



OFFICIAL REPORT
AITHISG OIFIGEIL

Meeting of the Parliament

Thursday 7 November 2019

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

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Scottish Parliament

Thursday 7 November 2019

[The Presiding Officer opened the meeting at 11:40]

General Question Time

Referendums (Scotland) Bill

1. **Patrick Harvie (Glasgow) (Green):** To ask the Scottish Government what its position is on whether the Referendums (Scotland) Bill adequately meets the objective stated by the constitutional relations secretary for “electronic means of communication to be subject to the same restrictions as print materials”. (S5O-03727)

The Cabinet Secretary for Government Business and Constitutional Relations (Michael Russell): I have seen the Finance and Constitution Committee’s recommendations on the topic and I plan to lodge amendments at stage 2 to strengthen the bill in that area as a result. There will be an opportunity to discuss the issue further in the stage 1 debate on the bill later today.

Patrick Harvie: I lodged the question before realising that it would be asked on the same day as the stage 1 debate, so we will have more time to discuss the issue later today. For the time being, is it the Government’s position that, having considered everything that we have heard at stage 1 and recognising that it intends to make changes, there is a reason in principle why electronic publications by non-party campaigners, such as those that appear in social media, should not be subject to the same regulations as print media publications by non-party campaigners?

There are free speech implications, but if someone has a significant social media reach, it is entirely arguable that they should be subject to the same restrictions, however the material is published.

Michael Russell: I would broadly agree with the member on that. The restrictions on electronic means of campaigning should have the same effect as restrictions on non-electronic means, in terms of identifying who is responsible.

We have seen a case this week where responsibility for an anonymous advertisement has been traced to a former close aide of the Prime Minister. That is unacceptable. However, there are freedom of speech implications in relation to social media because social media is different from print media. Therefore, we have to take care to ensure that our restrictions do not restrict freedom of speech. We are doing that work

with the Electoral Commission, with which we work closely on all these matters. I hope that we will be able to find an effective way to introduce such measures.

HMP Barlinnie (Replacement)

2. **Liam Kerr (North East Scotland) (Con):** To ask the Scottish Government whether it will provide an update on its plans to replace HMP Barlinnie. (S5O-03728)

The Cabinet Secretary for Justice (Humza Yousaf): The Scottish Prison Service is in the final stage of the purchase negotiation process to acquire a site for the new prison that will replace HMP Barlinnie. The site is the former gas works in Provanmill, Glasgow, which is currently owned by National Grid.

It is the SPS’s intention to submit a planning application by the end of 2019 and to be able to conclude the site purchase by summer 2020. Obviously, that is subject to obtaining planning consent.

Liam Kerr: The Justice Committee visited Barlinnie this week and we were concerned by many things, not least the overcrowding. However, it is important to note the calibre and professionalism of the staff and officers.

Given the serious warnings about the state of Barlinnie and the repeated warnings about overcrowding in prisons, is the cabinet secretary able to confirm that his solution is not to open the gates to particular prisoners and to let prisoners out before their court-mandated release date?

Humza Yousaf: I can confirm that we are not going to release prisoners en masse. That is almost a daft question to ask, I think. I also say to the member that shedding crocodile tears on overcrowding when his party’s regressive justice policies would add 3,000 additional prisoners to a system that is already overcrowded and when his party has not committed to building a single new prison is, I am afraid, just not a credible position for him to hold.

I entirely agree with the first part of the member’s question. Our prisons are overcrowded—Barlinnie in particular—and that is of huge concern to the Government. That is why we are putting in place progressive justice measures to reduce the prison population over the coming years. We will also look at interim measures for Barlinnie in particular to see how we can ensure that there is, for example, access to healthcare in the way that we would want and better reception facilities.

We will continue to do that work, and it would be nice if the Conservatives got behind our progressive justice policy, on which there is

generally quite a strong consensus in the rest of the chamber, so that we can reduce the prison population over the years to come.

Financial Crime (Support for Victims)

3. Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I draw members' attention to my entry in the register of interests in relation to my holding shareholdings in a bank.

To ask the Scottish Government what support is available to victims of financial crime in circumstances where banks seem to have failed to observe their own lending criteria and "know your customer" protocols. (S5O-03729)

The Minister for Public Finance and Digital Economy (Kate Forbes): Victims of financial crime may now have their losses refunded, following the introduction of a voluntary code of practice that came into force in May of this year. Victims of financial crime should contact their bank for more information in the first instance.

Stewart Stevenson: The minister might be aware of the McLaren fraud case, which resulted in a criminal being sent to prison for an extremely long period. One of my constituents lost their house, the title to it and the prospect of recovering it. Party to that was one of the branches of the Royal Bank of Scotland, where the fraudster conducted most of his business.

Would it be possible for the Government to facilitate an investigation that might support the ability of victims to recover the millions of pounds of which they were defrauded through the capturing of ownership of houses across Scotland and in my constituency in particular?

Kate Forbes: I am really sorry to hear about the case that Stewart Stevenson has told the chamber about, and I would be happy to have further discussion on the circumstances and what the Government might be able to do.

There are already a number of bodies to which victims can go if they are not satisfied with the service that they have received from their bank or their legal representatives, such as the Law Society of Scotland and the Financial Ombudsman Service. In addition, as Stewart Stevenson might be aware, the Solicitors Regulation Authority sets rules to make sure that solicitors treat their clients fairly and professionally in such circumstances.

I am sure that Mr Stevenson will appreciate that all complaint procedures need to be exhausted and those concerned given the opportunity to resolve the situation before further action can be taken, but I suggest that we discuss the matter further.

Maurice Corry (West Scotland) (Con): A study carried out jointly by YouGov and the Bank of

Scotland that was released earlier this year found that 400,000 people in Scotland had suffered financial scams at some point in their lives. What action is the minister taking in response to fraudsters' increasing use of subtle and more advanced tactics, which are most commonly used in phone calls and fake emails, in targeting victims in Scotland?

Kate Forbes: As the member rightly says, it is dreadful news that 400,000 people have suffered scams. There is a new code of practice that has been developed in collaboration with the banks. I recognise that the code is voluntary, not mandatory, but all banks that have yet to sign up to it should do so. Victims of financial crime whose banks have yet to sign up to the voluntary code should follow the guidance of the Financial Ombudsman Service on how to deal with fraud once it has happened.

As far as prevention is concerned, we all have a duty to raise awareness and to support particularly vulnerable people who might be taken in by such scams.

