against 89, Abstentions 0.

Amendment 1 disagreed to.

Amendment 2 not moved.

The Presiding Officer: Group 2 is on minor and technical amendments. Amendment 9, in the name of the cabinet secretary, is grouped with amendments 20, 22 and 23.

Roseanna Cunningham: The amendments in this group are all of a minor or technical nature. Amendment 9 simply corrects the term “subsections” in section 3(2), as the reference should be to “subsection” in the singular.

Amendment 20 amends section 13 to make it clear that the Scottish ministers cannot make directions on charges for the use of assets when the Crown Estate Transfer Scheme 2017 regulates the amount that can be charged in relation to agreements concerning the granting of rights in certain circumstances such as those relating to tidal waters, pipelines or the transmission or distribution of electricity.

Amendment 22 corrects a typographical error in section 31(1), and amendment 23 is a minor technical amendment to ensure that the way in which the definition of “heritable security” is introduced is consistent with the other definitions in the interpretation section of the bill.

I move amendment 9.

Amendment 9 agreed to.

The Presiding Officer: Group 3 is on the transfer or delegation of management to harbour authorities or trust ports. Amendment 10, in the name of the cabinet secretary, is grouped with

amendments 25, 12, 13, 30, 14, 32, 15, 39, 16, 40 and 24.

Roseanna Cunningham: Government amendments 10, 12 to 16 and 24 have been developed following careful consideration of Andy Wightman's stage 2 amendments seeking to allow trust ports to be eligible to become a manager of Scottish Crown estate assets. I will also discuss amendments 25, 30, 32, 39 and 40 in the name of Tavish Scott.

I accept the principle behind Mr Wightman's original—and now Tavish Scott's—wish to include trust ports and consider there to be merit in expressly allowing harbour authorities operating in Scotland to be eligible to seek and be given the right to manage Scottish Crown estate assets. The foreshore and sea bed around Scotland form a significant part of the Crown estate in Scotland and might include land within a designated harbour area that a particular harbour authority operates in.

Although the concept of a trust port is recognised in Scotland, it is, in fact, not a body that is defined in legislation. Each trust port is an independent statutory body that has a unique governance arrangement and is governed by its own legislation created by an act of Parliament. Tavish Scott's amendment 40 would insert into legislation a particular definition of "trust port" as "a port", which is the physical structure of a harbour rather than a legal person. The definition also makes no reference to the need for a trust port to have been given the statutory authority to maintain or manage a harbour. I therefore question whether the definition of "trust port" in amendment 40 would work as intended.

Moreover, trust ports are not the only models of harbour ownership. The other main models alongside them are private ownership and local authority ports. I consider there to be merit in allowing not just trust ports but bodies that come under one of the other types of harbour ownership in Scotland to be eligible to become a Scottish Crown estate asset, as they all operate under similar legislative powers and duties.

15:00

Amendments 10, 13 and 15 have the effect of adding Scottish harbour authorities as a category of eligible Scottish Crown estate asset manager by way of both transfer and delegation. Amendment 14 provides that, similar to a community organisation, the Scottish ministers do not have the power to direct a Scottish harbour authority that is already a manager to delegate to another manager.

The definition of "Scottish harbour authority" that is set out in amendments 16 and 24 will allow trust

ports such as Lerwick Port Authority, which is in Tavish Scott's constituency, and other Scottish harbour authorities such as Tobermory Harbour Association to be eligible for a transfer or a delegation of the management of a Scottish Crown estate asset. Although, as far as I am aware, there are no private ports in the Shetland Islands, there are private ports elsewhere—some of them are large, but there are some small private ports—and it would be inequitable to restrict the provision to the pattern of port ownership in Shetland, however desirable that may be to Tavish Scott.

Although my amendments open up the possibility of other types of harbour authority becoming a Scottish Crown estate manager, as the provision is not restricted to trust ports, it remains the case that any regulations that transfer management of the sea bed will be subject to the affirmative procedure in the Scottish Parliament. Therefore, the Parliament will have the final decision on such transfers of the sea bed. In addition, the provisions that require separate accounting arrangements for Scottish Crown estate assets from those for any other money that a manager may hold will provide adequate protection of the asset in such circumstances.

Amendment 12 provides that the transfer regulations can make provisions in respect of what happens to the management functions and the rights and liabilities in relation to an asset if a harbour authority ceases to exist or no longer has statutory powers to manage a harbour. The provisions are similar to those contained in the bill that deal with the situation in which a community organisation ceases to exist. In most circumstances, the Scottish ministers will be aware in advance that a harbour authority is likely to cease to have the statutory power to manage a harbour, as they would be involved in the legal process. In the unlikely event that a private harbour authority suddenly ceases to exist, the amendment will ensure the continuing management of the Scottish Crown estate asset. Although I have not yet heard his arguments, I encourage Tavish Scott not to move his amendments. As I have explained, I believe that the Government's amendments deliver the same objectives as his amendments—indeed, they deliver more.

I move amendment 10.

Tavish Scott (Shetland Islands) (LD): I take the cabinet secretary's reasoned thinking on the matter, and I am grateful to Andy Wightman for his previous work in committee on the issue of trust ports. The issue relates to trust ports having the responsibility of managing the sea bed in their area, which is an important principle of the bill. It was a principle of the Smith commission—a number of us in the Parliament worked on that

some years back in relation to island authorities and island responsibilities—and it is a recognition that, as the cabinet secretary suggested, trust ports invest all their income in the facilities that they have in order to serve the clients of a port—in other words, the harbour users of an area. The measure is an improvement, and I accept the cabinet secretary's explanation of the Government's amendments.

On Friday, Sandra Laurenson, the former chief executive of Lerwick Port Authority and the first female chief executive of any port in the UK, retired after 44 years of service to Lerwick and, I would argue, to the port sector as a whole. For some of us, the amendments are in honour of her great commitment to people who serve in ports the length and breadth of our country.

Claudia Beamish (South Scotland) (Lab): I support the Government's amendments and recognise the reasons for Tavish Scott not moving his amendments. I also support the use of the affirmative procedure.

As we are discussing the devolution of the Crown estate, can the cabinet secretary provide reassurance that the authorities and trusts are constituted in the public interest?

Roseanna Cunningham: That is why they would not be considered to be so.

John Scott: The amendments in group 3 are a response to the probing amendments that Andy Wightman lodged at stage 2 and would further devolve responsibility from the Crown Estate to harbour authorities or trust ports, providing more local autonomy. At stage 2, the Government's concerns centred around the control of ports and harbours in relation to local authorities. We welcome the amendments and the fact that any regulations will be subject to the affirmative procedure.

On Tavish Scott's amendments, which would extend management functions to trust ports, we have concerns over whether individual harbours and ports should have control in that decision-making process and whether they should take on the management function. We note that the cabinet secretary still has concerns about Tavish Scott's amendments, and we share those concerns. I am not certain whether Mr Scott said that he would move his amendments, but I dare say that we will hear that in due course.

The Presiding Officer: Cabinet secretary, you might have already clarified your position in your interjection, but do you wish to wind up on this group?

Roseanna Cunningham: No, other than to say that my only concern about Tavish Scott's amendments is that they do not go as far as the

Government's amendments. I am sure that he would be happy to concede that point.

I press amendment 10.

The Presiding Officer: The question is, that amendment 10 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Ballantyne, Michelle (South Scotland) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Corry, Maurice (West Scotland) (Con)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (West Scotland) (Con)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Griffin, Mark (Central Scotland) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harper, Emma (South Scotland) (SNP)
 Harris, Alison (Central Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)

Johnson, Daniel (Edinburgh Southern) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mason, Tom (North East Scotland) (Con)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Russell, Michael (Argyll and Bute) (SNP)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Tomkins, Adam (Glasgow) (Con)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wells, Annie (Glasgow) (Con)
 White, Sandra (Glasgow Kelvin) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Abstentions

Finnie, John (Highlands and Islands) (Green)
 Greer, Ross (West Scotland) (Green)
 Johnstone, Alison (Lothian) (Green)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

The Presiding Officer: The result of the division is: For 114, Against 0, Abstentions 4.

Amendment 10 agreed to.

Amendment 25 not moved.

The Presiding Officer: We turn now to group 4, on the management of marine assets by local authorities. Amendment 11, in the name of Andy Wightman, is grouped with amendments 26 to 29, 31, 33 to 38 and 41.

Andy Wightman (Lothian) (Green): As has already been mentioned, the Smith commission recommended in paragraph 33 of its final report that, following the devolution of the management of the Crown estate,

“responsibility for the management of those assets will be further devolved to local authority areas”.

Nowhere in the bill is that pledge fulfilled. Section 3(1) of the bill gives authority to the Scottish ministers to make regulations to transfer those management functions to any person mentioned in section 3(2), but it remains possible that ministers might choose not to make regulations or might choose to revoke any regulations; in addition, it remains possible that regulations might be drafted in a way that makes the transfer of management functions unduly onerous or complex.

The Smith commission recommendation makes it clear, however, that the responsibility will be further devolved. At stage 2, I lodged an amendment that would have given a statutory right to local authorities to manage the foreshore. I did not press it, on the basis that I would have further discussions with the cabinet secretary. I had those discussions with her and her officials, but got no response back. I have therefore lodged amendment 11, which is less prescriptive than the amendment that I lodged at stage 2. Amendment 11 is designed to do little more than give a nod to the cross-party consensus of the Smith commission by providing that section 3 regulations enshrine a presumption in favour of transferring management of the foreshore to local authorities. The amendment relates only to the foreshore, because it is one of the distinctive, ancient Crown property rights. Ownership by the Crown is regarded by the Scottish Law Commission as a patrimonial right derived from the Crown prerogative. It is nowhere defined in statute but is, as the commission notes, merely the predominant modern theory. It plays a distinct and critical role in coastal management, which is a function that more widely falls into the realm of local authorities.

The history, as set out in a recent book by John MacAskill that is published by Edinburgh University Press, is one in which the public interest in the foreshore has frequently been compromised by uncertainty and legal disputes. Such disputes in the 19th century included disputes over the rights of crofters to gather kelp—a topic that we will return to today. Such a right would have been

enshrined in law by now had the Scottish Law Commission's recommendation in 2003 to enact the draft sea, shore and inland waters (Scotland) bill been implemented. Fifteen years later, it has not been. Such an act would have enshrined statutory rights to, among other things, make sandcastles, beachcomb, sunbathe and have picnics on the shore and foreshore, but I digress, perhaps.

The other amendments in the group, which are all in the name of Liam McArthur, seek to ensure that section 3 regulations also make provision for the transfer of the management of the sea bed within the Scottish marine region to any local authority that requests such a transfer. Again, those amendments fulfil the recommendations of the Smith commission—recommendations that I recall were drafted by Tavish Scott, who is a former chair and trustee of Lerwick Port Authority and who knows a thing or two about the long and malign influence of the body corporate that is the Crown Estate Commissioners. We support all Liam McArthur's amendments.

I move amendment 11.

Liam McArthur (Orkney Islands) (LD): As Andy Wightman said, much of what we are talking about this afternoon draws heavily on the recommendations of the Smith commission, and I pay tribute to the efforts of my colleague Tavish Scott in ensuring that the recommendations fully addressed the concerns around the Crown estate.

As I said in committee at stage 2, devolution of the management of the Crown estate in Scotland to the communities with the most direct interest in and reliance on the future use of those assets is something that I have been pursuing since before I was elected in 2007, so I welcome the bill and what it can help to achieve. Like many, however, I believe that it can and must go further, not least in unlocking and securing for communities benefits that arise from developments in the marine environment—at this stage—out to 12 nautical miles.

This is not just about the revenues, though. It is also about how the assets are managed. My amendment 26, much like Andy Wightman's amendment 11, makes it clear that relevant local authorities would have the right to request the transfer of responsibility for the management of any area of the sea bed from the mean high water spring tides out to 12 nautical miles. The details of that process would be set out in regulations by ministers, which would be subject to review by Parliament, and they would give effect to recommendation 32 of the Smith commission.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I think that the member will recall that I previously raised the issue of the sea

between Bute and Arran. The distance between the two islands, which are in different local authority areas, is less than 24 miles. The amendments in the group that we are discussing are constructed in such a way that it would be impossible for the two councils to get out to 12 miles without overlap. Has the member given further thought to how that issue—I accept that it is a special case that does not attach to the generality of the argument—would be dealt with?

Liam McArthur: I appreciate that, and I appreciate the fact that Stewart Stevenson, as he said, raised the issue at stage 2. It is not, I believe, a unique concern in relation to the bill. I believe that it could be dealt with through the regulation-making powers that amendment 26 puts in place.

As Andy Wightman reminded us, the Smith commission called in its recommendations for the devolution of the assets to the Scottish Parliament, but it went on to state:

"Following this transfer, responsibility for the management of those assets will be further devolved to local authority areas such as Orkney, Shetland, Na h-Eilean Siar or other areas who seek such responsibilities."

Some will argue that communities and not just local authorities should have the option of making those requests. That point will be raised in relation to my amendments and amendment 11. I have some sympathy with that, but I am sure that it can be addressed through subsequent regulation. In any event, the devolution of management responsibility to local authorities does not preclude—indeed, it should encourage—local authorities to further devolve that responsibility to local communities where appropriate.

The other amendments in the group are consequential to amendment 26, with the exception of amendment 41. I know from speaking to colleagues in other parties in recent days that there are questions about limiting the application of the request power to local authorities that are defined in the Islands (Scotland) Act 2018. That might seem a little overzealous, although I believe that those that are listed in the schedule to that act are the most likely to have the opportunity, the appetite and the experience to make best use of the powers. However, I recognise that in the future other local authorities and communities may wish to make requests to manage the marine assets of their shores, so I will listen to what other colleagues have to say before I decide whether to move amendment 41. I will, however, move amendment 26.

15:15

John Scott: This group of amendments in the names of Liam McArthur and Andy Wightman seek to devolve the management of marine

assets, including the foreshore and sea bed, to local authorities, where they request it. At stage 2 the Government expressed concerns that local authorities might not always be best placed to manage the sea bed and the foreshore and that is a view that we share. In addition, the committee came to the view in its stage 1 report, in recommendation 362, that the sea bed is a national asset and should be managed nationally, so we are unable to support this group of amendments.

Claudia Beamish: We will support the amendments in group 4. Points have been made about the Smith commission, so I will not elaborate on that, but recognising the commitments that were made at that time in a cross-party way is a very important aspect of the devolution. I wonder if, in summing up, Andy Wightman might highlight something about the presumption in favour of local authorities in his amendment 11, which is that, in his view, that would not preclude further devolution to community groups. Liam McArthur has also highlighted that point.

Although we will support the amendments, I want to highlight some concerns that we on the Labour benches have about the points that John Scott made, particularly in relation to local authorities, their training and their capacity to monitor sea bed issues in the face of council cuts.

The issue around other local authorities is complex. The Smith commission recommendations, as already highlighted, suggest that it is the island local authorities to which these provisions should refer. Labour is minded to leave it that way for the moment, but if in the future—as I think Liam McArthur pointed out—other local authorities have an interest, regulations might have to be considered or reconsidered.

Roseanna Cunningham: The Government will not support the amendments. They cut across the policy of giving community organisations the opportunity to take on the management of a Scottish Crown estate asset, including the foreshore. Amendment 26 would place a duty on the Scottish ministers to make regulations to transfer to “a relevant local authority” that requests it,

“the right to manage any area of the seabed”,

including the foreshore. It could therefore prevent a community organisation from directly taking on the management of a Crown estate asset. Although no community organisations from Orkney and Shetland have so far expressed interest in the local asset management pilots, there is interest from community organisations in the Western Isles, Argyll and Bute, Highland Council and the Clyde area. I recognise that with amendment 11

Mr Wightman seeks only to create a presumption in favour of local authorities. Nonetheless, I am of the view that there should be as much of a presumption in favour of community organisations managing Scottish Crown estate assets. The bill does not contain any presumptions about who should manage any particular Crown estate asset and that is as it should be, as it allows for consideration on a case-by-case basis and allows those who wish to manage an asset to demonstrate why they are best placed to do so.

Amendment 26 seeks to require ministers to transfer the right to manage the sea bed

“out to 12 nautical miles”

if any of the following local authorities request that: Argyll and Bute Council, Western Isles, Highland Council, North Ayrshire Council, Orkney Council and Shetland Council. There are technical issues with the amendment, including its reference to an area of sea bed within its relevant Scottish marine region.

Although the reference to the Scottish Marine Regions Order 2015 might work for the Northern and Western Isles, it would be less useful for the other island councils where the marine regions do not directly correspond to local authority boundaries. For example, there are three Scottish marine regions that include parts of the marine area adjacent to Highland Council, and one of those regions—the Moray Firth Scottish marine region—also includes the marine area adjacent to Moray Council. Also, the Clyde marine region includes part of the marine area adjacent to Argyll and Bute Council and part of that adjacent to North Ayrshire Council, as well as the marine areas adjacent to other councils, including Inverclyde and South Ayrshire.

No parliamentary procedure is specified for the regulations. Although the bill requires

“Regulations under section 3(1)”

to be

“subject to the affirmative procedure if they ... relate to an asset all or part of which is situated in, or relates to, the Scottish marine area or the Scottish zone”,

that provision would not apply to regulations under new subsection 3(2A), which amendment 26 would insert.

It is also unclear what is meant by the transfer of “the right to manage” the sea bed, rather than the

“transfer of ... the function of managing”

it.

Amendment 31 is similar to amendment 26, but would require ministers to direct Crown Estate Scotland to transfer part of the sea bed, out to the 12-mile nautical limit, to a local authority, if the

local authority so requests. The amendment refers to

“the transfer of an asset”,

rather than to delegation of the management of an asset, which is what section 4 of the bill is about. I think that the intention is to require delegation of the management function, rather than transfer of ownership. That creates a similar problem to amendment 26, by cutting across community organisations’ ambitions to become managers of Scottish Crown estate assets.

I expect that local authorities would seek a transfer of management under section 3 of the bill, and that it would be more likely that ministers would use the power under section 4 to direct a local authority to delegate the management of an area of foreshore managed by it to a community organisation. However, it is also possible that a community organisation would like the management of an asset to be delegated to it directly by Crown Estate Scotland. Mr McArthur’s amendment 33 appears to be intended to prevent that. I cannot understand why community organisations should not have the ability to have delegated to them management of an area of the immediate foreshore that they have an interest in managing.

Perhaps it would be helpful to explain the effect of section 4(2). Section 4(2)(a) covers the rather obvious point that ministers cannot direct themselves to do anything. The assumption underlying section 4(2)(b) is that a community organisation is managing its local asset, so it is unlikely that it would seek to delegate that management to another person. To do so would be to give away the community’s control over decision making. If it did not want to continue the management of the asset, it could ask ministers to transfer the management to another manager, be that a local authority, Crown Estate Scotland or another Scottish public authority. We would not want to preclude community organisations from managing local Scottish Crown estate assets, whether under transfer or delegation.

Therefore, I cannot support Andy Wightman’s amendment 11 or Liam McArthur’s amendments 26 to 29, 31, 33 to 38 and 41. Moreover, there are serious technical deficiencies in Liam McArthur’s amendments, which, as I have outlined, render them unworkable. I urge Mr Wightman and Mr McArthur not to press their amendments.

The Presiding Officer: I call Andy Wightman to wind up, and to press or withdraw amendment 11.

Andy Wightman: In response to Claudia Beamish, no, my amendment would not preclude transfers to others.

The amendments—I cannot speak for Liam McArthur’s, but this is certainly true of mine—are designed to uphold the fundamental principles agreed by the Conservatives, the SNP, Labour, the Liberal Democrats and the Scottish Greens in the Smith commission.

I reject the notion that amendment 11 cuts across community bodies. In any event, we do not believe that the Scottish ministers should be the final arbiters of that. Underpinning my amendment is the notion that it is the place of local government to make such decisions, not the Scottish ministers. Furthermore, the amendments are concerned only with regulations. Amendment 11 stipulates that regulations should provide only for a “presumption”. Regulations are well capable of incorporating such a provision.

Liam McArthur’s amendments, again, place clear duties to be implemented by regulations. They provide plenty flexibility to frame the duty in the most appropriate manner.

I note that neither the Government nor the Conservatives support the amendments, so I will not detain members any further. However, I am disappointed by the Government’s response. It is a betrayal of a clear commitment made by the Smith commission, and I am further disappointed that we were not able to reach an agreement on the principles behind the amendment that I lodged at stage 2.

I press amendment 11.

The Presiding Officer: The question is, that amendment 11 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McNeill, Pauline (Glasgow) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Rowley, Alex (Mid Scotland and Fife) (Lab)

Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, David (Highlands and Islands) (Lab)
 Wightman, Andy (Lothian) (Green)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Ballantyne, Michelle (South Scotland) (Con)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Corry, Maurice (West Scotland) (Con)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (West Scotland) (Con)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greene, Jamie (West Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harper, Emma (South Scotland) (SNP)
 Harris, Alison (Central Scotland) (Con)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lindhurst, Gordon (Lothian) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)

Mason, Tom (North East Scotland) (Con)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Tomkins, Adam (Glasgow) (Con)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wells, Annie (Glasgow) (Con)
 White, Sandra (Glasgow Kelvin) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 33, Against 85, Abstentions 0.

Amendment 11 disagreed to.

Amendment 26 moved—[Liam McArthur].

The Presiding Officer: The question is, that amendment 26 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McNeill, Pauline (Glasgow) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)

Scott, Tavish (Shetland Islands) (LD)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, David (Highlands and Islands) (Lab)
 Wightman, Andy (Lothian) (Green)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Ballantyne, Michelle (South Scotland) (Con)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Corry, Maurice (West Scotland) (Con)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (West Scotland) (Con)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greene, Jamie (West Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harper, Emma (South Scotland) (SNP)
 Harris, Alison (Central Scotland) (Con)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lindhurst, Gordon (Lothian) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mason, Tom (North East Scotland) (Con)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (Ind)

McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Tomkins, Adam (Glasgow) (Con)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wells, Annie (Glasgow) (Con)
 White, Sandra (Glasgow Kelvin) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 33, Against 85, Abstentions 0.

Amendment 26 disagreed to.

Amendment 12 moved—[Roseanna Cunningham]—and agreed to.

Amendments 27 and 28 not moved.

Section 4—Directions requiring delegation of management function

Amendment 29 not moved.

Amendment 13 moved—[Roseanna Cunningham]—and agreed to.

Amendments 30 and 31 not moved.

Amendment 14 moved—[Roseanna Cunningham]—and agreed to.

Amendments 32 to 37 not moved.

Section 5—Delegation agreements

Amendment 38 not moved.

Amendment 15 moved—[Roseanna Cunningham]—and agreed to.

Amendment 39 not moved.

Section 6—Meaning of “community organisation”

Amendment 16 moved—[Roseanna Cunningham]—and agreed to.

After section 6

Amendments 40 and 41 not moved.

15:30

Section 7—Duty to maintain and enhance value

The Presiding Officer: Group 5 is on the duty to maintain and enhance value. Amendment 17, in the name of the cabinet secretary, is grouped with amendment 18.

Roseanna Cunningham: Amendment 17 has been developed in response to a debate at stage 2 on the amendments that Mark Ruskell and I lodged in respect of the duties on any manager in relation to how they should manage a Scottish Crown estate asset. I thank both Mark Ruskell and Claudia Beamish for the constructive conversations on this issue that we have had between stage 2 and today.

Amendment 17 places an obligation on managers that, in maintaining and seeking to enhance the value and return of Scottish Crown estate assets, they must

“act in the way best calculated to further the achievement of sustainable development in Scotland, and ... seek to manage the assets”

in a way that is likely to contribute to the promotion or the improvement of the wider socioeconomic and environmental factors that are listed.

Amendment 18 is consequential on amendment 17. It deletes “sustainable development” from the list of socioeconomic and environmental factors in section 7(2), because the duty to manage the asset in a way that contributes towards sustainable development will feature on its own in section 7(2)(a), if amendment 17 is agreed to.

I recognise the concerns that have been expressed about section 7(2) of the bill as introduced and that is why I lodged an amendment at stage 2. That amendment was not accepted and I undertook to discuss the issues further with interested members. As a result of those discussions, I lodged the amendments in this group, which retain the overarching commercial duty but give greater prominence to sustainable development.

I have listened to members’ concerns about the need to strengthen the duty and to the other concerns that have been expressed about the need to maintain the revenue and capital value of the estate. The solution that I have proposed seeks to maintain the value and income from Scottish Crown estate assets while requiring managers to act in a way that they think is most likely to further sustainable development, and also to strengthen the requirement on managers to actively try to achieve the wider socioeconomic and environmental factors in carrying out that management.

I move amendment 17.

John Scott: As already discussed by the cabinet secretary, amendment 17 is about the “may” versus “must” argument. The Scottish Conservatives believe that section 7 of the bill as introduced was perfectly adequate, and left discretion with Crown estate managers as to whether they needed to consider economic development, regeneration, social wellbeing, environmental wellbeing and sustainable development—presumably that was the view of the cabinet secretary at the time that the bill was introduced.

However, following the stage 1 report, the Government lodged an amendment in response to the majority view of the committee that the Crown Estate must consider the above list; some colleagues, such as Claudia Beamish, thought that the amendment did not go far enough, while Conservative members thought that it went too far. The status quo in the bill as introduced therefore remained in place.

Today, in amendment 17—and amendment 21—the Government has reintroduced “must” into the remit of managers, who must once again seek to further sustainable development as well as deliver economic development, regeneration, social wellbeing and environmental wellbeing. However, although we support the aspiration to do all those tasks, we remain to be convinced that this change is an improvement on the bill as introduced. We will therefore not support amendments 17 and 18.

Claudia Beamish: This is an important aspect of the devolution of managerial responsibilities. Sustainable development should have the “must” rather than the “may.” I am delighted that the cabinet secretary agrees with that position and I thank her for the discussions following the stage 2 amendment, which was supported by my colleague Alex Rowley and I in committee. It is important to have a list that highlights economic development, regeneration, social wellbeing and environmental wellbeing, as they are of fundamental importance to the future of the people of Scotland. Therefore we are very supportive of amendments 17 and 18.

The Presiding Officer: I call the cabinet secretary to wind up.

Roseanna Cunningham: I do not wish to say too much more, other than perhaps to point out to those such as John Scott who are not happy about the idea that sustainable development should be one of the things that is taken on board that, in fact, there are at least three other mentions in other pieces of legislation of sustainable development or similar functions being part of a manager’s duty.

John Scott: For the avoidance of doubt and misunderstanding, sustainable development is very much part of the bill as introduced and we are happy to support that position.

Roseanna Cunningham: In that case, I think that the argument is about “may” and “must”; that argument has probably been had in the chamber many times in relation to many different sections of the bill. We simply want to place beyond doubt the fact that something must be considered rather than perhaps being regarded as an optional extra. There was a suggestion that that might be the case.

I was trying to point out that Crown Estate managers are under obligations that derive from other pieces of legislation, too. With this legislation, we are trying to ensure that it is clear on the face of the bill that the obligation applies.

The Presiding Officer: The question is, that amendment 17 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a one-minute division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)

Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Abstentions

Ballantyne, Michelle (South Scotland) (Con)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Corry, Maurice (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Kerr, Liam (North East Scotland) (Con)

Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Mason, Tom (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

The Presiding Officer: The result of the division is: For 89, Against 0, Abstentions 28.

Amendment 17 agreed to.

Amendment 18 moved—[Roseanna Cunningham].

The Presiding Officer: The question is, that amendment 18 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a 30-second division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)

Johnstone, Alison (Lothian) (Green)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Scott, John (Ayr) (Con)

Abstentions

Ballantyne, Michelle (South Scotland) (Con)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Corry, Maurice (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lindhurst, Gordon (Lothian) (Con)

Lockhart, Dean (Mid Scotland and Fife) (Con)
 Mason, Tom (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

The Presiding Officer: The result of the division is: For 88, Against 1, Abstentions 27.

Amendment 18 agreed to.

Section 8A—Restriction on power to act as owner in relation to the harvesting of wild kelp

The Presiding Officer: Group 6 is on the harvesting of sea kelp. Amendment 6, in the name of Mark Ruskell, is grouped with amendments 7, 8, 19, 21, 21A and 21B.

Mark Ruskell (Mid Scotland and Fife) (Green): The amendments in this group deal with both a threat and an opportunity. The threat is to our last great wilderness in Scotland, the ancient kelp forests—hidden, rich nurseries of nature and commercial fish; vast stores of carbon larger than our rainforests; and defenders of our coastlines against the storms to come. The threat comes not from the harvesting of kelp per se but from the harvesting of kelp in a way that prevents it from regrowing. We know that, if kelp is removed in its entirety from the sea bed, it may never grow back. Once it has gone, its benefits may be lost for ever. The opportunity is to recognise that kelp, if harvested and farmed sensitively, is a wonderful material for food and industrial purposes, which can support livelihoods in remote communities.

It is the job of Government to set the bar high for the public interest but to allow industry to innovate and respond within environmental limits. Amendments 21A and 21B, in my name, seek to insert a golden rule into the licensing framework that is spelled out by the cabinet secretary in amendment 21, which is simply that kelp must be harvested in a way that does not inhibit the regrowth of the plants. That golden rule is well established and the wording reflects the existing licences for those who already harvest kelp using non-industrial methods. The amendment is worded carefully to ensure that it covers only situations in which the kelp material that is removed is used for commercial purposes. When it is removed and discarded, such as when clearing navigation channels, harbours or other infrastructure, such as nuclear power plant cooling systems, the amendment would not apply.

Amendments 6, 7 and 8 are Latin corrections, which is embarrassing for somebody who has a biology degree—I will blame Microsoft spellchecker, Presiding Officer. I will not press

those amendments, as the cabinet secretary has corrected my Latin homework in her amendment 21.

We will support amendment 19, which removes the golden rule that was inserted by my amendment at stage 2 and allows it to be reinserted via amendments 21A and 21B, which I lodged with the valued support of my colleague Claudia Beamish.

I move amendment 6.

Roseanna Cunningham: We all want to protect kelp as an important feature of our marine biodiversity, because of the habitat that it provides for other species, including fish, and the key role that it plays in coastal and climate protection. I have listened to views on these important but complex issues and I have decided to lodge amendments at stage 3 to remove and replace section 8A, because the section on kelp that was inserted at stage 2 would not have achieved what was intended and could have had serious unintended consequences.

The test to be met in section 8A, of not inhibiting the regrowth of an individual plant, when combined with an absolute prohibition on harvesting that inhibits regrowth could prevent the very scientific research that we need to better understand the recovery rate of these species in various conditions in Scottish waters.

Section 8A would also have prevented non-commercial but essential maintenance work for safety reasons, such as removing seaweed around cooling systems in power stations or from navigation channels in ports. An example is a marine licence that was issued to EDF Energy, the operator of Hunterston B power station, in August 2017 for the removal of 150 tonnes of various species of seaweed in an area local to the Hunterston cooling water intake. Nor can I guarantee that section 8A would have no impact on existing sustainable seaweed harvesting and the associated income and employment that our rural areas depend on.

For all the reasons that I have outlined—particularly because section 8A would clearly prevent activity of public interest, such as scientific research that is needed to improve our scientific knowledge of kelp habitats and their rate of recovery—I do not support section 8A. For those reasons, section 8A cannot be left in the bill at this important and final stage of the bill's progress through Parliament.

Turning to amendment 21, I remain of the view that the Scottish Crown Estate Bill is not the optimal place to control seaweed harvesting. However, Mark Ruskell's amendments have surfaced a range of issues regarding the regulation of current and proposed harvesting

activity in this emerging sector. The issues are complex, many and varied and require the gathering of further evidence.

Andy Wightman: Does the cabinet secretary accept that the report of the Scottish Law Commission in 2003—which proposed quite a considerable modernisation of the law of the foreshore and sea bed, including provisions on kelp and crofters’ rights to gather kelp—would have been a better place to put this issue? Will she consider introducing such a bill in this parliamentary session?

Roseanna Cunningham: I am not going to be drawn on increasing the legislative programme in this parliamentary session. I am happy to talk to Andrew Wightman and anybody else who has any further bright ideas, but I would rather focus simply on where we are at the moment.

15:45

Because we are having this debate in the context of the Scottish Crown Estate Bill, there are some issues that need to be put before the chamber. We need to ensure that existing activity and future proposals are sustainable, and I have listened to all the views that have been expressed. Amendment 21 would put it on a statutory footing that a Scottish Crown estate manager cannot grant a right to remove wild kelp if the removal is a marine licensable activity and no marine licence has been obtained. That would apply to all managers and would therefore future proof current good practice that is not as we speak a requirement in legislation. The amendment also makes it clear that the granting of such a right is void if a marine licence is required and has not been given. In addition, the amendment would meet the important test of ensuring that we can still undertake scientific research to enhance our knowledge of kelp, which would be put at risk by section 8A as introduced at stage 2.

Mark Ruskell’s amendment 21A to my amendment 21 reintroduces the key provisions from his original amendment prohibiting the removal of certain species of wild kelp where removal inhibits the regrowth of an individual plant. A critical difference is that the provision is now limited to commercial use only. As I have mentioned, the bill is not the best place for a control of that type. For example, it applies only to a manager of the Scottish Crown estate, and only half of the foreshore is part of the Scottish Crown estate, so the amendment would not deliver the protection sought in all parts of Scotland where the species are found. There is also a risk that amendment 21A could cut across the marine licensing system that Parliament voted for, which is contained in the Marine (Scotland) Act 2010.

However, I am aware of concerns that have been expressed in the debate over the past weeks. I have listened carefully to those concerns and, having considered them at length, I am willing to provide my support to amendment 21A. I have concerns about the lack of definition provided in it as to the meaning of the terms “commercial use” and “removal”, so I want to make clear that I support the amendment on the basis that we are not seeking to prevent scientific research from continuing to improve our scientific understanding of kelp, kelp habitats and kelp recovery potential or appropriate research and development for public health purposes such as pharmaceuticals; that, as Mark Ruskell has alluded to, it will not prevent power stations, commercial ports or other similar public infrastructure from removing kelp species for maintenance purposes or other public interest reasons; and that it will not prevent hand cutting above the base of the meristem, where growth occurs, or prevent harvesting by hand cutting that Scottish Natural Heritage has advised is sustainable. It is important that I make those assertions in the chamber.

I am confident that those who have proposed amendment 21A will agree that it is not intended to cut across the points that I have just outlined. I am highlighting them to ensure, and I invite those members to confirm, that that is the case for the sake of clarity about the Parliament’s intentions in voting on the amendment. I cannot guarantee that amendment 21A will have none of those unintended impacts or that it will have no impact on existing sustainable seaweed harvesting. If some of those specific issues arose, I would have to consider the need to legislate further.

I will also consider the need for guidance or directions to managers on the issues if the amendments are agreed to. Furthermore, I plan to keep the situation under review and do not wish unreasonably to block the future development of forms of harvesting that we might in time establish, through a proper assembling of the evidence, is sustainable. For the time being, given the increasing profile of kelp harvesting as an activity, and in view of the need to further our understanding of kelp species, kelp habitats and kelp recovery potential, it is my intention to keep these matters under review. I am therefore announcing to Parliament today a review of the regulatory regime for all kelp harvesting activity.

Members may be interested to know that currently there are five different ways in which kelp can be harvested commercially—it is not simply hand versus mechanical harvesting—and all those should be part of the review. It will therefore include harvesting that is not currently a licensable activity and which I am advised is deemed to be sustainable but where it seems proportionate and appropriate to examine whether it should be

included within an expanded licensing regime. I am confident that the licensing process is robust and thorough and does what it is supposed to do effectively. I am also conscious of the need for continuous improvement in how we regulate activities in our marine environment, particularly where there is interest in undertaking new or novel activities.

I am therefore giving a commitment to Parliament that Marine Scotland will undertake a strategic programme of work, including a review of the regulatory regime for all kelp harvesting activity in Scotland. That will recognise the need to take fully into account in licensing decisions the environmental implications of the removal of kelp from the marine environment by any method, develop locational guidance for potential kelp resources areas and outline the research and evidence-base requirements, so that we are better informed on the environmental impacts of developing the kelp industry. That will enable us to make informed decisions on the sustainable development of the seaweed sector.

Mark Ruskell: I thank the cabinet secretary for the commitment to the review. Could she confirm that independent scientific advice, particularly from seaweed academic specialists who understand the area, will be used in the review?

Roseanna Cunningham: I will expand on that issue later.

The work that I am talking about will involve consideration of the need for a pilot project, on an appropriate scale and design and at an appropriate location, to collect evidence on the potential environmental impacts of seaweed harvesting and on regeneration potential. I have instructed officials to form a steering group, with representatives from key environmental agencies, non-governmental organisations and sectoral stakeholders, for that strategic programme of work. The group will first establish the timetable for the work programme in the coming months, including arrangements for reporting progress, before ultimately overseeing the delivery of the work programme.

I want to make it clear that the review is not being undertaken because of any deficiency that has been identified in the marine licence system. In fact, in my view, the system is robust and being shown to work, but I am conscious that there is current interest—there might be more interest in future—in new types of seaweed harvesting in Scottish waters.

The review seeks to promote a spirit of continuous improvement and to ensure that we are pushing at the limits of having the very best regime possible. I hope that I have outlined a

proportionate way forward, given the current evidence base and complexities.

The Presiding Officer: Five members wish to speak on this group.

John Scott: The group of amendments on the harvesting of sea kelp is the only really contentious part of the bill. The cabinet secretary has outlined why, and I welcome her announcement.

It was a surprise that amendment 42, which was lodged by Mark Ruskell at stage 2, was accepted for consideration, because it was widely accepted that the matter is a licensing issue and should not have been part of the bill. However, the Green amendment became part of the bill as amended at stage 2, and today we welcome the Government's amendment 19, which will leave out section 8A. The matter should have rested there, and the proposal for kelp harvesting from Marine Biopolymers Ltd should have been dealt with in the normal well-defined licensing and regulatory way.

However, the Government has acknowledged, as did we, that there are valid concerns about the harvesting of *Laminaria hyperborea* that need to be dealt with. That such concerns have developed—notwithstanding what the cabinet secretary has just said—suggests that the public have no faith in our licensing system or in our regulatory bodies and development agencies, such as Marine Scotland, Scottish Enterprise and other investment agencies, whose advice and help MBL has sought and relied on in developing the harvesting process, as well as in the development of a range of groundbreaking medically significant products.

That those well-articulated public concerns are now driving the debate and support for Mark Ruskell's amendment 21A leaves me, too, wondering whether the whole development process is fit for purpose, because despite MBL proposals having passed through every regulatory hoop for the past eight years, we have reached a position today where the Conservatives, and Parliament, will accept Mark Ruskell's amendment, because we accept that the concerns that he and others have expressed might be valid.

John Finnie (Highlands and Islands) (Green): Will the member take an intervention?

John Scott: I would rather not, if the member will forgive me.

If companies such as MBL are not to be forever deterred from carrying out research and development work, with a view to bringing new products to market that are derived from natural resources, the whole regulatory and development system has to be changed—perhaps radically—or

would-be investors and innovators will never again look at Scotland as a place to do business. Therefore, I welcome the cabinet secretary's announcement of a root-and-branch review of the whole matter. Given the circumstances in which we find ourselves, such a review is perhaps long overdue.

Claudia Beamish: I speak in support of Roseanna Cunningham's amendment 21. It is a helpful amendment with regard to good practice in future proofing. I particularly welcome the review of the regulatory regime and that issues will be looked into on a scientific basis. That is important for sustainable development of our shores.