Tourist Sites (Public Safety)

4. Dean Lockhart (Mid Scotland and Fife) (Con): To ask the Scottish Government what action it is taking to improve public safety at popular tourist sites. (S5O-03730)

The Minister for Europe, Migration and International Development (Ben Macpherson): Provision of a safe and secure environment for visitors is a key factor in tourism destinations being able to offer a quality visitor experience. Responsibility lies with the organisations that run tourist sites, but Scottish Government agencies are certainly proactive in that regard. Historic Environment Scotland, Scottish Canals and Loch Lomond and the Trossachs national park, for example, are members of the United Kingdom-wide Visitor Safety in the Countryside Group, the focus of which is to create safe access to the countryside and historic structures in ways that do not spoil the landscape and heritage or lessen the visitor's sense of exploration, adventure and enjoyment.

Dean Lockhart: The minister might be aware of the tragic death of a young woman and other recent safety incidents at Bracklinn falls near Callander. In response to those events, Stirling Council, the national park, landowners and other agencies have agreed additional safety measures at the site, which are designed to protect the public while not detracting from the natural beauty of the area. What action will the minister take to ensure that equivalent safety measures are in place at similar sites across Scotland?

Ben Macpherson: I offer my condolences to the family of the person in the case that Dean Lockhart mentioned. Our thoughts are with them.

The points that were raised with regard to the site near Callander are important. Measures around safety and in relation to Transport Scotland's remit need to be thought about in a wider sense. I encourage Mr Lockhart to write with more details on the case that he mentioned to both the Cabinet Secretary for Transport, Infrastructure and Connectivity and the Cabinet Secretary for Culture, Tourism and External Affairs.

Child Poverty

5. Ruth Maguire (Cunninghame South) (SNP): To ask the Scottish Government what action it is taking to address child poverty. (S5O-03731)

The Cabinet Secretary for Social Security and Older People (Shirley-Anne Somerville): Scotland is the only country in the United Kingdom to have statutory income targets to eradicate child poverty. Our tackling child poverty delivery plan sets out the actions that we will take to make progress on that ambition and is backed by a £50 million fund. In June 2019, we reported on the strong progress that was made in our first year, with 48 of the 58 actions being developed or delivered. Those include the Scottish child payment to low-income families—worth £10 per week—which is to be introduced by 2020, and the early introduction of that payment for eligible families with children under the age of six by Christmas next year.

Ruth Maguire: I thank the cabinet secretary for that answer, and note that I appreciate the good work that is on-going. A recent study by Professor Morag Treanor of Heriot-Watt University on behalf of Aberlour identified that young people from Scotland's poorest communities are three times more likely to die before they are 25 than those from more affluent areas.

Does the minister agree that working with families early is the key to mitigating and preventing many of the consequential problems and issues that are related to poverty and poverty-related toxic stress—which families experience—and that doing so can prevent problems for families from turning into crises?

In addition, does the Government agree with Aberlour's campaign, "A bad start shouldn't mean a bad end", which asks for commitments to address both the consequences and causes of child poverty, including a national transitional fund to properly support a shift in spend away from costly crisis intervention and towards vital early support for families?

Shirley-Anne Somerville: The Government is absolutely determined not only to mitigate what is happening at this moment, but to prevent problems from happening for communities and families in the first place. A key focus of the tackling child poverty delivery plan is to ensure that we lift children out of poverty and prevent that poverty in the first place. As I mentioned in my first answer, the Scottish child payment is one part of that. The new families and communities fund, which begins in April 2020 and is worth up to £16 million annually, will also be used for early intervention and prevention to improve outcomes for children, young people, families, adult learners and communities. I hope that that gives Ruth Maguire further reassurance that the Government takes the issue very seriously indeed and is acting on it.

Queen Elizabeth University Hospital (Infection Management)

6. Adam Tomkins (Glasgow) (Con): To ask the Scottish Government whether it will provide an update on infection management at Queen Elizabeth university hospital. (S5O-03732)

The Cabinet Secretary for Health and Sport (Jeane Freeman): The basis of infection management is Health Protection Scotland's mandatory "National Infection Prevention and Control Manual". The infection prevention and control team at Queen Elizabeth university hospital has responsibility for undertaking active surveillance of specific alert organisms and conditions based on risk. In most instances, two linked cases trigger an investigation; however, where the infection is exceptional, one case provides the trigger. The manual contains step-by-step information on escalation and de-escalation of risk based on epidemiological data and clinical assessment. The infection prevention and control team at the Queen Elizabeth works to that manual.

If necessary, a multidisciplinary incident management team is convened to support incident investigation, generate hypotheses and agree control measures. All those steps are in place at Queen Elizabeth university hospital.

In addition to surveillance, at the Queen Elizabeth as elsewhere, proactive admission screening is mandatory in NHS Scotland for some organisms, including MRSA. Admission screening by clinical risk assessment allows for early identification of patients who are colonised or at high risk of being colonised, which allows healthcare staff to pre-emptively manage any risk and put in place appropriate measures.

Adam Tomkins: I thank the cabinet secretary for her very full answer. She will be aware that children who require cancer treatment in Glasgow have been sent as far away as NHS Grampian. I

have already written to her about one particular case. It has been reported that this is, once again, due to infection problems at the QEUH. I understand the need for patient safety, but surely children with cancer deserve better than to be sent to the other end of the country for their treatment?

Jeane Freeman: What children who are suffering from cancer and their families deserve is the safest possible treatment in whatever facilities we can provide that in. As Mr Tomkins knows, the unit at the Royal hospital for children in the Queen Elizabeth campus remains open for on-going treatment, but is currently closed to new admissions. It is the new admissions who are currently travelling elsewhere. Recognising the burden that that places on families simply in financial terms—I will come to the other burdens in a moment—we have made available the emergency family support fund.

A few weeks ago, I met many of the families involved—both those of in-patients and those who may have to come back to the Queen Elizabeth university hospital. I listened to all their concerns and arranged for every single one of those to be answered in full. The chair and chief executive of the health board have met some of those families and have other meetings planned. I visited the unit a few days ago in order to speak to staff.

This is where we are now on the matter: I—with the collective support of the board and the clinicians—asked an incident management team, with the help of Health Protection Scotland, to oversee the work that has been done to identify the source of the infections and the prevention measures and steps that have been put in place, with a view to reaching a collective decision, involving the clinicians that work in that area of the hospital as well as the infection prevention doctors and others, on whether the ward is safe to be opened to new admissions. I expect that IMT to reach a decision shortly. It held a meeting this week and I look forward to receiving its update on that.