The Scottish Crown Estate Bill devolves management of assets that are owned by the Crown in the public interest. The sea bed forms part of those assets; thus, it is owned by the people of Scotland and is a public good that must be managed in all our interests. That means that sustainable development must be at the core of all decision making by managers.

Mark Ruskell's amendment 21A, which I support, would provide that the Crown Estate could not grant the right of harvesting wild kelp from any area of the sea bed under its management where such harvesting

"would inhibit the regrowth of the individual plant",

which is fundamental to sustainable development. As such, it is essential that that is stated robustly as part of the framework for future kelp harvesting in our inshore waters. That is particularly important in view of the broader review of seaweed licensing that the cabinet secretary announced today.

Kelp forests are protected as priority marine species, and are important because of blue carbon. Over a number of years I have worked—not least, with the new Minister for Energy, Connectivity and the Islands, Paul Wheelhouse—to get blue carbon into the climate change plan, because it is important for reducing our future emissions. The national marine plan details the issue of climate change, and Scottish Environment LINK stressed in its submission to the committee on the Climate Change (Emissions Reduction Targets) (Scotland) Bill that Scotland should seek to reduce "pressure on carbon sinks" and consider opportunities to "enhance blue carbon habitats". We should not diminish opportunities: we must not take that risk.

Fundamental issues include ecosystem protection, prevention of coastal erosion and protection of juvenile fish and sea birds that feed on sand eels—which I saw for myself on the north Harris snorkel trail last summer—which are a priority species. Any future harvesting of the range of kelps under the devolved arrangements should continue to be sustainable, as it is at present.

I turn to community and industry concerns, and the support for amendment 42, at stage 2, on regrowth of kelp. There was a wide range of submissions—I acknowledge that they came after stage 2—to the ECCLR Committee expressing clear and cogent reasons why the kelp amendments are valid and should be agreed to today. Some submissions are scientific and well referenced, and others are about the right to our kelp forests as a public good.

There were submissions from fishermen's organisations such as the 400-member Scottish Creel Fishermen's Association, from hand divers for scallops and from trawlermen. Those groups are not always in harmony, but they agree on this matter, which is a good step. There were submissions from hand gatherers of kelp for artisan use, from marine tourism companies and from community councils. I welcome to the gallery many of those people who are, along with some primary school children, here to hear how the bill progresses.

There is research being done on and there is limited farming of seaweed in Scottish waters. As I understand it—the cabinet secretary confirmed this—those will not be affected by amendment 21A, which is welcome.

At stage 2, when supporting amendment 42, I stressed that this is about future protection of, and sustainable harvesting arrangements for, Scotland's kelp. It is not about individual applications. If this was a land issue, there would be no question about not upholding the principle of sustainable harvesting. There must be no such question in respect of our inshore waters. Although planted forests are harvested on land, native forests and woodlands are not, with the exception of limited-scale coppicing, which allows regrowth.

In the view of Scottish Labour, this sea justice issue is parallel to land justice issues. I add our support for the amendments in the group.

16:00

Gail Ross (Caithness, Sutherland and Ross) (SNP): I thank the following people, some of whom are with us in the gallery, and I acknowledge their huge contribution. They are: Noel, Janis and the Ullapool sea savers—Fin, Maia, Alicia, Caillin and Poppy and others who cannot be with us today; the Sunnyside ocean defenders; all the individuals and businesses who got in touch, signed open letters and petitions; and especially Ailsa McLellan, whose tireless campaigning has been nothing short of inspirational. I acknowledge their huge contribution.

I welcome the position that has been outlined by the cabinet secretary. I thank Mark Ruskell, Claudia Beamish and Finlay Carson for the way in which they have worked on a cross-party basis to deliver this result.

In supporting the amendments on restriction of removal of wild kelp from the sea bed, we ensure not only sustainability of the marine environment, but sustainability of the local hand harvesters, who do so much to manage the kelp supply. That is not to suggest that we want to restrict economic or research activity: far from it. The proposed regulatory regime, as outlined by the cabinet secretary, gives us the opportunity to ensure that we protect our marine environment and encourage sustainable business, and take the wide range of research opportunities that are open to us.

I welcome the review that has been announced by the cabinet secretary. It will give us a chance to hear and put on the record the evidence that we need in order to ensure that we can achieve the aims that we outline today.

Recently, some people in the industry have said that the proposal sends out the wrong economic message, but I say that it sends out the correct environmental message.

Johann Lamont (Glasgow) (Lab): I will declare an interest and note that I probably have less expertise than everybody else who has spoken thus far.

The interest that I declare is that my forebears would have harvested kelp. When they were cleared off the land, they relied on the sea for sustenance. They had to leave the land where they wanted to stay: they were part of the significant migration out of the Highlands and Islands into our cities, because there was no work for them to do.

We must see the debate on kelp, and the interest that it has generated, in that context. We must not see it as something obscure that is happening somewhere else, but as something that happened generations ago, when there was a failure to create economic opportunities for our communities.

Andy Wightman: Will the member take an intervention?

Johann Lamont: Let me make some progress.

I have welcomed the willingness over time of Governments of all stripes to seek economic opportunities to sustain fragile, remote and rural communities, and the willingness to harness the energy of the wind and the sea in the interests of the people of such communities. We need to see the issue in that context. There must be environmental protections, but we should be

willing to look at the economic and social impacts as well as at the environmental impact.

I note what the cabinet secretary said and I welcome her reassurance that she sees the matter in the context of protection not just of the environment, but of the economies of communities. I ask her to make a further commitment, if she speaks again, to economic regeneration for such communities.

Perhaps when he sums up, Mark Ruskell can address this question: is all commercial interest bad? A community or co-operative enterprise would still have to be commercially viable. We should be looking for commercial opportunities for people in those communities, with the protections that have been identified. I seek reassurance from Mark Ruskell, who lodged amendment 21A, that he is not suggesting that we rule out all harvesting of kelp when there might be a commercial interest in harvesting it. We are all committed to protection of our environment, but we have a duty to look at proposals also in terms of the social and economic impacts on communities.

Again, I reflect on what the cabinet secretary said. In the conversation about the issue, the language itself has created a reaction. To say that an approach is "industrial" is pejorative. It has to be an economic approach that protects the environment and creates jobs for people who want to stay in those communities. There must be protections, but we should view the matter in the context of communities that have the right to say that they want economic opportunities in their communities, as well as elsewhere.

In conclusion, because we have been lobbied on the issue, it is important to recognise that the people who want kelp to be taken from the seas do so out of a desire to create economic opportunity or to develop our scientific understanding of the environment. I would like to be reassured that we are not simply putting science to one side.

John Finnie: Does Johann Lamont accept that the proponents of amendment 6 do not want to see an end to kelp harvesting? We want to see sustainable kelp harvesting, which is a different thing.

Johann Lamont: It seems to be being implied that "sustainable" and "commercial" are contradictory terms, but they are not. Perhaps we should all have a mature conversation about what "sustainable" means and what developments we are prepared to accept in our remote and rural communities.

There will always be a trade-off. I want my nephews to have the opportunity to live in the communities in which they were born, and to have jobs that will keep them sustained and keep those

communities viable and alive. I do not think that there is a contradiction between “sustainable” and “commercial”, nor do I think that members on different sides of the argument are in conflict with one another.

I hope that the importance of science and evidence will be respected—I think that the cabinet secretary has indicated that that will be the case—and that it is not accepted as fact that all proposals that will be commercial opportunities are a problem for communities. As someone who supports co-operative initiatives, I know that they must be commercially viable, and I know how successful they can be in sustaining the communities that we all care about.

Stewart Stevenson: I am as big a fan of kelp as anyone else, including Mark Ruskell, and I share all the environmental observations that have been made, which have considerable merit. That is what I said at stage 2, when the amendment that inserted new section 8A in the bill was agreed to. Three members voted in favour of that amendment and six members abstained. Why did the members concerned abstain? We did not do so because we thought that kelp is not worthy of protection. Everyone thought that it is worthy of protection, and we all continue to think that. We abstained because the process causes us considerable difficulties.

In an intervention on the cabinet secretary, Mark Ruskell said that we now need independent scientific advice. That is a fascinating way to legislate—to pass the law first, then look at the independent scientific advice. That is simply a case of doing things—I am not allowed to use the colloquial expression—back to front. I am speaking about the process, not the substance, which I am being persuaded, slightly reluctantly, to vote for, because that is the best way to protect kelp, which is what we all want.

Kelp is a valuable harvest. Lord Leverhulme’s opening of a herring processing and kelp harvesting farm at Northton in Harris 100 or so years ago gives an indication of the value therein.

I will bring my remarks to a conclusion, unusually by making a plea to the Presiding Officer, one of whose colleagues chairs the Conveners Group. What has happened here has all the hallmarks of what happens in the South African legislature and the United States legislature—I refer to what is called “earmarking”. I am talking about the introduction of a provision that was not part of the bill at stage 1, when we agreed to the general principles of the bill. I absolutely accept that what was done was within the rules of Parliament, but it might be useful for guidance to be given to committee conveners on the admissibility of the amendments that they select. It is their choice.

Andy Wightman: The amendments in question were deemed to be competent and within scope. I remind Stewart Stevenson that we are considering

“An Act of the Scottish Parliament ... to make provision about the management of the Scottish Crown Estate”,

among other things. By law, the kelp species that we are talking about are part of the land on which they grow—they are the property of the Crown—and the amendments that we are considering are designed to govern the management of a critical part of the Crown estate. They are wholly within the scope of the bill.

Stewart Stevenson: I will not engage with those comments directly, but Andy Wightman is correct—the amendments are perfectly valid. I am simply pointing out that, in this case, the lead committee has neither received, heard nor challenged a single piece of evidence on the subject, and even a member who is moving an amendment is saying that we now need independent scientific advice. That raises a wider issue about how we take forward such things.

Mark Ruskell: Of course we need independent scientific advice, but within the context of the legislation that we will pass today, which will put in a clear backstop—a golden rule—and set the context not only for the advice but for commercial development.

Stewart Stevenson: I simply conclude by—

John Scott: Will the member give way?

Stewart Stevenson: Yes—if the Presiding Officer allows it.

The Presiding Officer: Yes.

John Scott: I thank Stewart Stevenson for taking the intervention and I appreciate the indulgence of the Presiding Officer.

We have already heard the cabinet secretary admit that the licensing and regulatory regimes are not fit for purpose. Is Stewart Stevenson now suggesting, as I think he is—I tend to agree with him, because he is one of the fathers of the house, so to speak—that the processes of Parliament are being called into question because they have not allowed the matter to be properly debated and aired, or for evidence to be taken in Parliament? Are those things not, allegedly, part of the processes of Parliament and, if so, are they to be called into question, too?

Stewart Stevenson: Let me try to conclude, finally and for the third time. We should not push the boat out too far on the subject of our processes, but the approach in question is an unusual one that has sometimes led us into difficulties when we have taken it in the past and a committee has not had the opportunity to take evidence from all interested parties. I am

absolutely certain that the ECCLR Committee would conclude that we should protect kelp and that we should legislate to do so.

Andy Wightman: Will the member give way?

Stewart Stevenson: I think that I have passed that point, but I will do so, if the Presiding Officer permits it.

The Presiding Officer: I call Andy Wightman.

Andy Wightman: The member will be aware of the Parliament's standing orders. Rule 9.8.6 allows the sponsor of the bill—in this case, the Government—to move a motion to return to stage 2 for detailed consideration for as long as might be necessary. I am just challenging the idea that Parliament's processes are not up to the kinds of developments that we see with the bill.

Stewart Stevenson: For the fourth time, I will try to finish. I think that what I am trying to address is a very simple matter: the committees of Parliament have not had the opportunity to consider in detail the importance of the issue, which causes me to say that we should have done this earlier. I hope that we will do that in the future.

I will vote for the amendments when we come to do so very shortly.

The Presiding Officer: Just for clarity, I note that there are no procedural questions for me to rule on. All the amendments were deemed to be admissible. The issue that has been raised today is for Parliament to consider.

I call the cabinet secretary, then Mark Ruskell to wind up.

Roseanna Cunningham: Thank you, Presiding Officer. You will be very grateful to hear that despite my legal background I have absolutely no appetite for extended discussions about parliamentary standing orders or anything connected thereto.

That said, I want to correct one thing: I do not recall saying at any point that the licensing regime is “not fit for purpose”: in fact, I said exactly the opposite. The issues that have been highlighted with regard to kelp harvesting have shown that we need to ask serious questions about all such forms of harvesting.

Johann Lamont made some very fair points. Kelp is already a growing industry, and the potential of farming, let alone harvesting, of wild kelp has not been fully explored in Scotland.

However, members need to be aware that there are currently five methods of harvesting kelp, only one of which has become controversial and would have required to be licensed if it were to continue. I am happy to share with members information on the differences between the five different methods,

because it might help them to understand the issues.

For example, some of what is called hand harvesting is actually taking place at a fair scale. It could, in my view, be argued that members might want to consider licensing it. That is the kind of thing that I want us to look at in the seaweed harvesting review. I think that, although we have become rather more expert in seaweed harvesting than we were when we began the process, there is still a great deal to learn and understand about it.

16:15

Some of the issues and concerns that have been raised today are valid, however the debate is being had, decisions have to be made and I have made it clear where the Government stands on those decisions.

The Presiding Officer: I call Mark Ruskell to wind up and to press or otherwise the amendments in his name.

Mark Ruskell: Sometimes in politics, we have moments at which we can make a change for good. They may be unexpected and they may appear to sit awkwardly in the legislative process, but to ignore them would be wrong. Parliament recently, in a very short time, passed a continuity bill that deals with a wide range of issues. There was limited time to take evidence and to scrutinise, but I believe that we came up with robust legislation. I am looking at Mr Russell and he is nodding his head.

On Johann Lamont's point about whether all commercial interest is bad, I say that of course it is not. However, commercial interest and activity needs to sustain itself over generations: generations of her forebears and generations of young people such as are in the gallery today. It has to be sustainable and it has to be in the long-term interest. That is why it is important that the Government has launched the sector review, which will look not just at current licensing applications, but at other forms of harvesting and extraction. We have learned so much about kelp farming in the past few weeks—including the experience of the Faroese—in terms of developing a vibrant sector that can create jobs for generations to come, that will serve our pharmaceutical industry and our food sector, and which will grow jobs and increase growth in remote and vulnerable communities in the north-west.

We are at the point when we can take the decision, and I welcome the constructive discussions that I have had with the cabinet secretary over the past few weeks—especially about the sector review.

I also welcome the support that I have had in committee from Claudia Beamish and Alex Rowley, and the open-mindedness of members, including Finlay Carson. I welcome the work of John Finnie and Gail Ross, who have channelled the concerns from businesses in the west coast of Scotland into the committee and the chamber. I particularly welcome the work of Ailsa McLellan and the Ullapool sea savers, who are here today.

We are in a good place. There will be a sector review and there is a hard backstop in the bill. It is up to industry to innovate around that and to come up with the industry that is needed for the future.

Amendment 6, by agreement, withdrawn.

Amendments 7 and 8 not moved.

Amendment 19 moved—[Roseanna Cunningham]—and agreed to.

Section 13—Directions about rent and other charges

Amendment 20 moved—[Roseanna Cunningham]—and agreed to.

After section 13

The Presiding Officer: Group 7 is on community benefit requests. Amendment 42, in the name of Liam McArthur, is grouped with amendment 44.

Liam McArthur: As I said earlier, the bill should be about ensuring that island and coastal communities have more local control over and benefit from the current Crown estate assets in Scotland. At stage 2, I moved amendments that aimed to make that happen by empowering local authorities to determine how community benefit schemes are set and money raised and allocated.

I have taken on board some of the concerns that were raised by the cabinet secretary and committee members, including those relating to an oversight on my part that seemed to suggest that Orkney would be the sole beneficiary of the provisions in the amendments. I hope that amendments 42 and 44 will now secure support from across the chamber.

Over the past 40 years, local management and commercial extraction of marine resources have been achieved through formal arrangements such as works licensing under the Orkney and Zetland acts and agreements with the oil industry. Those arrangements have worked well and to local and national advantage. Our island authorities' track record has been recognised, and it rests on the principle that local communities should be compensated for the disruption and inconvenience associated with development work. We see that in relation to terrestrial planning, albeit on a voluntary

basis; and in the offshore sector, albeit on a voluntary and patchy basis. Fundamentally, however, communities that have to endure the burden of development, dislocation, risk and the exploitation of scarce resources must be involved in decision making about which developments happen and which do not. They should also determine how any related community benefit is agreed. As I stated during stage 2,

“much of what I have said sits comfortably with the Government’s commitments in its prospectus ‘Empowering Scotland’s Island Communities’.”—[*Official Report, Environment, Climate Change and Land Reform Committee*, 18 September 2018; c 36.]

Like the island authorities, I believe that that commitment needs to be in the bill.

I move amendment 42.

Andy Wightman: Amendment 42 seeks to introduce a regulation-making power for a community benefit requests scheme and says that that such a request must not be unreasonably refused. Again, that seeks to uphold the recommendation in paragraph 33 of the Smith commission’s report, which says:

“responsibility for the management of those assets will be further devolved to local authority areas”.

I very much support amendments 42 and 44 and the Greens will vote for them.

Claudia Beamish: When Liam McArthur sums up, will he clarify whether he has any thoughts on community benefit in parts of Scotland beyond the islands? Such areas do not apply, or are unable to apply, in relation to management of the seabed. Could they still get some community benefit from things that they might see in their environment or which might have some impact on that environment?

John Scott: Amendments 42 and 44 would place a duty on Scottish ministers to make provision for a community benefit requests scheme, if asked by a local authority. Similar amendments were lodged at stage 2 and were regarded as being unnecessary. Scottish ministers have already made a commitment that Scottish coastal communities will benefit from the net revenue from Crown estate marine assets. In addition, the Scottish Government already encourages developers to deliver community benefit voluntarily and has discussed and agreed with the Convention of Scottish Local Authorities how to deliver those benefits to coastal communities from the net revenue.

On a different but related point, one has to wonder how land-locked local authorities are not to be disadvantaged by such payments being made only to coastal authorities, but perhaps that is an issue for another day.

Roseanna Cunningham: The purpose of amendments 42 and 44 appears to be to create a process whereby particular local authorities can request from Scottish ministers permission to generate community benefit from marine development occurring within the relevant Scottish marine region in relation to Scottish Crown estate assets out to 12 nautical miles. However, that does not create a process for how those benefits are to be generated. I am of the view that amendments 42 and 44 are unnecessary. There is no need to include in legislation a right for a local authority to seek permission from Scottish ministers to set up such a scheme. A local authority can already implement a scheme of that nature without the permission of Scottish ministers. In addition, the Scottish Government has no powers to oblige developers to pay community benefits for such schemes, and there are examples of developers in Scotland putting local community benefit schemes in place voluntarily.

Against that background, we will resist amendment 42 and consequential amendment 44. First, there is no need to include in legislation a right to create a scheme, because local authorities can create such schemes themselves; and, secondly, there are a number of practical difficulties around how the amendments would work in practice. Claudia Beamish mentioned some of them.

As a result of the way that amendment 42 defines “relevant local authority”, it would have the effect of applying to only six local authorities: Argyll and Bute Council, Western Isles Council, Highland Council, North Ayrshire Council, Orkney Islands Council and Shetland Islands Council. All the other coastal local authorities would therefore be excluded. That might be an advance on Liam McArthur’s Orkney-specific proposal at stage 2, but it is still a rather odd formulation.

How amendment 42 would work in practice is unclear. It seeks to create a process whereby one of the six local authorities that I mentioned could request permission

“to generate community benefit from marine development ... within its relevant Scottish Marine Region from”

the foreshore

“to 12 nautical miles as defined by the Scottish Marine Regions Order 2015”,

but “marine development” is not defined, and the marine areas as defined in the Scottish Marine Regions Order 2015 do not correspond exactly with the local authority boundaries. As we have already discussed, some of the marine areas are shared between more than one local authority, but amendment 42 does not set out a mechanism for determining competing claims by different local

authorities to generate community benefit from the same marine area.

A further technical concern about amendment 42 is that imposing on ministers a duty to make regulations that would be subject to the affirmative procedure is problematic as the regulations could be made only if a draft had already been approved by the Parliament.

I remain of the view that amendments 42 and 44 are not necessary. The Scottish ministers have already made a commitment to ensure that island and coastal communities will benefit from the net revenue from the Scottish Crown estate marine assets. We have had constructive discussions with COSLA and have agreed an interim mechanism for local authorities to receive a share of the net revenue out to 12 nautical miles. That local funding will not be hypothecated, but we would expect the local authorities to be transparent and accountable to their communities for how the money is spent.

Arrangements are being made to distribute the revenue to coastal councils later this year and we have agreed with COSLA that we will review the interim arrangements, including whether we can establish a closer link with the net revenue that is raised in a local authority area.

I ask Liam McArthur not to press amendment 42 and not to move amendment 44.

Liam McArthur: I thank all those who have contributed to the debate. First, I thank Andy Wightman. I thought that, having mentioned the Smith commission enough in my previous contributions, I would avoid doing so again, but he was not so inhibited. He is absolutely right that my amendment 42 honours the recommendations of the Smith commission.

I acknowledge the constructive engagement that Claudia Beamish has had with me on amendment 42. I think that the regulatory powers would enable some of the concerns that she expressed about other local authorities to be addressed. John Scott picked up on a similar issue and went on to insist that it is captured in relation to net benefits. If he is going to vote against amendment 42, I very much look forward to his support when we turn to the next group, on net benefits.

Both John Scott and the cabinet secretary mentioned the discussions with COSLA. I point out that, however they are going, there are still anxieties among the island authorities about the way in which the revenues will be distributed. To suggest that all is well and there are no concerns to be addressed is therefore, perhaps, a little naive.

On the basis of what I have heard this afternoon, it is probably best if I do not press

amendment 42 and we return to the matter under the next group, on net benefits.

Amendment 42, by agreement, withdrawn.

After section 14

Amendment 21 moved—[Roseanna Cunningham].

Amendment 21A moved—[Mark Ruskell].

The Presiding Officer: The question is, that amendment 21A be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division. This is the first division in the group, so we will have a one-minute division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)

Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McNeill, Pauline (Glasgow) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Abstentions

Ballantyne, Michelle (South Scotland) (Con)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Corry, Maurice (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Mason, Tom (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Tomkins, Adam (Glasgow) (Con)

Wells, Annie (Glasgow) (Con)
Whittle, Brian (South Scotland) (Con)

The Presiding Officer: The result of the division is: For 89, Against 0, Abstentions 28.

Amendment 21A agreed to.

Amendment 21B moved—[Mark Ruskell].

16:30

The Presiding Officer: The question is, that amendment 21B be agreed to. Are we agreed?

Members: No

The Presiding Officer: There will be a division. This will be a 30 second division.

For

Adam, George (Paisley) (SNP)
Adamson, Clare (Motherwell and Wishaw) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Arthur, Tom (Renfrewshire South) (SNP)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Bibby, Neil (West Scotland) (Lab)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Cole-Hamilton, Alex (Edinburgh Western) (LD)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Denham, Ash (Edinburgh Eastern) (SNP)
Dey, Graeme (Angus South) (SNP)
Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Ewing, Annabelle (Cowdenbeath) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
Finnie, John (Highlands and Islands) (Green)
FitzPatrick, Joe (Dundee City West) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Greer, Ross (West Scotland) (Green)
Griffin, Mark (Central Scotland) (Lab)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hyslop, Fiona (Linlithgow) (SNP)
Johnson, Daniel (Edinburgh Southern) (Lab)
Johnstone, Alison (Lothian) (Green)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lamont, Johann (Glasgow) (Lab)
Lennon, Monica (Central Scotland) (Lab)
Leonard, Richard (Central Scotland) (Lab)

Lochhead, Richard (Moray) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Macdonald, Lewis (North East Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Derek (Renfrewshire North and West) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Marra, Jenny (North East Scotland) (Lab)
Martin, Gillian (Aberdeenshire East) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
McDonald, Mark (Aberdeen Donside) (Ind)
McNeill, Pauline (Glasgow) (Lab)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Rennie, Willie (North East Fife) (LD)
Robison, Shona (Dundee City East) (SNP)
Ross, Gail (Caithness, Sutherland and Ross) (SNP)
Rowley, Alex (Mid Scotland and Fife) (Lab)
Rumbles, Mike (North East Scotland) (LD)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Russell, Michael (Argyll and Bute) (SNP)
Sarwar, Anas (Glasgow) (Lab)
Scott, Tavish (Shetland Islands) (LD)
Smith, Elaine (Central Scotland) (Lab)
Smyth, Colin (South Scotland) (Lab)
Somerville, Shirley-Anne (Dunfermline) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, David (Highlands and Islands) (Lab)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Torrance, David (Kirkcaldy) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wightman, Andy (Lothian) (Green)
Yousaf, Humza (Glasgow Pollok) (SNP)

Abstentions

Ballantyne, Michelle (South Scotland) (Con)
Bowman, Bill (North East Scotland) (Con)
Briggs, Miles (Lothian) (Con)
Burnett, Alexander (Aberdeenshire West) (Con)
Cameron, Donald (Highlands and Islands) (Con)
Carlaw, Jackson (Eastwood) (Con)
Carson, Finlay (Galloway and West Dumfries) (Con)
Chapman, Peter (North East Scotland) (Con)
Corry, Maurice (West Scotland) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Golden, Maurice (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
Halcro Johnston, Jamie (Highlands and Islands) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Harris, Alison (Central Scotland) (Con)
Kerr, Liam (North East Scotland) (Con)
Lindhurst, Gordon (Lothian) (Con)
Lockhart, Dean (Mid Scotland and Fife) (Con)
Mason, Tom (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Simpson, Graham (Central Scotland) (Con)
Smith, Liz (Mid Scotland and Fife) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Tomkins, Adam (Glasgow) (Con)

Wells, Annie (Glasgow) (Con)
Whittle, Brian (South Scotland) (Con)

The Presiding Officer: The result of the division is: For 89, Against 0, Abstentions 28.

Amendment 21B agreed to

Amendment 21, as amended, agreed to.

After Section 25

The Presiding Officer: Group 8 is on a list of the Scottish Crown estate assets and liabilities. Amendment 3, in the name of John Scott, is grouped with amendment 5.

John Scott: Amendments 3 and 5 place a duty on Scottish ministers to maintain and publish a list of assets and make the list available for public inspection. Such a list would provide, at a glance, an understanding of what is owned by Scottish ministers and I hope that they will accept this opportunity to lead by example, given the expectation raised in the current land reform legislation that information on who owns what under private ownership should be easily accessible and public knowledge in Scotland. The amendments respond to recommendation 379 of the stage 1 report, which was that the Crown Estate Scotland should establish and maintain a list of assets and liabilities. Such a list, if published annually, would also provide an annual inventory, which would allow comparisons, year on year, of assets and liabilities, and would make the evolving shape of the Crown estate assets under the new obligations public and available for scrutiny. I hope that the amendments will be accepted by Parliament.

I move amendment 3.

Roseanna Cunningham: I thank Mr Scott for lodging these amendments and for raising the issue for debate. At stage 1, there was considerable interest in the assets and liabilities of the Scottish Crown estate and the amendments reflect some of the concerns that were expressed. In the stage 1 report, the Environment, Climate Change and Land Reform Committee recommended that

“Crown Estate Scotland establish and maintain a list of Crown Estate Scotland assets and the liabilities that attach to these.”

I certainly acknowledge the need to know who is the manager of any particular Scottish Crown estate asset. The information is needed to determine who is responsible for the asset, who can give permission to access the land and who can grant a lease. Those are legitimate questions.

At present, Crown Estate Scotland (Interim Management) maintains details of the assets that it manages, and the annual report and accounts will give a picture of the value of the assets by key

sectors. The accounts also contain information on the liabilities of the organisation. Crown Estate Scotland (Interim Management) has an interactive map on its website showing indicative locations of assets under its control that have in place live agreements, including leases. It also undertakes condition surveys and valuations of buildings and other property as appropriate. Ministers can direct managers to maintain an asset register in addition to the requirements on managers regarding management plans and annual reports.

Collecting, managing and reporting information on assets and liabilities forms part of the business-as-usual approach that has been operating since devolution, although, of course, it respects that some information is commercially sensitive and needs to be treated as confidential.

John Scott: How readily available would the lists and inventories be? Would they be available publicly, at a glance? Could someone find them after three clicks of a mouse?

Roseanna Cunningham: I reassure Mr Scott that we are as concerned as he is that the public is able easily to find out what assets form part of the estate, what the categories of liabilities are and who is managing any Scottish Crown estate asset. Officials are in discussion with how the information on assets can be made more widely available; that is an active consideration.

I provide reassurance that there will be publicly available information on assets and liabilities, but I do not consider there to be a need to require that in legislation, and I ask Mr Scott not to press his amendments.

Amendment 3, by agreement, withdrawn.

Section 31—Grants for preparation for management changes

Amendment 22 moved—[Roseanna Cunningham]—and agreed to.

After Section 31

The Presiding Officer: Group 9 is on transfer of net revenues to relevant local authorities. Amendment 43, in the name of Liam McArthur, is grouped with amendment 45.

Liam McArthur: We have covered some of this ground before—I have moved amendments in relation to the devolution of management powers over Crown estate assets and in relation to the devolution of responsibility for determining community benefit.

The two amendments in this group follow a similar pattern in relation to net revenues, which were mentioned by John Scott and the cabinet secretary in relation to group 8. I did not think that

they would necessarily be hugely controversial. The Scottish Government's "Empowering Scotland's Island Communities" prospectus says:

"Net income from activities within 12 nautical miles would be passed to individual Councils and each will be responsible for administering their own fund".

In 2016, which was two years after the prospectus was published, the First Minister said:

"Not only will our island communities benefit from 100 per cent of the Crown Estate revenues that they raise, but they will have a greater say in how the assets of the Crown Estate are managed."

That is uncontroversial—there is support for those aspirations across the chamber. The island authorities, not unreasonably, are looking for those specific commitments to be included in the bill. That is what amendments 43 and 45 seek to achieve. I look forward to the debate.

I move amendment 43.

John Scott: Amendments 43 and 45 would create a duty for Scottish ministers to

"make provision for a scheme to provide for the transfer of ... net revenue ... to a relevant local authority"

where that

"relates to marine development"

and

"other matters as the Scottish Ministers consider appropriate."

The amendments are similar to amendments that were debated at stage 2 by the committee and the Government. We believe that they are unnecessary, as the Scottish Government has said. The Government has made commitments that Scottish coastal communities will benefit from the net revenue from the Scottish Crown estate marine assets. I believe the Government, notwithstanding Liam McArthur's concerns about the believability of Government assurances.

The amendments would require that 100 per cent of net revenue from development of marine areas of Scottish Crown estate assets would be given to relevant local authorities. We simply do not agree with that. As I have said, no similar scheme to benefit landlocked local authorities has been suggested or provided for in the bill. Although I understand the ambitions behind Liam McArthur's amendments, I regret that they are not entirely fair to other local authorities.

Andy Wightman: We support amendments 43 and 45. They further the commitments that were given by all parties in this Parliament in the Smith commission report, paragraph 33 of which says:

"responsibility for the management of those assets will be further devolved to local authority areas".

Liam McArthur's amendments would place on a statutory footing a long-standing promise that was made by the First Minister at a meeting of the convention of the Highlands and Islands in Kirkwall on 1 June 2015.

I am pleased that John Scott believes the commitments of the Scottish Government on this matter. I do, too—I have no doubt about the Scottish Government's commitment to transfer the net revenues. However, we are passing a law today, and the current Government's commitments might not last beyond the life of this particular Administration. A future Government—one that perhaps includes Mr Scott—might not want to transfer those revenues. The question today is whether this Parliament feels that those net revenues should properly be transferred to Scotland's local authorities. Therefore, we support putting on a statutory footing the welcome commitment that has been made by the Scottish Government, which upholds the recommendations of the Smith commission, which were committed to by all parties.

Roseanna Cunningham: Scottish ministers have committed to providing for the benefit of coastal communities the net revenue that is generated, after all costs have been deducted, from Scottish Crown estate marine assets out to 12 nautical miles. Indeed, the Scottish Government and COSLA have agreed an interim formula-based approach to distribute the net revenue from Scottish Crown estate marine assets out to 12 nautical miles to each island and coastal local authority. I therefore see no need for legislation on this matter, given the commitment that has been given and the agreement with COSLA.

In addition, there are technical issues about the operability of amendment 43, and the amendment would cover only part of the agreement with COSLA. The amendment is applicable only to relevant local authorities, which are those that are listed in paragraphs 61 to 66 of the schedule to the Islands (Scotland) Act 2018, namely Shetland Islands Council, Orkney Islands Council, Western Isles Council, Highland Council, Argyll and Bute Council and North Ayrshire Council. It excludes all the other coastal local authorities.

Amendment 43 requires that a scheme should set out

"a process by which a relevant local authority is to receive 100% of net revenue, insofar as that revenue directly relates to marine development in its respective marine area, from Scottish Crown Estate assets from mean high water spring tides out to 12 nautical miles as defined by the Scottish Marine Regions Order 2015".

The Scottish Marine Regions Order 2015 created 11 marine regions in Scotland, the boundaries of which are described in the order.

They do not necessarily align with the boundaries of local authority areas in Scotland, as has been mentioned this afternoon. In my view, that creates a particular problem in the delivery of the effect of this amendment. In particular, the boundaries of Highland Council, Argyll and Bute Council and North Ayrshire Council do not correspond directly to any one particular Scottish marine region. Again, what is meant by revenue that “relates to marine development” is unclear, as that is not defined.

A further issue with amendment 43 is that imposing a duty on ministers to make regulations that are subject to the affirmative procedure is problematic, as the regulations can be made only if a draft is approved by the Parliament.

I also believe that amendment 43 and consequential amendment 45 are unnecessary, in the light of the Government’s commitment that coastal and island local authorities will benefit from the net revenue from Scottish Crown estate marine assets. That commitment is demonstrated by our agreement with COSLA. Moreover, as I have highlighted, it is not clear that amendment 43 will work as intended, as the marine areas that are set out in the 2015 order do not correspond to each of the local authority areas.

The amendment would also create a different procedure for the six councils compared with the other coastal local authorities that will benefit from the net revenue from neighbouring assets of the Scottish Crown estate out to 12 nautical miles, as currently agreed. As a result, the marine areas of each of the following local authorities are not properly defined: Argyll and Bute Council, Western Isles Council, Highland Council, North Ayrshire Council, Orkney Council and Shetland Council.

Amendment 43 creates difficulties, particularly where there is an overlap and more than one local authority area has its boundaries within a particular marine region, and where a marine region is within the boundaries of one of the six relevant local authorities as well as those of another local authority. The effect of the amendment is that a relevant local authority would be entitled to 100 per cent of the net revenue of marine development in that marine region to the detriment of the local authority that shares the marine region in which the revenue was generated. In particular, Highland Council shares the Moray Firth Scottish marine region with Moray Council and Aberdeenshire Council. It would be inappropriate for this amendment to result in all the Scottish Crown estate net revenue resulting from marine development in the Moray Firth marine region to automatically be transferred to Highland Council to the detriment of coastal communities in the Moray Council and Aberdeenshire Council areas.

In addition, Argyll and Bute Council and North Ayrshire Council share the Clyde Scottish marine region with other local authorities, including South Ayrshire Council and Inverclyde Council. It would be equally inappropriate for Argyll and Bute Council and North Ayrshire Council to receive 100 per cent of the net revenue resulting from marine development in the Clyde Scottish marine zone to the detriment of the other coastal communities in the South Ayrshire Council and Inverclyde Council areas. It also unclear how Argyll and Bute Council and North Ayrshire Council could both receive 100 per cent of the net revenue from marine development in a Scottish marine zone that lies within both local authority boundaries.

It is for those reasons that I do not support amendments 43 and 45 and I urge Mr McArthur not to press them. [*Interruption.*]

16:45

Liam McArthur: I am being encouraged by Alex Neil to clarify what assets in Airdrie and Shotts will be protected as a result of these amendments.

I thank John Scott, Andy Wightman and the cabinet secretary for their contributions. Andy Wightman is absolutely right that it is not about whether we believe the Government; it is about legislating and ensuring that those assurances succeed any current Government.

I think that John Scott is on record as saying that he does not support the proposal that local authorities should receive 100 per cent of the net revenue. There is therefore immediately a question mark around how resilient the assurances that have been given by the cabinet secretary would be in the future. Orkney Islands Council has made clear that it sees the commitment as being about fairness and equitability, and about providing an incentive to encourage and promote marine activity in our respective waters.

Although I listened carefully to what the cabinet secretary had to say—she outlined a number of legitimate concerns around where net revenue would accrue—there remains a concern in Orkney and Shetland about that issue. The net revenue cannot accrue on the basis of some algorithmic concoction that the Scottish Government comes up with. Given the Smith commission recommendations, there is rightly an expectation that the net revenue accruing from the activity in the waters around Orkney should accrue to Orkney Islands Council and to the Orkney community.

Claudia Beamish: Given what the cabinet secretary has highlighted, does the member not agree that councils that are not in paragraphs 61 to 66 of the schedule to the Islands (Scotland) Act

2018 might be disadvantaged by his amendments? Those councils could well have areas looking out over offshore wind installations or be involved in some other way, and the amendment could make it hard to divide up the net revenue. Will the member consider that in deciding whether to press his amendment?

Liam McArthur: Spoiler alert: I think that I will withdraw the amendment, not least because of the protestations of my colleague from the north-east, Mike Rumbles, in response to the cabinet secretary's intimation about what is happening in the Moray Firth.

However, there is a real issue about what will happen beyond the first or second year and the approximation that is made of the revenues that will accrue to different local authorities. Something more specific is required, particularly in areas such as Orkney and Shetland, where there is no dubiety about where the benefit of the net revenue should accrue.

Andy Wightman: I note that the member intends to withdraw his amendment. He will be aware that, under rule 9.8.5C of the standing orders, the minister is able to lodge a motion without notice that the remaining proceedings of stage 3 be adjourned to a later date. That would allow the cabinet secretary, were she so minded, to remit to the stage 2 committee amendments on statutory provisions for net revenue transfers so that they could be sorted out and brought into the bill. The member might wish to pursue that option with the cabinet secretary.

Liam McArthur: I am grateful to Andy Wightman for that intervention—he will want to look at the video later to see the body language of the members sitting behind him as he suggested that.

I think there are concerns about how amendment 43 would apply, which I am prepared to accept. There is an opportunity for the cabinet secretary, if she so wishes, to give an undertaking along the lines that Andy Wightman has suggested.

What I am trying to put on the record is that because of the commitments that were given by the Government in its “Empowering Scotland’s Island Communities” and as recently as June 2018, there is now an expectation that 100 per cent of the net revenue accruing from the developments in the waters around Orkney, Shetland and other island and coastal communities will accrue to those communities. On that basis, and given the concerns that have been raised, I seek to withdraw amendment 43.

Amendment 43, by agreement, withdrawn.

Section 40—Regulations

Amendment 4 not moved.

Amendments 44, 45 and 5 not moved.

Section 43—Interpretation

Amendments 23 and 24 moved—[Roseanna Cunningham]—and agreed to.

The Presiding Officer: That concludes the amending stage of the bill.