Staff Bullying (NHS Highland)

7. Donald Cameron (Highlands and Islands) (Con): To ask the Scottish Government what further progress has been made following the announcement by NHS Highland of an independent review into allegations of staff bullying in Argyll and Bute. (S5O-03733)

The Cabinet Secretary for Health and Sport (Jeane Freeman): NHS Highland has published a timetable for that work, which includes the current procurement exercise for an independent specialist to lead the review. It is anticipated that the 12-week review will commence in January 2020 and will conclude in March or April 2020. The

format and scope will be informed by extensive partnership discussions.

Donald Cameron: The cabinet secretary will acknowledge that the review is vital given some of the individual testimonies in the Sturrock report, one of which states:

“For staff on the frontline in Argyll and Bute defensive and intimidating behaviour is normal practice that we endure on a daily basis”.

How will the cabinet secretary ensure that the review delivers lasting change in the workplace culture of NHS Highland in Argyll and Bute?

Jeane Freeman: I met NHS Highland on Monday as part of its mid-year review and discussed the matter. NHS Highland will conduct the review. I am satisfied that it has taken extensive consultation on the scope, format and length of the review. When the review has been concluded I will take an active interest in its recommendations and, more importantly, in the board’s action plan on how it is going to progress those recommendations—as I have done with the wider Sturrock report. Those actions will become part of the board’s annual operating plan, for the delivery of which they are accountable to me as cabinet secretary.

David Stewart (Highlands and Islands) (Lab): I, too, welcome the plans for an independent review of alleged bullying in Argyll and Bute. Does the cabinet secretary share my view that it is crucial that there is one point of contact for those who have been bullied or harassed in NHS Highland?

Jeane Freeman: I do. That one point of contact might be two—if the member follows my meaning—in that matters in Argyll and Bute are in many ways different from those in the rest of NHS Highland. However, I agree with Mr Stewart that it is important that all front-line staff, whatever their role, know who their single point of contact is. In addition, to assist us in that process, we will shortly have the non-executive whistleblowing champions on boards, who I will appoint personally and who will be directly accountable to me.

Brexit (Impact in Areas of Multiple Deprivation)

8. Bill Kidd (Glasgow Anniesland) (SNP): To ask the Scottish Government what its position is on whether Brexit will disproportionately impact on people living in areas of multiple deprivation. (S5O-03734)

The Cabinet Secretary for Social Security and Older People (Shirley-Anne Somerville): The risks presented by Brexit are anticipated to have significant social and economic consequences for all areas of Scotland, but we

know that higher levels of deprivation make communities less resilient to large-scale socioeconomic shocks that are likely to lead to job losses or reduced incomes. After many years of austerity driven by the United Kingdom Government, deprived areas are already suffering, and they will do so even more under Brexit.

Bill Kidd: More than three in 10 people in my Glasgow Anniesland constituency live in what would be the first, second and third areas in Scotland worst affected by Brexit. Does the cabinet secretary agree that we need to do everything in our power to stop Brexit disadvantaging the most vulnerable and those who are living in deprivation?

Shirley-Anne Somerville: The Scottish Government already invested last year £1.4 billion in supporting low-income households. We have also committed to initial emergency food provision for vulnerable communities, and our document, “Scottish Government Overview of ‘No Deal’ Preparations” outlines our commitment to a rapid poverty mitigation fund.

However, we cannot fully mitigate Brexit, and we cannot anticipate and prepare for every outcome. There is no such thing as a good Brexit, which is why it must be stopped, and people will have the opportunity to do just that in December.

First Minister’s Question Time

12:01

Curriculum for Excellence (Subject Choice)

1. **Jackson Carlaw (Eastwood) (Con):** Does the First Minister now accept that there has been a decline in the choice of subjects taken and achieved since the curriculum for excellence was introduced?

The First Minister (Nicola Sturgeon): No, I do not. As we have pointed out when we have had previous exchanges on this, we have a three-year senior phase—which is, of course, going to be subject to a review. In fact, I believe that the Deputy First Minister and Cabinet Secretary for Education and Skills will write to the Education and Skills Committee today giving it the opportunity to comment on the remit for that review.

There is a wide variety of choices available to young people in our schools. As I have often said before, we should look to judge our education system on the results and qualifications—the outcomes, in other words—that young people are leaving school with. A higher proportion of young people are now leaving school with a level 5 qualification; that is true for those who have one, two, three, four, five, six or seven passes. When we look at highers—at level 6 qualifications—the same picture emerges: a higher proportion of young people are leaving with those qualifications.

Those are the outcomes from our education system. I know that that does not chime with the picture of our education system that the Conservatives want to paint, but it happens to be the reality.

Jackson Carlaw: There was me so full of hope after the contribution from the Deputy First Minister and Cabinet Secretary for Education and Skills in the chamber yesterday. I should have known that denial would be the First Minister’s mantra.

Here is what the Deputy First Minister, John Swinney, told the Education and Skills Committee in May:

“I do not think that there has been ... a narrowing of choice”.—[*Official Report, Education and Skills Committee*, 29 May 2019; c 15.]

In June, the First Minister told members in the chamber the same thing, brushing off concerns as lacking any evidence.

This week, however, we learned the truth. Now we discover that, just before those claims were made, civil servants confirmed to Government ministers that:

“A range of data and information confirms that there are, on average, fewer subjects taken by pupils now than was the case prior to the introduction of ... the new qualifications.”

In May, the First Minister was told that this was an issue, as specified in that quote. In June, she told us that it was not. Why did the First Minister and her education secretary mislead the Parliament?

The First Minister: As Jackson Carlaw knows—or should know if he understands the information that he is putting forward—that is not the case. There is a wider choice available to young people today, and that is borne out by the statistics that I have already given in the chamber.

Whether we look at level 5 or level 6 qualifications, we see that a higher percentage of young people are leaving school with qualifications. There is not just a higher percentage leaving with one level 5 or level 6 qualification; the percentage has increased for pupils leaving with two and three qualifications, right through to seven qualifications. That simply does not chime with the picture that Jackson Carlaw wants to paint of our education system, or indeed of the achievements of young people.

In fact, I saw Michael Gove tweeting on that point yesterday, which was interesting, given that he was formerly Secretary of State for Education in England. The Sutton Trust looked at this issue in England recently.

Jackson Carlaw might want to hear about that. Contrary to what he says about Scotland, he is more on the money if we look at the education system in England. A survey of more than 1,600 teachers found that, because of Tory funding cuts, 47 per cent of school leavers had to cut back on subject choices.

Jackson Carlaw: There was denial about Aberdeen last week, and there is denial about education this week. Nicola Sturgeon likes to argue that it does not matter how many subjects a child studies at any age. Her claim has been that only the number of qualifications matters. Unfortunately for her, despite what she has just said, her civil servants also looked at that claim. They found that, before curriculum for excellence was introduced, on average, pupils used to leave school with 10 qualifications at level 5; now, they leave with eight. Even on her preferred measure, she is failing. She knew that full well the previous time she made that claim in Parliament. I realise that numeracy standards might have slipped, but can the First Minister remind us—is 10 subjects achieved more or fewer than eight subjects achieved?

The First Minister: Perhaps Jackson Carlaw should have spoken to his education

spokesperson. When the Education and Skills Committee discussed that recently, Liz Smith said that young people today have more choice than they used to have in days gone by—[*Interruption.*]

The Presiding Officer (Ken Macintosh): Order, please.

The First Minister: Performance at levels 5 and 6 has improved. More young people are obtaining vocational qualifications now than ever before. In 2012, 25,000 skill-based qualifications were achieved; today, that figure is 54,000. Record numbers of school leavers are in work, training or study. That is the reality of our education system. If we add the fact that, whether at level 5 or 6, the attainment gap is also narrowing, people can see how wide of the mark Jackson Carlaw is.

Jackson Carlaw: It is worth recalling that, when she came to office, she accepted that there was a problem with Scottish education.

Members: She?

Jackson Carlaw: When the First Minister came to office, she accepted that there was a problem with Scottish education. The First Minister had the good will and support of this Parliament to grasp the issue. Education was to be her “number 1 priority”. Instead, and again today, she retreated to her comfort zone of spin and denial.

Scotland faces a choice. We could be honest about the challenges that face education. We could focus on what matters and redouble our efforts to restore Scotland’s schools to their rightful reputation for providing a broad education, or we could hope that hosting a march and shouting into a megaphone will magic Scotland’s problems away.

After a decade of division, is it not time that the First Minister put Scotland’s schools first?

The First Minister: I am not sure why Jackson Carlaw chose to end that question with a reference to the division that the Tories have caused over Brexit, but we will leave that to one side. He wants to talk about the period since I became First Minister. Let us do that. Let us put to one side the fact that there are more than 1,000 more teachers in our schools now than there were when I became First Minister.

Let us look at higher passes and level 6 qualifications. I became First Minister at the end of 2014. In 2013-14, 58 per cent of young people left school with one or more higher pass. Today, that figure is more than 62 per cent. In 2013-14, 48.6 per cent left with two passes or more. Today, that figure is 52.4 per cent. Let us go to the other end of the scale. In 2013-14, 8.3 per cent of young people left with seven higher passes or more. Today, that figure is 9.6 per cent. The attainment gap for level 6 qualifications is at a record low.

That is the record of this Government. It stands in marked contrast to that of our predecessors and it stands in even starker contrast to the record of the Tory Government at Westminster.

St John's Hospital (Children's Ward)

2. Richard Leonard (Central Scotland) (Lab): Back in January, the Cabinet Secretary for Health and Sport made "an absolute commitment" to members of the Scottish Parliament that the children's ward at St John's hospital in Livingston would be open 24/7 by October this year. When October came around, she told Parliament that that did not constitute "a promise" but was simply "a commitment"—so it was not even "an absolute commitment" any more. It is now November and St John's children's ward remains closed three nights a week. When will it finally be open to those sick children who need it 24/7?

The First Minister (Nicola Sturgeon): The ward will be open 24/7 as soon as it is clinically safe for it to be so for children and when the recruitment levels, which have been difficult, reach a level at which it can be open. Richard Leonard may correct me if I am wrong, but I assume that he is not arguing that the ward should be open when it is not clinically safe for children. That is the answer to Richard Leonard's question and he might want to accept it.

Richard Leonard: The First Minister knew about the problems seven years ago. Surely by now she should have ensured that that hospital is safe and it is reasonable to have it functional for children again. However, it is not just children who need to stay in hospital who are being let down by the Government; it is out-patients too. Here is what 12-year-old Erin from Whitburn told us:

"I'm visually impaired. This means I attend hospital appointments for my eyes. Ever since I was nine months old these appointments were at St Johns in Livingston."

Last month, though, Erin was sent to Edinburgh, which means, in her words,

"missing a whole day of school which I am not pleased about. This sudden change of location is unfair."

Erin might not have a vote yet, but she does have a voice and she deserves an answer. Will the First Minister therefore explain to Erin why she has to miss a whole day of school and why she cannot get an appointment at her local hospital?

The First Minister: I am sure that Richard Leonard knows this, but separate from the work that is going on to reopen the in-patient service at St John's, there is a strand of work to take appointments back from Edinburgh to St John's. My answer to Erin would be this: of course we want her to be treated in her local hospital, St John's, but it is vital that she gets the best possible treatment. There are recruitment challenges

involved that are not unique to Scotland but are United Kingdom-wide and, often, Europe-wide challenges.

Our first responsibility and obligation is to ensure that there is clinically safe, high-quality care for any young person who needs it, which is what we will continue to focus on. I understand that the health secretary and Angela Constance met families this week to discuss those issues, and we will continue to keep them fully updated.

Richard Leonard: The consequence out in the real world is this: it is another winter for families with sick children travelling into Edinburgh at night, with all the additional costs and stress that that brings. We now also have out-patients such as Erin facing the same ordeal. Meanwhile, we have a children's hospital in Edinburgh costing £1.4 million a month that cannot open its doors until October 2020. Does the First Minister not understand how angry parents and patients, including children, are over her Government's failure to protect and deliver children's health services? Is it not clear that the Scottish National Party cannot be trusted with the national health service? Will the First Minister apologise to Erin and all those children and their families who rightly expect local, accessible treatment and care? Will she act urgently to reinstate that at St John's in Livingston?

The First Minister: We will continue to ensure that our health service gets the investment and the number of staff that it needs. We will not shy away from difficult issues such as recruitment challenges but will always ensure that we are supporting clinically safe, high-quality treatment as close to people's homes as possible. However, the first priority is always patient safety.

Regarding the SNP's record in this area, when the SNP came into office in 2007, I was the health secretary. At the time, a number of local hospitals were under threat, whether it was the Vale of Leven in the Greater Glasgow and Clyde NHS Board area or, indeed, St John's hospital. If they had been left on the track that Labour had them on, those hospitals would probably not be open at all right now. That is the reality. The accident and emergency units at Monklands and Ayr would have been closed. We have protected local services, and we will continue to support them, but we will continue to prioritise patient safety, because that is what any responsible Government does—and that is something that I do not know Richard Leonard will ever get the opportunity to be.