As members might be aware, at this stage in the proceedings, I am required under standing orders to decide whether, in my view, any provision of the bill relates to a protected subject matter—that is, whether it modifies the franchise for Scottish parliamentary elections or the electoral system. My view is that no provision of the Scottish Crown Estate Bill relates to a protected subject matter. Therefore, my determination is that the bill does not require a supermajority to be passed at stage 3.

I will suspend the meeting for a few minutes to allow the minister and other members to take a short break before the stage 3 debate.

16:52

Meeting suspended.

16:58

On resuming—

Scottish Crown Estate Bill

The Deputy Presiding Officer (Christine Grahame): The next item of business is a debate on motion S5M-14822, in the name of Roseanna Cunningham, on the Scottish Crown Estate Bill. I invite members who wish to speak to press their request-to-speak button now.

16:58

The Cabinet Secretary for Environment, Climate Change and Land Reform (Roseanna Cunningham): Today is an historic occasion, as this is the first time that the Parliament has ever legislated on the management of the Scottish Crown estate. It is, therefore, a landmark bill, which continues the process of the devolution of the Scottish Crown estate that started with the Smith commission and the Scotland Act 2016.

Until now, the management of the Crown estate has been governed by the Crown Estate Act 1961, which is a reflection of its time, predating the discovery of the North Sea oil fields and the development of aquaculture and, of course, offshore renewables. Administrative arrangements need to change with the times, however, and arrangements for the management of the Scottish Crown estate should reflect devolution. The bill enables local authorities, communities and harbour authorities to take on the management of Scottish Crown estate assets and to manage them in a way that benefits local communities within an overall national governance framework.

Our ambition is for the Scottish Crown estate to make a difference for the people of Scotland at both the local and the national level. The work of the Parliament today and during the course of the bill will help to deliver that ambition, ensuring that the management of the Scottish Crown estate has the statutory basis to contribute to the economic development, regeneration and social and environmental wellbeing of Scotland and, of course, to sustainable development in Scotland.

The net revenue from Crown estate assets will be paid into the Scottish consolidated fund, and the net revenue from areas out to 12 nautical miles will be distributed to coastal local authorities. It is, therefore, important that, overall, the estate is run in a way that protects and enhances the public finances rather than being a drain on them. It is also important to recognise that there are parts of the estate that cannot be expected to make money and other parts where a less commercial approach may be best to secure wider benefits.

The bill enshrines the accountability of the Crown Estate Scotland to the Parliament; modernises the statutory framework for management and assets; and creates new processes for further devolution of the Scottish Crown estate. For the first time, there will be a statutory requirement to prepare a national strategy for the Scottish Crown estate and a duty to act in the way that is best calculated to further the achievement of sustainable development in Scotland. By including new duties on sustainable development as well as wider socioeconomic and environmental factors, the bill requires managers of the Scottish Crown estate to contribute to multiple outcomes. Management of the Scottish Crown estate includes the management of seabed rights and a diverse portfolio that encompasses vibrant sectors that deliver economic and environmental benefits—such as the offshore renewables sector.

From my engagement with Crown Estate Scotland staff at Bell's Brae, I am aware of their high standard of professionalism and their commitment to maintain and improve the value of the Scottish Crown estate. I have seen the great work that is being done in areas such as the environment, renewable energy, tourism, recreation and support for community development projects.

It will not have escaped colleagues' notice that the issue of kelp harvesting has arisen during the progress of the bill and at points has appeared to almost overwhelm its original purposes. That has surfaced a range of issues concerning the regulation of current and proposed harvesting activity in the sector. The issues are complex, many and varied and require the gathering of further evidence to conclude how we should proceed in future. I remain of the view that the Scottish Crown Estate Bill is not the optimal place to control seaweed harvesting. However, the amendments that we have agreed to today provide a good foundation for better regulation of that activity in advance of further work to better understand the issues.

My announcement today of a review of the regulatory regime for all kelp harvesting activity in Scotland recognises that there is current interest in new types of seaweed harvesting in Scottish waters and that there may be more interest in future. I hope that all those who want to be part of that burgeoning industry will continue to engage with the Government and relevant authorities. I can advise that we will write to Marine Biopolymers Ltd today in respect of that aspect.

I express my special thanks and gratitude to the Crown estate stakeholder advisory group and members of the Environment, Climate Change and Land Reform Committee for their

contributions, and to my officials for their engagement and work on all aspects of preparation of the bill. I also thank Crown Estate Scotland staff for their contribution to the process, and particularly for the advice and support given to my officials on aspects of the technical drafting of the bill.

I commend all the Crown Estate Scotland staff for their dedication in continuing the good management of the assets and for progressing opportunities for pilots of local management while the bill has progressed through Parliament. I am conscious of the uncertainty that a political process can bring to people's day-to-day activities in their workplace. With the enactment of the bill, we can move beyond that uncertainty towards a clear future that is full of opportunity for the estate. I very much welcome the fact that the bill has been improved and strengthened as a result of the parliamentary process.

This is the start of a new era in the management of the Scottish Crown estate in which the assets are managed for the benefit of the people and communities of Scotland while protecting their value.

I move,

That the Parliament agrees that the Scottish Crown Estate Bill be passed.

17:03

John Scott (Ayr) (Con): I declare an interest as a farmer, and I refer members to my entry in the register of members' interests for other interests.

I welcome the passage of the Scottish Crown Estate Bill, which follows on from a Smith commission recommendation and the Scotland Act 2016, which devolved the management of the Scottish Crown estate to the Scottish Parliament. The Crown estate in Scotland, which was originally part of the United Kingdom-wide Crown estate, has a wide range of assets, including rural estates and rights to naturally occurring gold and silver across Scotland, as well as moorings, ports and harbours, the sea bed out to 12 nautical miles and, interestingly, carbon dioxide storage out to 200 nautical miles. Therefore, we have had to consider how many different assets will be managed by the Scottish Government in future, and I hope that the bill will deliver properly on the different focus that the Government has set for managing those assets.

Previously, the sole purpose of the Crown estate was to deliver funding to the Scottish or UK treasury. The bill seeks to further devolve, where appropriate, responsibility for the management of the assets away from the Scottish Government to Crown estate managers and other bodies, such as

local authorities harbour boards and community groups.

In addition, Crown estate managers, as well as seeking to enhance the value of the assets and to monitor and enhance the income from them, will be required to do so in a way that is best calculated to further the achievement of sustainable development in Scotland, and to contribute to promoting the improvement of economic development and regeneration, social wellbeing and environmental wellbeing. To me, that feels as though it will be a tall order for Crown estate managers. Having to enhance the income from the various assets, in addition to all the other new duties that will be placed on managers, will certainly, in my view, prove problematic and will likely deliver a much-reduced income stream to the Scottish Government; but we shall see.

I turn to another area of significant debate in the bill. Although I abstained on Mark Ruskell's amendment 21A on protecting kelp beds on environmental grounds, I very much regret the way in which the prohibition of the harvesting of *Laminaria hyperborea* will be passed into law; indeed, it provokes real questions about the stage 2 process for considering amendments in any future bill. It now appears that significant announcements on, and alterations to, a bill can be considered and acted on by committees, Government and Parliament, without any formal evidence being heard by a bill committee. Stewart Stevenson highlighted that point.

Andy Wightman (Lothian) (Green): The rules of Parliament allow for the introducer of a bill to move a motion without notice to return a bill to stage 2 for further consideration. There is nothing standing in the way of further consideration of those matters, apart from the decision of the Government on whether to utilise that power. Does the member agree?

John Scott: Yes; indeed, I raised the process with the appropriate bodies at the time. A bill would need to return to stage 1 in order for a committee to gather further evidence. That is what happened, perhaps 12 years ago—when Bill Aitken was the committee convener—when a justice bill on stalking had to go back to stage 1 after one of my constituents suggested an amendment. I am certain that the cabinet secretary will remember that happening, and possibly even Stewart Stevenson, too—we reverted to stage 1, took the information and then went back to stage 2. Thereafter, amendments were lodged and the stalking legislation, which is so worth while, came into being.

However, when I looked into the matter, I was told that, because the Scottish Crown Estate Bill had completed the stage 2 process and had left the committee, so to speak, the process that Andy

Wightman and I have described could not be activated. I thank Andy Wightman for his intervention—he is absolutely correct—but I was made aware that that process was not appropriate in this case.

I have lost my place in my speech. Real questions are provoked about the stage 2 process of considering amendments—yes I have said that already.

More awkward still, in this case, the developmental scientific work, which would have built on the age-old industry of kelp harvesting, had been supported by Government agencies, including Marine Scotland, and distinguished universities over the past eight years, with every regulatory hoop being jumped through and every piece of Government advice being acted on. Nevertheless, the significant regulatory process, which Marine Biopolymers Ltd adhered to throughout, will perhaps now not be completed, although perhaps one should take succour from what the cabinet secretary has said today.

In addition, other science-based businesses might now be deterred from investing in Scotland, knowing that a regulatory developmental process for product development that is supported by Government agencies can be overturned, almost whimsically, by Parliament.

It is difficult enough for our development agencies to persuade would-be investors to invest in Scotland and, today, it just became a lot more difficult. However, I welcomed Johann Lamont's supportive speech and the reality check that it provided. In particular, I share her interest in, and have long worked towards, bringing jobs and support to our remote and fragile coastal communities. The proposal would have brought—and still might bring—40 jobs to Mallaig.

I also welcomed Stewart Stevenson's speech and agree with him that there has been a failure of process thus far, in which Marine Biopolymers Ltd has been collateral damage. However, I take succour from the cabinet secretary's announcement of a root-and-branch review. I hope that the door might not be completely closed on the work of MBL. I note that, as part of the transformational change that the cabinet secretary hopes to bring about, she will look to pilot schemes to take forward scientifically based developmental projects. I am pleased that the cabinet secretary will today write to MBL, perhaps in that regard but, if not, at least positively, I hope.

There are many good things about the bill. The continuing management of the four rural estates by Crown Estate Scotland has been welcomed by NFU Scotland and the Scottish Tenant Farmers Association, as well as by tenants.

I am pleased to have been part of the work on the bill and I hope that it turns out as we all hope it will.

17:11

Claudia Beamish (South Scotland) (Lab): The Crown estate assets cover a diverse range of land, foreshore, sea bed, rights and property, as the cabinet secretary said. Scottish Labour welcomes the successful devolution of the management of responsibilities and revenues to Scotland, as called for by the Smith commission.

The Crown estate is said to date back as far as 1066—Andy Wightman might correct me on that—and many of the assets are steeped in Scottish cultural significance and history. Today's meaningful legislation, which transfers the management and revenue of the assets to the hands of managers around Scotland, is positive and empowering.

I thank the Convention of Scottish Local Authorities for its recent letter in support of the Scottish Crown Estate Bill, which maximises local authority empowerment. It is a move in the direction of democratic empowerment and greater transparency. I look forward to the opportunities for community empowerment during the process of double devolution.

I am reassured that local authorities will be able to act as gatekeepers for consideration of community group management proposals. Decentralising management will enable communities and local authorities to realise their ambitions for the assets and enjoy the social and economic—as well as environmental—benefits that they can deliver. Greater consideration of local needs and the accrual of revenue to flow back into the community will go a long way to empower, and improve the resilience of, our rural and coastal communities.

With other members, I have long fought for sustainable development to underpin everything that this Parliament achieves. I am pleased that that ambition has been emphasised in section 7, as amended by the cabinet secretary's amendment 17, which determines the principles by which managers must act. John Scott and I will have to agree to differ on that.

At stage 2, we discussed how best to achieve that, and I thank the cabinet secretary for working with Mark Ruskell and me to come to this very good solution. The manner by which many Crown estate assets are managed could have enormous repercussions for our natural world, so setting out sustainability so distinctly at the core of managers' decision making is welcome.

The issue of kelp has been the most—perhaps the only—contentious part of the bill. I welcome the fact that amendment 21 was agreed to, and I welcome the cabinet secretary's commitment to a complete review of the regulatory regime for kelp harvesting activity. I recognise that there are a number of categories and intricacies, and I hope that the review will act as a pathway to a robust framework for all kelp activities that is rooted in sustainability. I assure John Scott that there is nothing whimsical about Scottish Labour's support for Mark Ruskell's amendment 21A. I am delighted that it was agreed to. It is right that this is part of the framework within which the review is set.

Kelp forests are priority marine features, which have an enormous importance in our marine ecosystem, and any practice that prohibits regrowth or reproduction—whether it is fishing, farming or harvesting—is now out of the question. The Parliament has agreed time and again that sustainability is an absolute. To reassure Johann Lamont, who is no longer here, I say that it makes business sense but it also makes sense for the sake of our environment and our climate change ambition. At a time when our seas are under pressure from climate change, which is at the forefront of our minds with the Climate Change (Emissions Reduction Targets) (Scotland) Bill going forward, any new industry must be guaranteed in its sustainability.

We are still at a frustratingly early stage of considering the benefits of blue carbon sequestration, but we know enough to understand that it will be important to have a helping hand in tackling climate change and that that should be enforced, not diminished.

We know that coastal erosion and sea-level rises will be an increasingly greater threat to communities and infrastructure by the sea, and that kelp is a natural barrier to the effects of storm damage. We also know that kelp forests provide an important feeding ground for some of our most endangered, rare seabirds, which are disappearing at a devastating rate.

We know that our fishing industry, and other industries such as marine tourism, rely on kelp forests to play host to juvenile fish and to replenish the stocks and keep the industry sustainable.

More so than land conservation issues, marine protection can often fall foul of an attitude of out of sight, out of mind. Healthy ecosystems affect us all but especially coastal communities, who are most vulnerable to the effects of climate change. Those risks may be harder to grasp than the positive idea of a new multimillion pound industry, but they are vitally important as a setting for the future.

Labour supports the bill and what it sets out to do. It is an appropriate delivery of the Smith

commission recommendation and it provides a framework for more progressive management of the Crown estate assets for the future of us all in Scotland.

17:17

Andy Wightman (Lothian) (Green): I agree with the cabinet secretary that this is a historic occasion. However, Scotland's Crown estate goes back further than 1066—it has its origins in the ninth century, when Scotland was a unified kingdom. The western isles were not added until 1266, and the northern isles, with their distinctive traditions in these matters, were added in 1472.

It has been a long road to the bill. I remember a late-night taxi ride from Glasgow to Edinburgh some years ago in the company of Henry McLeish, the minister who was in charge of steering the Scotland Act 1998 on to the statute book. He told me of the frustrations of trying to secure devolution of the Crown estate, which was a task that he had to abandon at that time.

It is worth remembering why, in 1999, the Parliament should have gained full control over the property rights, revenues and management of the Crown. Those historic property rights—the foreshore, gold and silver, and the sea bed—are all defined by Scots law. Other Crown property rights that are not part of the Crown estate—including bona vacantia, ultima haeres and treasure trove—are also defined by Scots law and are to this day administered by the Crown Office in Edinburgh, where the Lord Advocate also upholds the common-law rights under the guardianship of the Crown over the foreshore.

In 1833, management of the assets that later comprised the Crown estate were transferred to London from Edinburgh. Importantly and significantly, they did not form part of the civil list that had been established in 1760 through the surrender of the English Crown revenues.

Thus, these historic rights remain constitutionally, legally and politically distinctive, as they are the rights of the Scottish Crown defined by Scots law that should have formed part of the Scotland Act 1998.

Some years later, it became clear that the Crown Estate Commissioners, whose lack of transparency and malign influence as a body corporate has blighted much of rural and marine Scotland, had secured the support of the palace and the Treasury to block any reform. Therefore, although the property rights were devolved in 1999, the revenues were not.

I want to put on record my thanks to Scotland's local authorities, whose 2006 Crown estate review group report did so much to prompt this debate, as

did the inquiry of the House of Commons Treasury Committee and the Scottish Affairs Committee.

In 2014, the Smith commission eventually recommended that management and revenues be devolved and that management should be further devolved to Scotland's local authorities. Despite UK Government guarantees that the Smith commission recommendation would be implemented in full, legislative competence for the revenues of the Crown estate has not been devolved.

The Scottish Crown Estate Bill is not the bill that the Greens would have wished to see. It is predicated on a flawed devolution settlement and is based on the assumption that the Crown estate is some kind of coherent suite of assets that, by law, must be maintained as an estate in land on behalf of the Crown.

The Crown estate is a feudal relic. It is an ad hoc assembly of rights that includes everything from gold and silver to a lock-up garage in the new town of Edinburgh and the island of Rockall. As a Parliament, our goal should be to sweep away such an anachronism and not to perpetuate it within a framework of complicated management and delegation powers. The Crown estate is also a colonial relic. Rockall was the last act of colonialism by the UK, which proceeded on the basis of a royal warrant that was modelled on that used by Captain Cook to steal Australia.

Amendments to that effect that I lodged at stages 2 and 3 were ruled out of scope. They included amendments on the repeal of the Royal Mines Act 1424—the oldest Scottish statute that is still in force—which reserved naturally occurring gold and silver to the Crown and is the origin of its rights. It is perfectly within the competence of the Parliament to repeal that act.

This debate should remind us that there is unfinished business. As I hinted during our consideration of the stage 3 amendments, we need to legislate to modernise the law of the foreshore and the sea bed. A report on the issue that the Scottish Law Commission published in 2003 sits on the shelf gathering dust. Had the draft bill that that report contained been enacted, we would by now have a sea, shore and inland waters (Scotland) act, which would have enshrined a statutory right to, among other things, make sandcastles, beachcomb, sunbathe and have picnics on the shore and foreshore. It would have given crofters the statutory right to gather kelp from the foreshore where that was in their crofting lease and would have put the ownership of the sea bed and foreshore on a statutory footing. All of that can yet happen.

Meanwhile, we will vote for the modest reforms that are outlined in the Scottish Crown Estate Bill.

17:21

Tavish Scott (Shetland Islands) (LD): I thank the cabinet secretary and the Government for introducing the bill. Andy Wightman mentioned what the late John Smith used to call “unfinished business”. I am with Andy Wightman on this—I am at the radical end of my lot on such issues. I would have abolished the Crown estate outright, but we did not get that chance. Reform is reform, and some reform is better than no reform.

I dug out the *Official Report* of a members' business debate from 2007—I am grateful to Stewart Stevenson for reminding me of this—in which Alasdair Allan, Liam McArthur, Jamie McGrigor and Rob Gibson were among those members who spoke, and which Stewart Stevenson, as the then Minister for Transport, Infrastructure and Climate Change, wound up on behalf of the Government. In that debate, I suggested that we might need to rock the boat. In his wind-up, Mr Stevenson said:

“I say to Mr Scott that, if necessary, we will rock the boat.”—[*Official Report*, 1 November 2007; c 3063.]

I suppose that we have not rocked it far enough, but we have done some rocking. I will stop the analogy there, before it gets lost in itself, or sunk.

I have two basic points to make. The Smith commission process allowed us to look, on a cross-party basis, at areas that we knew needed to be addressed. We could have gone a lot further on the Crown estate and, for some of us, it would have been very splendid to have done that. However, we made a proposal, on a cross-party basis, that the Government has begun to give effect to.

There is more to be done when it comes to net proceeds. I will be interested to see what the definition of “net” as opposed to “gross” proceeds is. There will undoubtedly continue to be discussions on how the revenues will be delivered.

At home in Shetland, the process is under way of establishing a marine pilot scheme involving Shetland Islands Council and the Crown Estate Scotland body on the future of Sullum Voe, which is an area that has not been available for a wide range of marine uses because of the presence of the oil and gas industry since the Sullum Voe terminal opened back in the late 1970s. That is potentially a very exciting development for salmon farming, mussel farming, inshore fisheries and various other areas. That is positive, and we will look to see what outcomes come from that.