The Presiding Officer: I have a number of constituency supplementaries.

Dairy Contracts (Aberdeenshire)

Peter Chapman (North East Scotland) (Con): I declare an interest as a partner in a farming business.

Is the First Minister aware of the serious situation facing 14 dairy farmers in Aberdeenshire? They comprise the bulk of the dairy industry north of Aberdeen, and they have been told by their milk buyer, Müller, that they have one year to find a new buyer, after which their contracts will cease. There is no obvious processor to take up the contracts. Are there any plans to help those farmers?

The First Minister (Nicola Sturgeon): Yes, we will do everything we can to give assistance to those farmers. I can well understand their anxiety and concern at that development. I will ask the Cabinet Secretary for the Rural Economy to make contact with the member and, by extension, with the farmers, to ensure that the Scottish Government is offering whatever assistance we can.

Saleem Family (Leave to Remain)

Emma Harper (South Scotland) (SNP): The Saleem family—Muhammad, Razia, Fatima and Saira—have been resident in the Dumfries area for the past 13 years, but they are currently being spilt up by the Home Office, which has granted temporary leave to remain to only one member of the family, the youngest daughter. The family are attending immigration court tomorrow in Glasgow, where staff from my office will be attending to speak in support of the case for their right to remain in Scotland together as a family. In the absence of any sense from either the Home Office or the Secretary of State for Scotland, can the First Minister join me in fully condemning the actions of the Home Office in this case, and can she confirm that, in an independent Scotland, we will have a humane, dignified and person-centred approach to immigration?

The First Minister (Nicola Sturgeon): I thank Emma Harper for raising the issue. In fact, I think that I may have met the Saleem family on Monday when I visited Dumfries. If their case is before a court over the next few days, I will be limited and careful in what I say, but I will say that they seemed a lovely family and a credit to this country. More generally, I want Scotland to have an immigration and asylum system that is humane and that encourages people to make a home in Scotland and a contribution to Scotland. One of the many benefits of Scotland being independent is that we get the chance to build that kind of country and that kind of society, with that kind of approach to immigration, which would be much better and very different from the disgraceful hostile environment that the Tories preside over.

NHS Highland

Edward Mountain (Highlands and Islands) (Con): The Auditor General for Scotland has just produced a very critical report on the finances of NHS Highland, and patients are rightly very concerned. It is clear that the board needs significantly more help to achieve its objectives. Will the First Minister ensure that the Cabinet Secretary for Health and Sport provides that help, without placing NHS Highland in level 5 of the escalation process?

The First Minister (Nicola Sturgeon): We will continue, as we always do, to work closely with health boards to ensure that they are managing their budgets and that they are providing the quality of patient care that they have a responsibility to provide. NHS Highland's resource budget for this financial year increased by 2.9 per cent. The health budget overall is increasing and is now at record levels.

We will continue to properly resource our national health service. It will always work within pressures, and that has particularly been the case in recent years. We will work closely with NHS Highland and other boards to ensure that they deliver the services that patients need.

Mossmorran (Flaring)

Mark Ruskell (Mid Scotland and Fife) (Green): Last Friday, NHS Fife published a long-awaited report on the health impacts of flaring at Mossmorran. It said that flaring

"has not been acceptable and could plausibly affect health in the widest sense."

Does the First Minister now believe that communities living in the shadow of Mossmorran should be compensated?

The First Minister (Nicola Sturgeon): We will always consider issues or suggestions like that. I certainly understand people's concerns and anxieties about flaring. That is why the Scottish Environment Protection Agency has taken the issue so seriously and will continue to consider its options around enforcement action. Health impacts are of course very important, and we will consider the evidence that Mark Ruskell has mentioned carefully. We will do so in consultation with the local community, as we would always seek to do.

NHS Grampian

Liam Kerr (North East Scotland) (Con): The people of the north-east have for years been poorly served by a lack of funding and support to NHS Grampian. An update on the current infrastructure investment plan says that the main construction work on the Baird family hospital and

Anchor centre will take place “later than previously reported”. The work was supposed to be completed by 2021. Given concerns about cost and recent incidents in the wider national health service estate, will the First Minister give the people of the north-east a realistic timeline for the opening of that vital facility?

The First Minister (Nicola Sturgeon): We need to make sure that the services are the right services, delivered in line with budgets.

We are increasing health budgets for NHS Grampian and health boards across the country. I again point out to the Conservatives, as I frequently do when spending on health, education, justice or any other matter is raised, that if we had followed the strictures and recommendations of the Conservatives when it came to setting our budgets and had prioritised tax cuts for the richest in our country instead of extra funding for the national health service, our health service would, right now, have more than £500 million less in its budget than it currently has.

Instrumental Tuition (Dumfries and Galloway)

Oliver Mundell (Dumfriesshire) (Con): Given the serious concerns that have been expressed by the Education and Skills Committee and by members in the chamber, does the First Minister agree that it is deeply worrying that Dumfries and Galloway Council is planning to axe all instrumental tuition in schools for pupils who are not sitting Scottish Qualifications Authority exams? Will she urgently raise the issue with her Scottish National Party colleagues in the council administration?

The First Minister (Nicola Sturgeon): The Government has made its view clear—in particular, the education secretary has made his view clear—on music tuition. We strongly encourage all local authorities to maintain their music tuition and not to reduce it. That goes for Dumfries and Galloway Council, as it does for other local authorities across the country.

National Health Service (Government Record)

3. Willie Rennie (North East Fife) (LD): This week, NHS Highland told patients to seek treatment elsewhere because Raigmore hospital is nearly full. After 12 years running our national health service, is the First Minister proud of that record? (S5F-03685)

The First Minister (Nicola Sturgeon): Our health service is seeing more patients than ever before. If we look just at accident and emergency services for the country overall, we can see that, despite the pressures, so far this year more people are being admitted, discharged or transferred within four hours than in the previous

year. We have record funding and record numbers of staff.

Of course, we want to encourage patients to seek help and treatment in the best place for them. That is not always in hospital; it is often in primary care or in the community.

The health service is doing more now than it has ever done, for which it deserves our grateful thanks.

Willie Rennie: There was not one recognition of the problem at Raigmore hospital from the First Minister. Not one. That is astonishing.

Telling people just to go away seems to be a pretty shabby way to deal with waiting times. That is happening not just in the Highlands but in the Borders, in Paisley, in East Kilbride and in every part of the country—and that is before the winter crisis hits.

People rely on the NHS, but they are being let down by the Government. Thousands of people are—despite the solemn promise from the Government—stuck in hospital even though they are fit to go home. Audit Scotland says that the NHS is critically short of staff. The Royal College of Emergency Medicine says that we are hundreds of A and E beds short. The waiting time guarantee is broken every hour of every day. After 12 years in power, has the First Minister got any more excuses?

The First Minister: The Audit Scotland report said that the NHS is treating more patients than ever before and that performance against most of the waiting times targets is improving.

I want to challenge Willie Rennie very directly, because I think that some of his language was deeply regrettable. The NHS does not tell anyone to “go away”. It is deeply irresponsible for any member of Parliament to suggest that it does. What the NHS does—it does so in the interests of patients, in which, frankly, every member of this Parliament should support it—is encourage patients to seek treatment in the place that is best for them. That might be at a general practitioner surgery, a pharmacist or another community service. Hospitals and accident and emergency departments are not always the best places to seek treatment.

At the start of this week, I visited a community pharmacy in Rutherglen, which is expanding its services and getting the benefit of seeing more patients who would otherwise go to GPs or acute care. That is the sensible and responsible way to redesign our health service, as we make record investment in it.

That a representative of the party that was the co-architect of austerity gets up here and talks

about spending in our health service really takes the biscuit.

The Presiding Officer: Thank you. We have further supplementary questions [*Interruption.*] Have members finished?

Flu Vaccinations

Gillian Martin (Aberdeenshire East) (SNP): I understand that as a result of United Kingdom-wide delays of Fluenz Tetra, which is procured by Public Health England, NHS Grampian has decided to prioritise available vaccine for people who are most at risk and children aged two to five years old. What action has been taken to ensure that all eligible children get their flu vaccine as soon as possible?

The First Minister (Nicola Sturgeon): I thank Gillian Martin for raising the issue. There is a delay in the supply of a proportion of the children's vaccine, which is procured by Public Health England on behalf of the whole UK, and the delay is affecting all parts of the UK.

I take the opportunity to reassure parents and families that we are doing everything possible to minimise disruption that is caused by the delay. We are working with Public Health England, Health Protection Scotland, health boards and other relevant partners to ensure that all eligible children get their flu vaccine as soon as possible.

We have decided that initially those who are most at risk and children aged two to five will be prioritised, with health boards working to ensure that all other eligible children, including children at primary school, receive their vaccine as quickly as possible.

Aberdeen Art Gallery

Tom Mason (North East Scotland) (Con): I remind colleagues that I am a councillor in Aberdeen City Council.

Last week the First Minister told me that Aberdeen City Council had never applied for funding for the new art gallery, calling my question "a bit rich".

However, at 10pm on Friday night, the First Minister's spokesperson confirmed that in fact the council had applied during the planning stage in 2013. The First Minister was forced to correct the *Official Report* late yesterday. Will the First Minister take this chance to apologise for misleading Parliament?

The First Minister (Nicola Sturgeon): I have already written to Tom Mason and the Presiding Officer. It is the case that no approach was made to the Scottish Government or Historic Environment Scotland in the planning phase or

business-case stage. An application was made to Creative Scotland. [*Interruption.*] I am trying to answer the question, if Conservative members want to listen.

An application was made to Creative Scotland in 2013, which was not successful. I was not aware of that application when I answered the question. I apologise for that.

However, the allegation that was made last week in Aberdeen that somehow there was political motivation on the part of this Government for funding the Victoria and Albert museum in Dundee but not Aberdeen art gallery is absolutely not true, and I hope that nobody will repeat that accusation.

Austerity

Shona Robison (Dundee City East) (SNP): I know first hand the devastating impact that Tory austerity has had in my constituency of Dundee East. Rising numbers of children are fed from food banks, families of European Union citizens are unsure whether they can stay here and businesses and jobs are on the line. Does the First Minister agree that the first words out of Boris Johnson's mouth as he lands in Scotland today should be, "I'm sorry"?

The First Minister (Nicola Sturgeon): Yes, I do. It is a serious issue. When Boris Johnson comes to Scotland for a fleeting visit, which I think he is describing as a regional visit, no doubt to give the Scottish Tories their marching orders for the remainder of the election campaign, he should take the opportunity to apologise for Tory austerity, for Tory welfare cuts, for the mess and the chaos of Brexit, and for the misery that has been heaped on Scottish people by the Tories for too many years now.

So confident am I that Boris Johnson will not go down very well with Scottish voters in the election, that my words to him as he leaves Scotland this afternoon might be, "Haste ye back."

The Presiding Officer: I was hoping that we could get through questions without a direct reference to the general election. I remind all members to try not to do direct campaigning in the chamber.

Remembrance Sunday

Maurice Corry (West Scotland) (Con): As remembrance Sunday approaches this weekend, will the First Minister join me in expressing the deep gratitude of this Parliament to men and women of our British armed forces who, over the years, have defended our nation, and for those who pay the ultimate sacrifice? Will she also acknowledge the families who have supported those members of the armed forces so well?

The First Minister (Nicola Sturgeon): I wholeheartedly associate myself with Maurice Corry's remarks. As I always am, I will be very proud and privileged to represent the Government, and indeed the country, at the national remembrance service here in Edinburgh, on Sunday morning. I will certainly be remembering and paying tribute to all those in our armed forces down the years, who have made sacrifices and often paid the ultimate sacrifice, not only to keep us safe, but to allow us to enjoy the freedoms that today we take for granted.

I will also be paying tribute, as we all do, to serving personnel and their families. The life of the family of a member of our armed forces is, I am sure, not an easy one. Our gratitude goes to them, just as it does to those who have served, and who continue to serve, in our armed forces.

Oncology Services (Tayside)

Jenny Marra (North East Scotland) (Lab): Last week, I raised the issue of the Tayside breast oncologists' right to reply submission to the Healthcare Improvement Scotland report that was published in April. The oncologists made their right to reply submission at the end of April this year, but it has never seen the light of day and it has never been published.

In response to my written question, I received a delayed answer from the Cabinet Secretary for Health and Sport, who says that this is not a matter for the Scottish Government; it is a matter for Healthcare Improvement Scotland.

Can the First Minister confirm the cabinet secretary's view that the fact that the oncologists' response has never been published is not a matter for her Government and that it is not something that she will demand that Healthcare Improvement Scotland publishes?