I am grateful for the measures on trust ports, in which I have a direct interest as a former chairman of what was then Lerwick Harbour Trust. Fundamentally, the trust port model is the best financial model that I can think of in the public system today, in that a trust port must be run on a

commercial basis but all the money that is made must be reinvested in its facilities. I commend that financial model to Governments of any persuasion across a number of areas, because it allows a proper commercial focus to be maintained on what needs to happen to serve the customer—in the case of a port, the people who use quays and need services—while retaining the profits in the organisation to invest for the future. That seems powerful and appropriate.

I just want to make one remark about the debate that we had on kelp farming. It strikes me that regulation sits underneath legislation in order to allow for an appropriate assessment of any process, whether—and Johann Lamont made this point earlier—it is defined as industrial or not. I do not think that we got that issue right today. As John Scott rightly said, it is not really appropriate to start hauling things back to committee at stage 3. What should have happened with such a serious issue is that it should have been properly assessed much earlier and taken forward on that basis. I hope that Parliament will reflect on that for the future, because what happened today was not our finest moment as far as passing primary legislation is concerned.

When she retired last Friday after 44 years with Lerwick Port Authority, Sandra Laurenson, whom I mentioned earlier, gave some advice to those who will serve in future. She said:

“It is about attracting the different”

customers

“to come and locate themselves in our port, because the port is nothing without the customer.”

Now and again, we in politics should remember such useful comments when passing this kind of primary legislation.

The Deputy Presiding Officer: We move to the open debate. I can give speakers five minutes each.

17:26

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): The cabinet secretary has said that this is the first time that we have legislated on the Crown Estate. I am sure that that is true, but it is certainly not the first time that we have debated the issue. As Tavish Scott has just reminded us, he had a members’ business debate on the matter on 1 November 2007, as had David Stewart on 18 April 2012. There will be other instances—I have the 2012 debate on file, simply because I happened to be the minister who responded to it. This is therefore not a subject that we have not debated or discussed before on the floor of the chamber or in the corridors of Parliament.

Andy Wightman took us back to the 900s in his speech. I had not realised that the matter went quite that far back; I found the Auditor of the Exchequer in Scotland, which was established as a court in the 1500s to look after what is now the Crown estate. There is a very long history to this.

With regard to the bill, which we are likely to pass soon, one section that has not attracted any significant amendment—it was amended a little bit at stage 2—is section 11, which sets out the duty to obtain market value. It picks up existing provisions in saying:

“The manager of a Scottish Crown Estate asset must not make any of the following transactions ... for consideration of less than market value”

but goes on to qualify that by making it clear that a manager can consider less than market value if they are

“satisfied that the relevant transaction is likely to contribute to the promotion or the improvement in Scotland of ... economic development, ... regeneration, ... social wellbeing, ... environmental wellbeing, ... sustainable development.”

Frankly, that is a breakthrough provision, because it recognises that these assets, which we are managing or allowing others to manage, should be managed for the common good, not simply to deliver an economic asset that flows into the structures of government at its various levels. I am particularly pleased with that section of the bill, although I would also highlight the duty in section 7 to maintain and enhance value.

The Crown Estate has a long history. I have been here a fair while—although not as long as everybody; John Scott, who is sitting looking around the chamber, was here before me, as was Tavish Scott—but I do not think that we can really say that in the Parliament’s earlier days the Crown Estate engaged with the members of this place to very useful purpose. In a long-standing constituency case, I had to persuade it to do something about a harbour at Crovie. It took something like five or six years before we finally concluded that that matter was actually its responsibility—and a good deal longer before it actually did anything about it.

If anything, the Crown Estate was passively malign or passively neglectful. It was slightly better than other people—

John Scott: Will the member take an intervention?

Stewart Stevenson: I will, if the Presiding Officer allows me time.

John Scott: I object to the member’s use of the word “malign”. I objected to Mr Wightman’s use of the word, too, when he described the Crown estate managers hitherto, who were doing their

jobs as they best saw fit and within the confines of the law. I know many of these people directly—I declare that interest—and they are men and women of honour. I particularly object to the use of the word “malign” in that regard and in respect of those individuals.

I am sorry to be awkward about it again, but I have already raised the point with Mr Wightman and I am annoyed that I need to raise it again.

Stewart Stevenson: Mr Scott is perfectly entitled to make the point. However, I was pointing at the organisation, rather than the individuals, with whom I have always had the best of relationships; I have felt, as Mr Scott does, that as individuals they were doing their best. The framework that constrained them did not allow them to do anything other, in many instances, than to act in a way that one could describe as malign. However, let us not fall out about a single word—it is simply not worth the hassle.

There were private landowners around Scotland who were much worse. We used to go on holiday to Sutherland and the Vesteyes, who were domiciled in Argentina, never paid a penny in tax in decades and were much more adverse in the way that they dealt with things.

I realise that I must conclude. The bill is part of returning power to our communities. In David Stewart’s debate in April 2012, we all talked about Peter Peacock and Community Land Scotland, and of transfers that were made. This is part of a process of restoring to the people of Scotland some of the assets that are rightly theirs and the control over them. We have not completed the journey, but the bill is a useful and helpful start.

17:31

Edward Mountain (Highlands and Islands) (Con): Before I begin, I draw members’ attention to my register of interests, in particular with regard to farming.

Today’s stage 3 debate on the Scottish Crown Estate Bill is another important step in realising the recommendations of the Smith commission. I have listened to the comments about the Crown estate and I have listened to some of the tenants on the Crown estate, especially agricultural tenants, who seem to be perfectly happy with the way that things were run in the past; they look forward to that continuing.

I am pleased that, at every stage of the bill’s passage through the Parliament, much of the debate has focused on enabling more local control of assets by local authorities—in other words, devolution. I am a strong supporter of more local control and I am pleased that there are provisions in the bill that will enable the management of some

Crown estate assets to be passed beyond local authorities. However, I am cautious about too much double devolution, which allows the management of what, I believe, are national assets to such a local level that the national benefits of the assets could be lost. For example, those who live in land-locked local authority areas, such as East Renfrewshire, North Lanarkshire and South Lanarkshire, could—but should not—lose out on the benefits of having a say in the management of Crown estate assets such as the sea bed, just because they do not have a coastline. After all, the sea bed is an asset that benefits all users, not just the islands and coastal authorities. Therefore, we must remember that the Crown estate assets are national assets and, as such, the Scottish Government has a duty to ensure that the assets benefit Scotland as a whole.

The balanced approach that has been taken with the bill, which, with one hand, means more local control and, with the other hand, ensures that Scotland’s national assets are managed in the national interest, should be welcomed. I have concerns on the potential selling off of assets. The last thing that we need to see is a complete break-up of the Crown estate land in Scotland. If assets are disposed of, the Government should consult on and agree with the Parliament how that should be done. It has singularly failed to do that with our forests, in respect of which it has allowed much of the land to be sold off and not replaced, although that was a requisite of Parliament’s consent to the sale of the forests.

The Scottish Conservatives will therefore be watching the Scottish Government very carefully and expect the Government to publish its strategic plan, which should include robust guidance to ensure that the Crown estate does not become too fragmented.

Turning to farming, I would strongly advise the Government to consider how best to manage the assets. They must not be fragmented and new tenants and young farmers must be encouraged into Scottish agriculture. There are many young farmers across Scotland who are desperate for tenancies. The Scottish Government should not let them down by selling off farming assets, but should create more opportunities. The Scottish Government needs to learn the lessons of the sale of Auchenhalrig farm, which removed rather than created new opportunities for young farmers.

I will vote in favour of the motion on the Scottish Crown Estate Bill, as it turns another recommendation of the Smith commission into reality. However, I conclude with a note of caution: with the passing of the bill, the Scottish Government is getting control of some very

important assets and I urge the Government always to think twice about selling them.

17:35

Gillian Martin (Aberdeenshire East) (SNP): I took over the convenership of the Environment, Climate Change and Land Reform Committee after its stage 1 deliberations on the Scottish Crown Estate Bill and was plunged straight in, as stage 2 consideration was on the agenda. As we all know, the devolution of the management and funds of the Crown Estate is one positive result of the Smith commission that will provide scope in particular for coastal rural communities to have more say over benefits from the land in terms of economic development, regeneration, social wellbeing, environmental wellbeing and sustainable development.

I commend the committee and the bill team in particular for the way in which the stage 1 evidence process was managed. Thorough evidence sessions were held with a wide variety of stakeholders and their evidence helped to make the bill stronger. Feedback from the stakeholder advisory group was extremely positive on how the committee and the bill team had operated, and I echo the cabinet secretary's remarks on that. I thank Graeme Dey, the convener at the time, for steering that course, with the assistance of the committee clerks.

I want to say something about the issue that dominated the process on the day that the committee considered the bill at stage 2: the harvesting of kelp. I tried to intervene many times during the debate on the amendment on kelp, but no member accepted my interventions. I will use my time now to make the points that I would have made during that debate, because the issue caused me considerable discomfort as a new convener as well as a member of the Scottish Parliament.

I think that a lot of people do not realise that committee members were being asked to vote on an issue that had not come up in the evidence sessions in the committee's stage 1 deliberations on the bill, which is, in essence, purely about the management of the Crown estate. It never looks good for anyone in our responsible position to make a judgment based on no evidence or, at best, anecdotal evidence. That was the basis on which I abstained in the vote on the amendment on kelp at stage 2.

The stage 1 report was thorough, but when I searched it I found no use of the word "kelp". Marine horticulture issues are not simple; no natural environment issues are simple—as I am finding out by stealth—and I had and still have many questions that I would like answered around

the kelp issue. Getting hundreds of Twitter messages or 38 Degrees emails on the issue demonstrates public engagement and passion, but that is no substitute for evidence gathering from scientists and stakeholders who know the subject intimately. I had questions on the methods of harvesting and on health and safety. Like Johann Lamont, I had a considerable number of important questions about the coastal rural economy. I thought that her speech was excellent in bringing that aspect to the debate.

We should all be very careful about voting on anything on which we have not heard on-the-record evidence. Unintended consequences can be identified only through scrupulous evidence taking, which is what the public expect from us. Stewart Stevenson was right in what he said and I offer him a colloquial term that reflects his description of the process and which the Presiding Officer would probably let him away with: *heilster-gowdie*.

I would be very uncomfortable about voting on a subject into which I have not had the opportunity to do a detailed inquiry, despite my efforts to do post-stage 2 investigations of my own. I am therefore pleased and relieved that the Government has committed to doing its own wide-ranging consultation on the issue. Perhaps we can then look at a system that protects species and habitats but does not cut off rural Scotland from the current and future economic, health and social opportunities of sourcing food, medicines, biopolymers and chemicals that are open to other northern countries, such as Iceland and the Faroe Islands.

Kelp can be the source of cattle feed that can reduce methane emissions, and we all want something that does that; it can be the source of biopolymers that can replace the plastic packaging that currently blights our environment; and it can be the source of pharmaceuticals that could provide cures or relief for multiple ailments and diseases. We need to take a rounded, evidence-based approach to the matter outside a bill that was not designed to carry that level of detail on an area that goes well beyond the Crown estate.

I did not come to this Parliament to abstain. I cannot stand abstaining. It is not in my nature. I came here to listen, question, deliberate and decide. The commitment on the Government consultation allows me to come off the uncomfortable position of the fence in the knowledge that we will move forward with all the evidence at our fingertips. That is hugely important as it means that the right decisions can be made with no negative unintended consequences for the marine environment, but also for the people who depend on that environment for their wellbeing and livelihoods and their communities' very

existence. For me, that is what the devolution of the management of the Crown estate is about.

The Deputy Presiding Officer: I will not ask whether that was an unparliamentary phrase. I am sure that I will find out at some point.

We move to the closing speeches. I call Mark Ruskell to close for the Greens. You have three minutes.

17:40

Mark Ruskell (Mid Scotland and Fife) (Green): We have reached a good point with the bill. We have not rocked the boat to the point of sinking, as, perhaps, Tavish Scott and Andy Wightman would like us to do. It goes some way towards delivering on the Smith commission recommendations—not the whole way, but the spirit of the Smith commission is there, and I look forward to further devolution, to democratically elected councils, of the rewards and responsibilities of Crown estate management.

We have had some debate on sustainable development and the important duty that will now be in the act, but too many members, including Mr Scott, see the matter as a trade-off between the economy and social and environmental objectives. To do that is to misunderstand what sustainable development is about: it is about locking in wins for future generations. Perhaps we, in this Parliament, need something like the Well-being of Future Generations (Wales) Act 2015 in order to ensure that sustainable development thinking runs through every piece of legislation that we pass.

It is important that, as we develop the economic opportunities that grow from use of our sea bed, sustainability is at their heart. We cannot afford to repeat the mistakes that were made in the growth of the salmon farming industry, which have been made during the life of the Parliament. Committees failed to scrutinise the matter and we kept making the mistakes over and over again, thereby compounding the environmental impact, without taking the action that was needed.

New sectors such as industrial kelp harvesting need to be fully understood and planned for. That is why the approach that the cabinet secretary is taking, through a review of the sector, is important. It will help to set the vision that will ultimately deliver the certainty that businesses need in order that they can choose the right pathway to commercial success, but that will be done with a backstop that is now in the bill—the backstop of sustainability.

Recently I met, with Gillian Martin, a group of Faroese kelp farmers. They represent a rapidly expanding industry that is scalable, unlike mechanical harvesting of kelp. Farmed kelp can

produce 10 times the levels of useable sugars and proteins per hectare that farmed soya produces. That should give us a sense of the economic opportunity, but only if we learn the lessons of the past and set the sustainability bar high for the industry.

I pay tribute to the communities whose voices have been heard loud and clear on the issue, and to the Scottish Parliament information centre, which was commissioned by the committee to produce briefings and materials on the issue for members.

From primary schools to professors, from divers to David Attenborough, from the shellfish sector to the whitefish sector, concerns were expressed. We have remarkable people: scientists who have galvanised their arguments intelligently and articulately, and we thank them for that. The Government will now need to have many more discussions with a wide range of interests. I look forward to the outcome of the review.

17:43

Alex Rowley (Mid Scotland and Fife) (Lab): I speak today as a former member of the Environment, Climate Change and Land Reform Committee, and I record how much I enjoyed working with members of that committee on the bill and other topics, and how much I appreciate the work of the clerks, the advice that the researchers gave us and, which is important, the input of the people who gave up their time to provide evidence to the committee as we took the bill through stages 1 and 2.

The cabinet secretary rightly said that this is a historic occasion of further devolution of powers to Scotland. I have always believed that, where there is a clear case for further powers to be devolved to this Parliament in Scotland's interests, we should all support that happening. Andy Wightman said that the reforms are "modest", and Tavish Scott agreed with that, but they are a good start. Let us see where we go as we understand more about the opportunities that will come about through devolution of the Crown estate.

I also want to pick up on Tavish Scott's point about the retirement of the chief executive of Lerwick Port Authority, Sandra Laurenson. As Tavish Scott knows, I spent many a year up in Lerwick and Bressay and I know of the good work that Sandra has done over all those years. I join him in congratulating her on being the first port authority master in the country and in wishing her success with whatever she goes on to do next.

When we speak about assets of the Crown estate, it is important to remember the diversity and location of the assets, which range from instantly recognisable buildings and landmarks to

farmland, coastline and wilderness environments. Clearly, good management is essential for effective management of all of those parts of the Crown estate, but it is important that their value is seen not only in the context of commercial gain. I am therefore pleased that the bill sets out to achieve that. It does so by stating not only that the powers and duties of managers should

“maintain and seek to enhance”,

not just the asset’s commercial value and the income that arises from it but, crucially, that

“the manager may do so in a way that contributes to the promotion or the improvement”

of economic development, regeneration, social wellbeing, environmental wellbeing and—which is important—sustainable development.

I want to speak about a couple of those assets, the first being tenant farmers. Edward Mountain said that tenant farmers are quite happy and that we should not look to change anything. In the evidence that we took from tenant farmers it was clear that the physical farm buildings and houses range in quality, and that there is a need to empower farmers more. They were clear that they do not expect the local authority to start running their farms, but I hope that we will be able to consider how tenant farmers can have a stronger voice and be better able to make representations in order that they can improve the properties that they occupy. However, I also take on board the point that Edward Mountain made about encouraging more young farmers. I agree entirely about that.

I voted for the amendment on kelp at stage 2 because, for me, the issue is straightforward. We said that kelp harvesting needs to be sustainable: why would one not want it to be sustainable? I have done much more reading and understood a lot more about kelp harvesting since stage 2, and I have no regrets about voting for the amendment. I welcome the cabinet secretary’s announcement today of a further review of kelp harvesting opportunities.

The Deputy Presiding Officer: You must conclude.

Alex Rowley: I close by saying that we have done a great deal of work and that I welcome the bill as it will be passed today.

The Deputy Presiding Officer: Before I call Finlay Carson, we will have a brief pause while we ring the division bell.

17:49

Finlay Carson (Galloway and West Dumfries) (Con): I appreciate that, Presiding Officer.

I am pleased to speak in tonight’s debate as the Scottish Crown Estate Bill nears its final stages, having spoken at the stage 1 debate and as a member of the Environment, Climate Change and Land Reform Committee, which heard extensive evidence on the bill.

The Scottish Conservatives have always supported the Scottish Crown Estate Bill in principle, and we believe that many of the changes that have been made throughout the legislative process have strengthened the bill and made it better.

Following on from the Smith commission recommendations and the Scotland Act 2016, which devolved management of the Crown estate to the Scottish Parliament, the Scottish Crown Estate Bill sets the framework for long-term management of the Crown Estate in Scotland. The bill identifies who can become a manager of a Crown estate asset, how its management can be devolved and what the remit of new managers could be.

I agree that local authorities, including the islands councils, might be well placed to take on management of assets, and I recognise that further devolution to local authorities is a significant recommendation of the Smith commission. However, given the right support, smaller community groups might be more appropriate bodies that could more successfully take on management of the assets. I do not believe that there should be an assumption that local authorities are, by default, the most suitable organisations, so I am pleased that that will not be the case, when the bill is passed tonight.

I believe in community empowerment, but the idea that Dumfries and Galloway Council in my region would by default suddenly become responsible for management of local Crown estate assets is not exactly one that fills me with confidence. As I stressed at stage 1, that is meant with the greatest respect to Dumfries and Galloway Council, but I have not heard any great wish that it take on the assets at the Applegarth estate. Indeed, the Scottish Tenant Farmers Association, although it welcomes devolution of assets, is firmly of the view that those four rural assets could be successfully managed by the Scottish Government directly or through a body that is set up for that purpose. That recommendation was made at the ECCLR Committee and received cross-party support.

It is important to strike the right balance, in future management of the Crown estate, between local and national levels. We should recognise that a national body might be best suited to achieving desirable outcomes. Therefore, in some instances, it is right that national management structures will remain in place, but it is important to know which

ones the Government recognises can potentially be managed at local level and which cannot.

For example, it is only right and sensible that a national body, with a Scotland-wide overview, be responsible for management of offshore renewables, energy-related assets and cables and pipelines. Recognition should be given to the national significance of the sea bed, which—rightly—should be managed nationally. The bill will ensure that the sea bed cannot be sold.

I shared the committee view that there should be provision in the bill to retain provision, in some instances, for devolution to occur where a local authority can demonstrate appropriate expertise, and that is considered to be beneficial from socioeconomic, environmental or sustainable development perspectives.

On the future sustainability of the Crown estate, I believe that it is important to establish and maintain a list of Crown Estate Scotland assets and associated liabilities, and for that requirement to have been included in the bill to underpin continuation of access to cross-subsidisation. I am pleased that the cabinet secretary has given us the assurance that, although John Scott's amendment was withdrawn, that will still be the case.

Kelp—oh, boy! If we did not know about kelp before, we certainly know about it now, as do millions of people across Scotland. I sincerely welcome the provision on kelp harvesting, but I have many concerns. They are not exclusively about the environmental pros and cons of commercial harvesting of our natural kelp forest; they are more about the appropriateness of the late introduction of the topic.