The First Minister (Nicola Sturgeon): The independent report by Healthcare Improvement Scotland had input from experts locally and nationally, including from the chief medical officer and the chief pharmaceutical officer, who directly reported to HIS concerns that had been raised by local oncologists earlier this year.

The process by which HIS conducted the review was independent of the Scottish Government and we would expect it to consider all feedback that it received. However, I say to Jenny Marra—I mean this sincerely—that, if she imagines another context in which I was instructing Healthcare Improvement Scotland about an inquiry that it was carrying out, understandable and legitimate concerns would be raised, no doubt by members in the chamber, about Government interference. If we have independent inquiries, it is crucial that their independence is respected, and usually I

have members demanding of the Scottish Government that that is the case.

Education

Ross Greer (West Scotland) (Green): It has been more than two years since the Government brought a debate on anything to do with our schools to the chamber. If the First Minister is so confident of the Government's record on education, will there be a debate before the end of the year? If not, why not?

The First Minister (Nicola Sturgeon): There are regular debates on education. [*Interruption.*] The Deputy First Minister and Cabinet Secretary for Education and Skills gives regular statements and I get questioned on education. I am absolutely certain that, before the end of this year, there will be further debate in the chamber about education matters.

Real Living Wage

4. Kenneth Gibson (Cunninghame North) (SNP): I hope to bring a zen quality to proceedings after this afternoon's turmoil.

To ask the First Minister what the Scottish Government's response is to recent figures showing that the number of workers earning less than the real living wage has decreased by 13 per cent in the last year. (S5F-03702)

The First Minister (Nicola Sturgeon): I welcome the analysis that was published by the Office for National Statistics last week, showing that the number of employees who earn less than the real living wage in Scotland has decreased by 15 per cent, from 473,000 in 2018 to 400,000 in 2019. That means that 83.1 per cent of all employees over the age of 18 in Scotland are earning the real living wage or more. Scotland, of course, remains the best performing of all four United Kingdom countries, with the highest proportion of employees paid the real living wage or more. There is work to be done, but I hope that that progress is welcomed by members across the chamber.

Kenneth Gibson: Such progress is welcome. However, in Scotland, 11 per cent of women and 8 per cent of men in full-time work, and one third of women and 40 per cent of men in part-time work, still earn less than the hourly real living wage. How can the Scottish Government, with the very limited powers that it has in that area of policy, ensure that more and more paid workers earn at least the real living wage? Does the First Minister agree that it is time for Opposition members, who often express concern about the issue, to back the devolution of powers over the real living wage to this Parliament?

The First Minister: Yes, we will continue to call for the devolution of employment law to ensure that workers receive at least the real living wage. Last year, I gave a commitment that, by the end of this parliamentary session, we will attach fair work first criteria to as many grants and funding streams as possible, and we will extend the range of public contracts to which the criteria will apply. Our fair work first approach commits employers to a number of fair work criteria, including, crucially, payment of the real living wage.

We will continue to work with the Poverty Alliance to promote the living wage. There are currently more than 16,000 accredited living wage employers in Scotland, and this Monday will see the start of living wage week, when a new living wage rate will be announced.

Although we are doing good work in the area, there is absolutely no doubt that there is more to do. We would be able to do more and to be even more effective if control over employment law lay in the hands of this Parliament, not in the hands of a Tory Government at Westminster.

Rhoda Grant (Highlands and Islands) (Lab): It is clear that the Scottish Government is still not doing enough to make Scotland a living wage nation, with one in five people, the vast majority of whom are women, still earning less than £9 an hour. In a statement to Parliament yesterday, it was made clear that Government procurement contracts are still being let without insistence that the real living wage be paid. When will the Scottish Government ensure that all its contracts embrace the real living wage?

The First Minister: In my response to Kenny Gibson, I set out the action that we are taking through our fair work first approach, which Labour members will warmly welcome, I hope. We are doing everything that we can to extend payment of the living wage. We have to do that largely on a voluntary basis for one very important reason: we do not have power over employment law. We cannot, by statute, set the level of the living wage and mandate, by law, employers to pay it. If Labour members are now saying that they want to join us in demanding the devolution of employment law, I say, "Better late than never." Let us get on with it and put the powers in the hands of this Parliament.

National Health Service Staff (Attacks)

5. **Michelle Ballantyne (South Scotland) (Con):** To ask the First Minister what the Scottish Government's response is to reports that attacks on staff at six NHS boards increased in the last year. (S5F-03687)

The First Minister (Nicola Sturgeon): Nobody should be the victim of any attack for doing their

job, not least our hardworking NHS staff, who do so much to care for people across the country. We have been very clear that health boards must take appropriate action against anyone who assaults a staff member. That will include criminal proceedings when that is appropriate, but such matters are always for the Crown. Any violence or aggression towards NHS staff is unacceptable, which is one of the reasons why we extended the provisions in the Emergency Workers (Scotland) Act 2005 to give legal protection to all NHS Scotland staff.

Michelle Ballantyne: I am in total agreement with the First Minister's comments. Our NHS and public service staff work extremely hard to look after us in our hour of need but, increasingly, they face threats. Since 2014, Scottish NHS boards alone have had to spend an extra 40 per cent on private security. NHS Lothian has spent almost £7 million on private security contractors since 2014. Does the First Minister agree that it is unacceptable that our NHS boards, which are in financial difficulty, are having to spend increasing sums on private security?

The First Minister: Yes, I do. The message that should come from all of us, in a united fashion, is that any attack on any member of our NHS staff is absolutely unacceptable, and we should have zero tolerance of such behaviour.

The 2005 act, which was passed initially under a previous Administration, was extended when I was health secretary. We extended the provisions of that act, which provided legal protection to ambulance workers, doctors, nurses and midwives who were working in a hospital or responding to an emergency, to cover health service staff even when they are working in the community.

The legal protections are there and the penalty can involve a jail sentence, a hefty fine or both, but the message that should come from all of us is that anybody who attacks any member of our NHS staff is attacking our precious national health service. It is not acceptable; it should never be seen as acceptable and we should send that message in a very united and loud fashion from the chamber today.

Children with Additional Support Needs (Safety and Wellbeing)

6. **Daniel Johnson (Edinburgh Southern) (Lab):** To ask the First Minister what the Scottish Government is doing to ensure the safety and wellbeing of children with additional support needs. (S5F-03688)

The First Minister (Nicola Sturgeon): We are committed to ensuring the safety and wellbeing of all Scotland's children and young people, along with local authorities, which are responsible for the

care, safety and welfare of pupils in school. A range of guidance and approaches is available to support local authorities and schools. Physical intervention—physical restraint and seclusion—should only ever be used as an absolute last resort and only when it is in the best interests of the child or young person, never for disciplinary purposes. The unlawful use of physical intervention or seclusion is completely unacceptable and every intervention should be carefully monitored and reviewed.