Mr Andy Wightman correctly made points of order and lodged amendments. I have no issue with that, but we should probably ask ourselves whether that was the best way to deal with the issue and whether the matter was appropriate in a bill on the Crown estate.

I welcomed Mark Ruskell's amendment at stage 2, but as a probing amendment only, to highlight the serious concerns about commercial kelp harvesting and the potential for environmental damage. His amendment would not provide the protection that environmental campaigners might expect. All kelp is equal, but some kelp is more important than other kelp. The Crown estate kelp might have been protected through the bill, but what about the thousands of square miles of kelp that will not? I like to think that Parliament takes decisions on our environment that are based on strong peer-reviewed scientific evidence.

That in no way undermines or undervalues the information and evidence that environmental and community groups and the kelp harvesting

industry provided through meetings, email and social media, but there was simply no time to hold a satisfactory consultation and—this would have been my preference—to look at the evidence in committee for full scrutiny under the close watch of the public. What happened is not how I would like hugely important issues such as kelp harvesting to be dealt with.

As my colleague Angus MacDonald said in the Environment, Climate Change and Land Reform Committee, the bill is an enabling bill—it is not for banning anything. However, I enthusiastically welcomed the announcement that a review will be undertaken that could lead to additional commercial opportunities while ensuring that our wild kelp forests are protected. The cabinet secretary suggested that the licensing regime is robust, but I argue that the reason why we are talking about kelp is that it is not. I hope to play my part in the licensing review as a member of the Environment, Climate Change and Land Reform Committee.

I thank my colleagues across the chamber, the committee clerks, the witnesses and contributors who got us to this stage in the bill's progress, and I look forward to its being passed this evening.

The Deputy Presiding Officer: Before I call the cabinet secretary, we shall have another short pause for the division bell to ring.

I call the cabinet secretary to wind up the debate. I ask members who are engaged in conversation to show a bit of respect to the cabinet secretary—they might learn things about kelp that they did not know.

17:56

Roseanna Cunningham: I am grateful to members across the chamber—

The Deputy Presiding Officer: Excuse me, cabinet secretary. Some people were not listening to me, but I meant what I said.

Roseanna Cunningham: I am grateful to members across the chamber for their mainly helpful and constructive contributions to the debate. I want to characterise some of them briefly without getting drawn into the detail. John Scott gave us a good lesson on process; Claudia Beamish gave us a lesson on sustainable development; Andy Wightman, as ever, give us a lesson on history; and Tavish Scott, also as ever, gave us a lesson on Shetland. Each of those contributions exemplifies a lot of the speeches that we heard. I thank the members who have spoken and all the members who have made contributions as the bill has progressed through Parliament.

I said at the beginning of the debate that this is a historic day, as we have been debating the first

ever bill in the Parliament on the management of the Scottish Crown estate. The parliamentary process has made improvements to the bill. The Government has listened and has accepted a number of the recommendations that were made in the stage 1 report. Discussions have been ongoing—right up to the last second—on possible improvements to the bill, and I have sought to maintain a consensual approach while also retaining focus on the actual purpose of the bill, which is to create appropriate processes to change who can manage a Scottish Crown estate asset and to reform the governance and management framework while maintaining the revenue and capital value of the estate. Of course, in the past few weeks, it looked as though the purpose of the bill might be lost in the other debate.

In my view, the stage 3 amendments to section 7(2) are an excellent example of that consensual approach, as they strengthen the duties to take account of wider issues such as sustainable development, and ensure that that is done in a proportionate way.

Up until now, the management of the Crown estate has been governed by the Crown Estate Act 1961, which was expressed in terms of English property law and reflected the dominance of urban commercial property in the revenue of the UK-wide Crown estate. Of course, the balance of the Scottish Crown estate is quite different, and, since 1961, new industries such as oil, gas extraction, offshore renewables and aquaculture have developed, all of which have had an impact and will lead to significant revenue growth in the future.

We also have a vision, shared across this chamber, that in the management of the Scottish Crown estate we should strive to add value to the wellbeing of citizens throughout Scotland's communities, embracing social benefits and sustainable development as well as financial gain. Part of that vision is our pledge to create a framework for further devolving management to the communities of Scotland, creating an opportunity to truly place the accountability of the Scottish Crown estate in the hands of people across the country. I make no apology for putting that emphasis on communities. Among the various organisations that have stepped forward at this point to show interest in management there are three councils—Orkney Islands Council, Shetland Islands Council and Western Isles Council—but we also have Portgordon Community Harbour Group, the Findhorn Village Conservation Company, Galston Estate Trust, St Abb's and Eyemouth Voluntary Marine Reserve, the Tay and Earn Trust and the Lochgoilhead Mooring Association and Lochgoilhead Jetty Trust. That

shows that there is an appetite out there among communities, and it is important to reflect that.

At times, kelp harvesting has seemed to overwhelm the purpose of the bill. I am not going to get dragged back into it at this point in the debate. We are where we are. We might feel that this has not been the most appropriate process to follow. Nevertheless, that is a debate that it might be best to have elsewhere than in the context of this stage 3 debate.

The bill has been improved and strengthened as a result of the parliamentary process. I am grateful to members of the Environment, Climate Change and Land Reform Committee and other members in the chamber for their contributions. We have a bill that will help to ensure the long-term management and sustainability of these important assets and, for the first time, there are new powers in legislation to change the manager of a Scottish Crown estate asset.

I am pleased to have created a historical first by bringing the first bill on the Scottish Crown estate before this Parliament. We have seized the opportunity to develop a new, modern, statutory framework that will support the realisation of our shared national ambition for some of Scotland's most important assets.

Presiding Officer, I am proud to have moved the motion.

Crime (Overseas Production Orders) Bill

18:00

The Presiding Officer (Ken Macintosh): The next item of business is consideration of legislative consent motion S5M-14825, in the name of Humza Yousaf, on the Crime (Overseas Production Orders) Bill.

Motion moved,

That the Parliament agrees that the relevant provisions of the Crime (Overseas Production Orders) Bill, introduced in the House of Lords on 27 June 2018, relating to the making of overseas production orders, the people who may apply for orders, the requirements for the making of orders, the content and effect of orders, the variation or revocation of orders, the inclusion of non-disclosure requirements in orders, restrictions on the service of orders, the retention of electronic data and its use as evidence, procedural matters to be determined by court rules, the requirements to notify holders of confidential journalistic data of applications for orders in relation to that data, the effect of notices of application, the means of serving an order, and definitions for the purposes of the Bill, so far as these matters fall within the legislative competence of the Scottish Parliament and alter the executive competence of the Lord Advocate, should be considered by the UK Parliament.—[*Humza Yousaf*].

Offensive Weapons Bill

18:01

The Presiding Officer (Ken Macintosh): The next item of business is consideration of legislative consent motion S5M-14827, also in the name of Humza Yousaf, on the Offensive Weapons Bill.

Motion moved,

That the Parliament agrees that the relevant provisions of the Offensive Weapons Bill, introduced in the House of Commons on 20 June 2018, relating to the creation of new offences in respect of corrosives, stop and search powers in relation to the new offence of possession of a corrosive substance in public, certain procedural provisions relating to the corrosives offences, a new defence specific to remote sales relating to the existing offence of sale of bladed articles to under 18s, a new offence of delivery of bladed articles to residential premises, a new offence of delivery of bladed articles to under 18s when purchased remotely from outwith the UK, changes to the definition of a flick knife, a new offence of possession in all place of certain knives and offensive weapons, arrangements for disposal of these certain knives and offensive weapons, and prohibition of certain firearms and commencement powers, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.—[*Humza Yousaf*].

Business Motion

18:01

The Presiding Officer (Ken Macintosh): The next item of business is consideration of business motion S5M-14837, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees—

(a) the following programme of business—

Tuesday 27 November 2018

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Topical Questions (if selected)

followed by Ministerial Statement: The Interim Findings of the UN Special Rapporteur on Extreme Poverty and Human Rights on UK poverty

followed by Scottish Government Debate: Hear Me Too: 16 days of Activism to End Violence Against Women and Girls

followed by Committee Announcements

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 28 November 2018

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions: Culture, Tourism and External Affairs; Government Business and Constitutional Relations

followed by Scottish Conservative and Unionist Party Business

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 29 November 2018

11.40 am Parliamentary Bureau Motions

11.40 am General Questions

12.00 pm First Minister's Questions

followed by Members' Business

2.30 pm Parliamentary Bureau Motions

2.30 pm Scottish Government Debate: Ending Homelessness Together

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

Tuesday 4 December 2018

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Topical Questions (if selected)

followed by Public Petitions Committee debate: PE1463 on Thyroid and Adrenal Testing, Diagnosis and Treatment

followed by Legislative Consent Motion: Counter-Terrorism and Border Security Bill

followed by Committee Announcements

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 5 December 2018

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions: Education and Skills

followed by Scottish Government Business

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 6 December 2018

11.40 am Parliamentary Bureau Motions

11.40 am General Questions

12.00 pm First Minister's Questions

followed by Members' Business

2.30 pm Parliamentary Bureau Motions

2.30 pm Stage 1 Debate: Health and Care (Staffing) (Scotland) Bill

followed by Financial Resolution - Health and Care (Staffing) (Scotland) Bill

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

(b) that, in relation to any debate on a business motion setting out a business programme taken on Wednesday 28 November 2018, the second sentence of rule 8.11.3 is suspended and replaced with "Any Member may speak on the motion at the discretion of the Presiding Officer"

and

(c) that, in relation to First Minister's Questions on Thursday 29 November 2018, in rule 13.6.2, insert at end "and may provide an opportunity for Party Leaders or their representatives to question the First Minister".—[*Graeme Dey*]

Motion agreed to.

Parliamentary Bureau Motions

18:01

The Presiding Officer (Ken Macintosh): The next item of business is consideration of two Parliamentary Bureau motions. I ask Graeme Dey, on behalf of the Parliamentary Bureau, to move motion S5M-14838, on the approval of a Scottish statutory instrument, and motion S5M-14839, on the remit of a committee.

Motions moved,

That the Parliament agrees that the Budget (Scotland) Act 2018 Amendment Regulations 2018 [draft] be approved.

That the Parliament agrees, under Rule 6.1, that the remit of the following mandatory committee be amended—

Name of Committee: Standards, Procedures and Public Appointments Committee

Remit: To the remit set out in Rule 6.4 shall be added—

Matters relating to Scottish general elections falling within the responsibility of the Cabinet Secretary for Government Business and Constitutional Relations.—[*Graeme Dey*]

Decision Time

18:01

The Presiding Officer (Ken Macintosh): The first question is, that motion S5M-14822, in the name of Roseanna Cunningham, on the Scottish Crown Estate Bill, be agreed to. We will have a division on the motion. Members should cast their votes now.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Ballantyne, Michelle (South Scotland) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Corry, Maurice (West Scotland) (Con)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (West Scotland) (Con)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harper, Emma (South Scotland) (SNP)
 Harris, Alison (Central Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)

Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mason, Tom (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Tomkins, Adam (Glasgow) (Con)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wells, Annie (Glasgow) (Con)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 119, Against 0, Abstentions 0.

The motion is therefore agreed to unanimously and the Scottish Crown Estate Bill is passed. *[Applause.]*

Motion agreed to,

That the Parliament agrees that the Scottish Crown Estate Bill be passed.

The Presiding Officer: The next question is, that motion S5M-14825, in the name of Humza Yousaf, on the Crime (Overseas Production Orders) Bill be agreed to.

Motion agreed to,

That the Parliament agrees that the relevant provisions of the Crime (Overseas Production Orders) Bill, introduced in the House of Lords on 27 June 2018, relating to the making of overseas production orders, the people who may apply for orders, the requirements for the making of orders, the content and effect of orders, the variation or revocation of orders, the inclusion of non-disclosure requirements in orders, restrictions on the service of orders, the retention of electronic data and its use as evidence, procedural matters to be determined by court rules, the requirements to notify holders of confidential journalistic data of applications for orders in relation to that data, the effect of notices of application, the means of serving an order, and definitions for the purposes of the Bill, so far as these matters fall within the legislative competence of the Scottish Parliament and alter the executive competence of the Lord Advocate, should be considered by the UK Parliament.

The Presiding Officer: The next question is, that motion S5M-14827, in the name of Humza Yousaf, on the Offensive Weapons Bill be agreed to.

Motion agreed to,

That the Parliament agrees that the relevant provisions of the Offensive Weapons Bill, introduced in the House of Commons on 20 June 2018, relating to the creation of new offences in respect of corrosives, stop and search powers in relation to the new offence of possession of a corrosive substance in public, certain procedural provisions relating to the corrosives offences, a new defence specific to remote sales relating to the existing offence of sale of bladed articles to under 18s, a new offence of delivery of bladed articles to residential premises, a new offence of delivery of bladed articles to under 18s when purchased remotely from outwith the UK, changes to the definition of a flick knife, a new offence of possession in all place of certain knives and offensive weapons, arrangements for disposal of these certain knives and offensive weapons, and prohibition of certain firearms and commencement powers, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.

The Presiding Officer: The next question is, that motion S5M-14838, in the name of Graeme Dey, on the approval of a Scottish statutory instrument, be agreed to.

Motion agreed to,

That the Parliament agrees that the Budget (Scotland) Act 2018 Amendment Regulations 2018 [draft] be approved.

The Presiding Officer: The next question is, that motion S5M-14839, in the name of Graeme Dey, on the remit of a committee be agreed to.

Motion agreed to,

That the Parliament agrees, under Rule 6.1, that the remit of the following mandatory committee be amended—

Name of Committee: Standards, Procedures and Public Appointments Committee

Remit: To the remit set out in Rule 6.4 shall be added—

Matters relating to Scottish general elections falling within the responsibility of the Cabinet Secretary for Government Business and Constitutional Relations.

Pancreatic Cancer Awareness

The Deputy Presiding Officer (Linda Fabiani): The next item of business is a members' business debate on motion S5M-13860, in the name of Clare Adamson, on pancreatic cancer awareness. The debate will be concluded without any question being put. I remind people in the public gallery that we would appreciate no clapping—or jeering or otherwise.

Motion debated,

That the Parliament notes that November marks Pancreatic Cancer Awareness Month, and that 15 November 2018 is World Pancreatic Cancer Day; congratulates all of the pancreatic cancer charities and their supporters on working tirelessly to raise awareness of the condition; understands that it is one of the least survivable cancers and the fifth most common cause of cancer death in Scotland; notes that, while there are currently no screenings or early detection tests, some are in development; recognises that early detection is vital to improving a person's chance of survival by ensuring early access to treatment; appreciates that this need for early diagnosis makes awareness and knowledge of the condition all the more important, and welcomes all efforts in this cause.

18:05

Clare Adamson (Motherwell and Wishaw) (SNP): I thank colleagues across the chamber for supporting the motion and allowing this members' business debate to take place. It is the second debate raising the issue of pancreatic cancer in the chamber and it is a way of recognising the tireless work of those involved in Pancreatic Cancer UK and Pancreatic Cancer Scotland to support people who have been touched by this disease in our country.

I was honoured to host the joint event that the charities held last night, where I met many of the people who have been affected by pancreatic cancer—those dedicated to fundraising, those raising awareness, those doing research and, of course, those supporting people who have been affected by their families and friends suffering from the disease. I was also honoured to meet some of the survivors. We attend many such events in this place, but what was quite noticeable last night was how few survivors were in attendance. Only one person in the room had survived pancreatic cancer for more than 10 years—such people are known as the 1 per cent club in the pancreatic community.

The stark, dark figures for pancreatic cancer have hardly changed in the past 50 years, which is why we all have to work together in Scotland to make breakthroughs and lead in this area. I was therefore delighted that also in attendance last night were the young leaders from the precision-panc research team at the Beatson institute for

cancer research. The precision-panc programme is funded by Cancer Research UK and the Scottish Government and seeks to make vital breakthroughs in pancreatic cancer research.

Why is this cancer so important and so unique? The five-year survival rate for Scotland is 5.6 per cent. That has increased by only 2.1 percentage points in the past 20 years. In 2016, 784 people were diagnosed with pancreatic cancer in Scotland and 719 people died of the illness. In that year, 9.2 per cent of patients who were diagnosed with pancreatic, distal biliary tract or duodenal cancer in Scotland had potentially curative surgery—just 9.2 per cent.

Sixty-three per cent of people with pancreatic cancer are diagnosed at stage 3 or stage 4, which are the advanced stages of the disease. Eighty per cent of people with pancreatic cancer are not diagnosed until the cancer is at an advanced stage and surgery is the only treatment that can save lives, yet only 8 per cent of people with pancreatic cancer reach the surgery stage.

Pancreatic Cancer UK and the many members and their families I have met, especially Mr Begley's daughter, Lynda Murray, have all stressed that pancreatic cancer must be treated as an emergency—an oncological emergency. It is the quickest killing cancer and many people who are diagnosed die within a month of their diagnosis, so minutes, days and hours with this disease are as weeks, months and years for other cancers. That is why it is so unique and why we need a specific approach to it in Scotland.

We are lucky in Scotland, in that a 15 per cent target exists as part of the quality improvement indicators to try to get people through surgery and treatment. That is being achieved in some health board areas, and it would be very welcome if the target for pancreatic cancer could be achieved across the board.

The disease is very tough to diagnose. The presentation of the symptoms can be seen as something else. It involves stomach pain and back pain, and you cannot touch a pancreatic cancer—you cannot feel a lump or a change in the body, apart from symptoms such as a change in bowel movements or smell. People have been working really hard to alert people to the symptoms of pancreatic cancer. Pancreatic Cancer Scotland's pancan van has been going to our town centres on a thistle stop tour of Scotland—that is very appropriate, as it has a thistle in its logo. It was in the High Street today, taking the message about people being wary of the symptoms, knowing what to look for and seeking advice and treatment as quickly as possible.

I thank the many organisations and councils that have supported light up purple for this month of

pancreatic awareness. The Kelpies were lit up and major buildings across Scotland including the Scottish Parliament have supported the light up purple challenge.

This cancer is unique and devastating. One ask from the cancer charities that are here in the public gallery is that a review of the pathways in Scotland is undertaken, and that a review of treatment pathways will be considered by the Government. It is doing a general cancer review at the moment, but it would be interesting to see what features of pancreatic cancer that are unique to the disease will be considered when looking at how the pathways will go forward. I will be really interested to know the benchmarking that the Government will use in the future to know that we have made progress in this area.

The Deputy Presiding Officer: We now move to the open debate.

18:12

Miles Briggs (Lothian) (Con): I am pleased to take part in today's debate, and I welcome all those in the public gallery who have joined us. I congratulate Clare Adamson on securing the debate and recognise her consistent interest, campaigning and involvement in this area. It is important in these debates to recognise members who use their time in Parliament to really progress issues, and Clare is certainly one of those people.

I thank Pancreatic Cancer Scotland and Pancreatic Cancer UK for providing useful briefings for the debate, as well as constituents in Lothian who have contacted me about losing members of their families and dedicating their lives to ensuring that we focus on taking any action that we can.

I agree with the motion's praise for our excellent pancreatic cancer charities and their supporters and with what it says about the need to progress early detection and diagnosis. As Clare Adamson rightly said, only 17 per cent of people with pancreatic cancer are diagnosed at stages 1 and 2, with 63 per cent of people diagnosed at stages 3 and 4—the advanced stages. We need to and must work to make progress to change that.

Pancreatic cancer is the fastest-killing cancer; if nothing changes, it is set to be the fourth biggest cancer killer in the United Kingdom by 2026. As well as improving early detection, we need to see far swifter treatment after diagnosis, which is something that Pancreatic Cancer UK is right to campaign on so strongly. Only 9 per cent of patients who were diagnosed with pancreatic or duodenal cancer in Scotland in 2016 had potentially curative surgery and only two in 10 received chemotherapy. A model of fast-track

surgery in Birmingham has demonstrated that an additional 20 per cent of people can have surgery if treated within 20 days. That means that, every year in Scotland, more than 200 extra people could survive for beyond a year. I have previously talked in the chamber about that issue and about the need for ministers to develop a fast-track model. I hope that, when the minister responds to the debate, we will hear how ministers are considering how to change the situation and what plans are being taken forward in the area.

Similarly, for those with late-stage cancer, the model at the Clatterbridge Cancer Centre in Merseyside demonstrates that, if individuals are treated more quickly, 25 per cent more can receive chemotherapy. We need to replicate that best practice here in Scotland.

I recently had the pleasure of visiting Pancreatic Cancer UK's future leaders academy, which is a training programme that is based at Cancer Research UK's Beatson institute in Glasgow. I was delighted to be joined on that visit by Kim Rowan, who is in the public gallery this evening and who is an inspirational and dedicated pancreatic cancer campaigner. She is well known to many members for her significant contributions to our cross-party group on cancer. On that visit, I was incredibly impressed by the work that is being undertaken by Professor Owen Sansom, the director of the institute and of the future leaders academy, and his highly talented team of researchers. Their truly groundbreaking research offers real hope for the future. The young researchers who work there may well become world-leading scientists, bringing the breakthroughs of the future to fruition. We expect great things from them, and I hope that they will deliver on that.

When I was on that visit, the issue of protected time for research work was raised with me. I ask the minister to comment on that when she is closing the debate and say whether she is willing to look into the concerns that have been raised—I am happy to write to her about them. Pancreatic Cancer UK has said that it would welcome increased capacity in the area. We should all work to increase research by clinicians to complement the future leaders programme. More broadly, it must be a concern for all of us that pancreatic cancer has historically been underfunded in the United Kingdom, receiving only 1 per cent of the cancer research budget over the past decade.

I again welcome the debate. I am willing to play my part, as I hope is the whole Parliament, in raising awareness of pancreatic cancer and the need to improve diagnosis and treatment. Charities such as Pancreatic Cancer UK have set out positive and specific measures that we could take now to make a real difference in life expectancy. I hope that ministers will take a

decisive lead and will consider how we can take those forward to extend lives. I was at the reception last night that Clare Adamson mentioned, and I was filled with hope after meeting so many people at it, because at long last we can see an opportunity to make a real breakthrough. I hope that we can all work towards achieving that.

18:17

Bill Kidd (Glasgow Anniesland) (SNP): I say a big thank you to Clare Adamson for bringing the debate to the Parliament. Situated as it is in the middle of pancreatic cancer awareness month, the debate is timely and very important. Unfortunately, I am going to say a few things that have already been said, but the points could do with as much emphasis as possible. Pancreatic cancer is the fifth most common cancer in Scotland. Sadly, of the 20 most common cancers in Scotland and the UK, it has the lowest survival rate. Survival from the disease has hardly improved since the 1970s and, very sadly, one in four will pass away one month after diagnosis.

Pancreatic cancer receives only 1.9 per cent of the annual UK cancer research budget for all the different types of cancer. The charity Pancreatic Cancer UK emphasises that that has resulted in a lack of breakthroughs in understanding the disease better and a lack of new developments. It is an extremely serious and fast-killing disease, and we need to do everything in our power to tackle it.

Charities are critical in the fight. One example that has been mentioned already is the future leaders academy at the Cancer Research UK Beatson institute, which is based in my constituency of Glasgow Anniesland and in Bearsden in Milngavie. A substantial grant of £625,000 is funding four years of research that is focused specifically on pancreatic cancer. Pancreatic Cancer UK has recruited five PhD students to conduct the research. The research provides a basis for hope that there will be vital breakthroughs in understanding and treating the disease. By deepening the scientific understanding of how the cancer grows and resists current treatments, there is potential for the research to show ways of targeting those two processes, which could enable the development of treatments that slow down or even halt the disease. Alongside that line of research, the team is also looking into ways to wake up the body's immune systems to help it fight the disease.

Aside from that boost to research, public awareness of the disease and of prevention is vital. Cancer Research UK reports that 31 per cent of pancreatic cancer cases are preventable, which emphasises the importance of public awareness.

ASH Scotland highlights that smoking causes 22 per cent of pancreatic cancer cases and that the risk doubles among people who smoke. However, after someone stops smoking, the risk decreases over time. Research shows a correlation of higher rates of cancer among poorer communities. As smoking is more prevalent in poorer areas, it is particularly important that health professionals inform people who are living in such areas about the risks. The message needs to reach everyone. It is important that Scotland changes the way in which we respond to cancer, by adopting healthy lifestyles. We should all take that on board.

We must hold on to the knowledge that investment into research will provide medical breakthroughs. The boost to research that is happening in Glasgow provides hope that the devastating statistics that we have heard will be turned around. Beyond that, the work that is done daily by charities to provide emotional, practical and financial support to people who are affected by cancer gives people dignity and a lifeline amid what must be one of the most difficult things that they and their loved ones have had to face.

I close by asking those who are listening to consider giving to pancreatic cancer charities. Whether it is a one-off donation or a monthly payment, every pound that is donated will go towards saving lives and giving hope.

18:22

Monica Lennon (Central Scotland) (Lab): I thank Clare Adamson not only for securing the debate and for securing cross-party support on the motion, but for being a champion and for speaking so movingly about the issue. I welcome the people in the gallery—it is nice to see a splash of purple across Parliament. I also thank Clare Adamson for the ribbon and badge that were handed to me just a few minutes before the debate started.

It is terrifying when we stop to read the statistics and briefings from Pancreatic Cancer UK, Macmillan Cancer Support, Cancer Research UK and Pancreatic Cancer Scotland: this could be a very bleak and negative debate. There is a cancer emergency with pancreatic cancer. We know that it is tough to diagnose, tough to treat and tough to survive. It must be simply terrifying to receive, or to be the loved one of a person who has received, that diagnosis.

I represent Central Scotland, so in reading about the national picture, I was troubled to learn that there is a higher incidence of pancreatic cancer in Lanarkshire. I know that Clare Adamson will be concerned about that, too. I would like to understand the reasons for that a bit better.

We always need to look at the human stories behind the statistics. Today, I picked up one of my local newspapers, the *East Kilbride News*, in which there was a story about Kenny Forbes, who is a local man who has been diagnosed with pancreatic cancer. His story is a hopeful and positive one. He described himself as

“one of the lucky ones”,

which we would not expect someone with pancreatic cancer to say. It has been possible to treat his cancer and, according to his story, he has made a full recovery and is back at work as an electrician. That story gives us hope.

However, I am also mindful that it is round about the anniversary of the death of my neighbour, who sadly died of pancreatic cancer this time last year. He was a neighbour whom I would often meet in the driveway when he was coming home from work, and he would talk about his family. It is very sad that he was diagnosed and, within a couple of months, lost his life.

We know that the cancer is preventable, so we have a big job to do in working together across Parliament. Hearing Kenny Forbes’s story can give us hope.

I was not aware of the Begley family story: I thank Clare Adamson for shining a light on it. Although, sadly, William Begley passed away, Lynda Murray and the family have been tenacious in their campaigning, which keeps us here in Parliament focused.

There are some positives. Clare Adamson talked about the quality performance indicator with which there has been some success. However, I am quite concerned that there has been a bit of a rollback in progress and that the latest figures show that the target was met only in Lanarkshire. Perhaps in her closing remarks, the minister will touch on the QPI, the dip in performance and what we can do to bring it back up again.

We cannot repeat enough that we are facing a cancer emergency with pancreatic cancer. Faster treatment is vital to increasing people’s chance of survival, and a lot of good suggestions have been made by campaigners, which Miles Briggs touched on. There is a focus on the opportunity that we have with the Beatson west of Scotland cancer centre—the centre of excellence. We have high expectations of its young researchers—no pressure—so we have to make sure that they are properly resourced.

Bill Kidd rightly mentioned the wonderful fundraising that goes on in communities by families and people who have lived experience of pancreatic cancer, but we cannot leave that burden just to charities and people with that generosity of spirit. We have to make sure that we

do all that we can to prevent ill health, and to help people to live healthier lives, but when people get a diagnosis, we want them to have hope that they can survive and live well after cancer.

18:26

Maureen Watt (Aberdeen South and North Kincardine) (SNP): I thank Clare Adamson for bringing the motion to Parliament for debate this evening. I apologise for not being able to attend the pancreatic cancer awareness event last night, but I was able to visit the pancan van—generously provided by Arnold Clark Automobiles—when it visited Aberdeen’s St Nicholas Street on Monday 12 November. I pay tribute to the three brave souls who endured a particularly cold day to hand out leaflets to raise awareness of the symptoms of and risks associated with pancreatic cancer. They told me that there was genuine interest from the members of the public who spoke to them, and that they were able to answer questions about pancreatic cancer, so it is great that the pancan van has been out around the country to raise awareness during pancreatic cancer awareness month.

I recommend the Pancreatic Cancer Scotland website for its wonderful information on the disease. The little leaflet that was given out during the pancan van visits to the cities around Scotland is very informative, too. Previously, I had not made the connection and realised that the pancreas, which we normally think of as producing the juices that help to digest food, is the organ that produces insulin. As we all know, that is really important for blood sugar levels. We get a lot of information about obesity and diabetes, but I had not understood the significance of blood sugar levels to pancreatic cancer.

It is disappointing that the causes of the majority of pancreatic cancer cases remain unknown, although—as with other cancers—being overweight, being a smoker or being diabetic, and having a family history of that type of cancer might be contributory factors, as is having had pancreatitis.

As other members said, pancreatic cancer has the lowest of all cancer survival rates, and the numbers have barely changed over the past five decades—not just in Scotland, but elsewhere. I am sure that if progress was made anywhere in the world, measures would be adopted in Scotland and elsewhere as quickly as possible in order to have better outcomes.

It is essential that the signs of possible pancreatic cancer are widely recognised so that diagnosis is made as early as possible and treatment can begin. I agree with other members that treatment should begin as quickly as possible

for the cancer, because we know that that can have a good outcome, especially if the cancer has not spread to other organs—in which case, people can have a particular procedure, called the Whipple procedure.

Pancreatic Cancer Scotland’s website says that

“NHS treatment in Scotland is as good as anywhere in the world, and patients can rest assured that they will be looked after properly.”

As someone else said, it is absolutely vital that people have the support of family and friends and that they know what to do. Of course, that is where other organisations come into play, including Macmillan Cancer Support, Marie Curie and Maggie’s Centres, all of which are active in Aberdeen and elsewhere. I love that there is a Whipple warriors Facebook group, on which people who have had the Whipple procedure can share their experiences and advice.

Perhaps this is the place that Miles Briggs visited; research called precision panc is being funded and carried out in the Wolfson Wohl cancer research centre in Scotland, and elsewhere. The aim of the research is to improve diagnosis and treatment of pancreatic cancer. Increasingly, it uses understanding of genome sequencing. Again, Scotland is world-leading in diagnosing the disease.

I am sure that everyone here wishes that there will be a breakthrough in early diagnosis and treatment of what is a terrible disease.

18:32

Annie Wells (Glasgow) (Con): I, too, thank Clare Adamson for bringing the debate to the chamber today and for her continued passion and commitment to the cause. Unfortunately, I could not be there last night either, but we spoke at the event last year.

Last Thursday marked world pancreatic cancer day, and this month is pancreatic cancer awareness month. More than 50 per cent of patients have never heard of pancreatic cancer before their diagnosis, and half the population cannot name a single symptom of pancreatic cancer, which makes raising awareness all the more important. This debate is a great opportunity to thank and support the pancreatic cancer charities, which work extremely hard.

Often, it is during members’ debates that I learn about health conditions of which I have no personal experience—and this is no exception. Prior to the debate, I was not aware that pancreatic cancer is one of the least survivable cancers and the fifth most common cause of cancer death in Scotland. Nor was I aware that pancreatic cancer has an extremely low survival

rate of 3 to 6 per cent. As we have heard, that is often due to late diagnosis. There are currently no screening or early detection tests, and as many as one in four people can die within a month of diagnosis, with many receiving no active treatment at all.

Early detection is vital to improving a person's chance of survival, but the symptoms are not well enough known. It is estimated that 70 per cent of patients with pancreatic cancer go to the doctor initially due to pain that is often described as being in the stomach area and radiating around the upper back, because the tumour presses against the abdomen and spine.

I imagine that many people do not anticipate their diagnosis, which makes raising awareness even more important. Pancreatic cancer charities need our support to engage with local communities to help people identify key signs and symptoms of pancreatic cancer and to raise the money that is needed to research early diagnosis. During pancreatic cancer awareness month, charities have campaigned for people to wear purple to help raise awareness and to create a discussion. That is why I have dug out the only purple top that I own, although it is probably not the most suitable top for Parliament.

In Glasgow this month, the Queen Elizabeth hospital, the Silverburn shopping centre and the Moss Heights flats have all been lit up to show support. All year round, charities such as Pancreatic Cancer Action offer awareness talks at workplaces and the resources for individuals to set up awareness stands in supermarkets, community centres and general practitioner surgeries. Now that I am aware of such initiatives, I will do my best as an MSP to spread the word through social media, and I will encourage others to do the same.

Faster treatment is, of course, key to more people surviving pancreatic cancer. As Monica Lennon said, Pancreatic Cancer UK has described the situation that we face with pancreatic cancer as a cancer emergency and has called for people with pancreatic cancer to be treated within 20 days of diagnosis. I whole-heartedly support that call.

Research into pancreatic cancer is also vital and, as an MSP for Glasgow, I want to highlight Cancer Research UK's £10 million investment in the pioneering precision panc project, which is led by the clinical trials unit at the Beatson west of Scotland cancer centre in Glasgow. The project aims to transform pancreatic cancer trials in the UK.

I again thank Clare Adamson for highlighting an extremely important topic and the tireless work of the pancreatic cancer charities to raise awareness of the condition and raise the funds to find the early detection test that is so desperately needed.

Given that one person in the UK dies every hour because of pancreatic cancer, the need for us all to raise awareness of the disease has never been more pertinent.

18:36

The Minister for Mental Health (Clare Haughey): I, too, thank Clare Adamson for securing this evening's important debate to mark pancreatic cancer awareness month. I also welcome the visitors to the gallery—as Monica Lennon said, they have provided a lovely splash of purple in the chamber. In addition, I thank members across the chamber for their measured and considered contributions. They have highlighted the importance of the work of the charities concerned and how vital research is in finding cures and treatments for the disease. There have been many mentions of the Beatson centre in Glasgow and the research that it does.

My family, too, has been affected by this terrible disease, and I would like to thank Pancreatic Cancer UK and Pancreatic Cancer Scotland for the vitally important work that they do to support people who are affected by pancreatic cancer and their families and loved ones. I am particularly proud of the work by my constituent Fiona Brown of Pancreatic Cancer Scotland, who is incredibly passionate about raising awareness of the disease. As we all know, November is pancreatic cancer awareness month, and I know that both organisations have been hard at work. Yesterday's parliamentary reception, which was attended by my colleague Joe FitzPatrick, was a great success, and I know that he was impressed by what he heard.

Another such event is the tour of the pancan van, which has been driving the length and breadth of Scotland to raise awareness of the risks and symptoms of pancreatic cancer. Today, that purple van was on the Royal Mile, bringing awareness right to our doorstep. As other members have said, public buildings across Scotland have been bathed in purple light in tribute to those who are affected by the disease. I am happy to say that the Scottish Government contributed to that awareness raising activity by lighting up St Andrew's house and Victoria Quay in purple last Thursday.

The Scottish Government recognises the devastating impact of all cancers, including pancreatic cancer, on individuals and their family and friends. However, it is also right that we recognise where progress has been made. Over the past 10 years, the overall age-adjusted cancer mortality rate in Scotland has reduced by 10 per cent. That is a great improvement, and it is testament to the amazing efforts of all the workers in the NHS and the third sector.

Patients and their families lie at the heart of all our efforts to tackle cancer, because it is the human story behind the statistics that matters most. It is for that reason that I want to mention Lynda Murray, whose father, William Begley, passed away from pancreatic cancer. I believe that she is in the gallery, along with my constituent Fiona and others who have been affected by this terrible disease. Lynda kindly developed a comprehensive and detailed report that outlined her father's pancreatic cancer journey, and she has continued to engage with Scottish Government ministers and officials to improve care for those who are affected by pancreatic cancer.

There are certainly many lessons for all of us delivering cancer services in Scotland, not least about putting to the forefront the patient voice and the wishes of patients and their family members and loved ones.

In March 2016, the Scottish Government unveiled its ambitious and wide-ranging cancer strategy "Beating Cancer: Ambition and Action" to serve as a blueprint for the future of cancer services in Scotland. Over the coming years, the cancer strategy will deliver £100 million of investment to improve the prevention, detection, diagnosis, treatment and aftercare for all those affected by cancer. After two full years of the strategy, a total of £39 million of investment has been made, and nearly one third of the actions outlined in the strategy have been completed.

The Scottish Government has also undertaken a range of actions to tackle known cancer risk factors in the areas of diet and obesity, excessive alcohol consumption and smoking, some of which have been highlighted this evening. Supporting our ambitions to improve cancer services for all those affected is the £41 million detect cancer early programme, which over the past six years has increased diagnostic capacity across Scotland and worked to raise awareness of the signs and symptoms of cancer.

However, although we always seek to encourage early diagnosis wherever possible, we recognise that that is particularly challenging in the case of pancreatic cancer, the symptoms of which can often be difficult to diagnose. In addition to the detect cancer early programme, we are updating the Scottish referral guidelines for suspected cancer, which are issued to general practitioners to help them recognise cancer symptoms and which, including the specific section on pancreatic cancer, are being revised with a view to their being published next year.

We are also working to address waiting times. In May, the ministerial cancer performance delivery group published its report, and its recommendations for improving waiting times for

the diagnosis and treatment of people in Scotland who have cancer will be taken forward with advice from an implementation group. I am happy to record that, through their membership of the Scottish cancer coalition, third sector organisations such as Pancreatic Cancer UK and Pancreatic Cancer Scotland will have the opportunity to feed into the group's work.

We know that there is increasing pressure on the imaging services that are so critical to the diagnosis, treatment and monitoring of cancers, particularly pancreatic cancer. That is why we are investing in more radiology training places and radiology consultants and encouraging more recruitment into radiology vacancies across Scotland.

The Scottish Government also recognises that further research is required on pancreatic cancer. As a result, we have invested £650,000 in supporting the precision panc study, which aims to match patients to the most appropriate clinical trials through genetic analysis of their tumours. Along with an additional £10 million investment from Cancer Research UK, the study will help to improve our understanding of pancreatic cancer and will hopefully lead to more effective treatments. With regard to Miles Briggs's point about protecting time for research, I would certainly welcome a letter—or a letter being sent to the Cabinet Secretary for Health and Sport—on that matter.

As we have heard, Pancreatic Cancer UK has issued a call to action through its faster treatment campaign, and Scottish Government officials will be meeting the organisation over the coming months to discuss what actions can be taken to support that. The Scottish Government has also written to the three regional cancer networks in Scotland in relation to the publication of their clinical management guidelines and pathways for pancreatic cancer to provide patients and carers with greater understanding of the clinical decision-making processes.

As I have noted, we have seen significant progress in relation to cancer, but despite everything that we have achieved, we know that we must keep looking at what we can do better and how we should transform care and equip ourselves to deliver even better health and social care services in the future. The actions outlined in the cancer strategy will assist with that; however, we will also be required to move forward together and, in that respect, it was encouraging that we had such a collaborative and cohesive debate.

We must work with our dedicated NHS professionals and researchers, but just as important, we need to work with and listen to those people who live with cancer and their carers as well as voluntary groups such as Pancreatic

Cancer UK and Pancreatic Cancer Scotland. Once again, I thank them for the work that they do.

Meeting closed at 18:44.

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