Daniel Johnson: In December last year, the Children and Young People's Commissioner Scotland published a report on the use of restraint and seclusion. It identified 2,674 such incidents in 2017-18, experienced by 386 children. That is an average of seven per child. If that is an average, it means that, for some children, being physically restrained is just part of their typical school week or even their typical school day and, according to the commissioner, that is likely to be just the tip of the iceberg.

We are one year on and we have seen no action. That is why Enable Scotland has launched its in safe hands campaign. Will the First Minister commit to a formal Government response to Enable's calls for the Government to bring forward specific guidance on the use of restraint in schools, to establish a duty to report and to provide transparency around such practices? Will she consider putting those duties into law? Finally, does she agree that children have a right to education and a right to be protected from violence? The real meaning of the use of seclusion and restraint is that children are being denied those rights in Scottish schools every day.

The First Minister: First, I agree with the point on a right to education and a right to be protected from physical intervention or violence; that is an important point to make. It is not the case that no action has been taken. We published guidance on restraint and seclusion back in June 2017 and that is currently being revised to take into account recommendations made by the children's commissioner and the Equality and Human Rights Commission. We want to work in partnership with education authorities, the Association of Directors of Education in Scotland and the Convention of Scottish Local Authorities to ensure that we get that right and that the correct approach is taken to recording and monitoring, as well as making sure that we have a situation in which physical intervention or restraint and seclusion is a last resort and is used only in the best interests of children.

Daniel Johnson made a point about putting that on a statutory footing, which is certainly something that we would be happy to consider as we undertake the review. The recommendations that

were made by Enable Scotland this week in its report will be carefully considered by the Scottish Government and all the recommendations will feed into the work that we are doing to review the guidance. I will ask the Deputy First Minister to keep Daniel Johnson updated as that work progresses.

12:43

Meeting suspended.

12:45

On resuming—

Nuclear Test Veterans

The Deputy Presiding Officer (Christine Graham): The next item of business is a members' business debate on motion S5M-18772, in the name of George Adam, on recognition for nuclear test veterans. The debate will be concluded without any question being put.

Motion debated,

That the Parliament recognises the veterans who served in the Ministry of Defence atmospheric nuclear test programme in the 1950s and 1960s; understands that 22,000 veterans took part in the programme, of which, around 1,500 survive today, including Ken McGinley, a prolific campaigner for veterans, from Renfrewshire; acknowledges that a 1999 health study of these veterans found that 39% of veteran's children were born with serious medical conditions, that partners of veterans were three times more likely to suffer miscarriage, and children were 10 times more likely to have a birth defect; understands that the UK is the only nuclear power to deny special recognition and compensation to its test veterans, and notes calls for compensation and an investigation into how future generations of these veterans may be affected.

12:45

George Adam (Paisley) (SNP): I have brought this debate to the chamber on the back of knowing and being friends with Ken McGinley, who is a nuclear test veteran. He is not from Paisley—he is from greater Paisley, as he is from Johnstone. When I first met him as a teenager, he was a Labour councillor—I see that there are no Labour members in the chamber—in Renfrew District Council. I knew him from then. The years went on, and he is now a member of the Scottish National Party. I see him regularly in my constituency office. He comes and tells me stories about what he went through and the difficulties that he, other campaigners and other families have had to deal with after the tests on Christmas Island.

The irony is not lost on me that we are debating the subject in the week before remembrance Sunday. I never set out to have the debate this week; it is funny how fate makes up for justice in many ways, and balances it. This week, we are remembering people who defended our nation in various conflicts and gave their lives. However, British nuclear test veterans have been completely forgotten. They have been forgotten by the nation and the United Kingdom Government, which carried out tests on them. It is entirely for others to decide whether that was an intentional policy on behalf of the British state. However, many of those veterans are now very elderly and many of them might be dead before they see justice. For me, that is the most important issue. Those people and

their families might not see justice while they are alive.

We are talking about a state that took young men in national service from one side of the world to the other and dropped a nuclear bomb on them to see how that worked out, how it affected them and how they could function on a nuclear battlefield, of all things. That is how simple the matter is. That seems to be complete madness to us. It feels barbaric in the 21st century, and it seems almost unbalanced for a state to do that. Who in the 1950s honestly thought that it was a good idea to drop a bomb on people? It is not as if the horrors of Hiroshima had not been seen or what could happen was not known. However, those young servicemen were used as guinea pigs by an uncaring and distant Government.

Since then, many of those veterans have gone on to have medical conditions that are connected with their time on Christmas Island, and their families have had to live through that. It was not a case of an officer saying, "Today, gentlemen, we go into battle. Some of you might not come back. You might be killed by the enemy." In many cases, people did not know what was going on. A nuclear bomb was dropped on top of them, and they have had to live with that for the rest of their lives.

The Minister for Local Government, Housing and Planning (Kevin Stewart): I thank Mr Adam for bringing this debate—

The Deputy Presiding Officer: I am sorry, but I forgot to call you. I nearly called you "minister", but I do not know whether I am calling you that in this debate. I will call you Minister Kevin Stewart and hedge my bets.

Kevin Stewart: I thank Mr Adam for bringing the debate to the chamber, because, like him, I have constituents who are survivors of the nuclear tests.

I have seen the radiation burns of one of my constituents. They are quite horrific and he has had to go through a lot in his life. He said to me that other countries have compensated their nuclear test victims, but the UK has not, which he feels is unjust. Does Mr Adam agree with my constituent? Should those nuclear test victims be compensated now for what was done to them in the 1950s and 60s?

The Deputy Presiding Officer: I was generous with that intervention, knowing the protocol when ministers speak in debates. Your time will be made up, Mr Adam.

George Adam: For personal reasons, I agree with everything that Mr Stewart said—I know Ken McGinley, so I know what he has gone through. He has explained to me what many of his

colleagues and comrades, as well as their families, have gone through, too.

This happened to Ken McGinley on Christmas Island in 1958, which is not ancient history. To my daughter, that might seem like 100 years ago, but it happened within living memory for many people. Let us look at the context: on 6 February 1958, there was the Munich plane crash disaster, which happened after Manchester United were at a European cup tie in Belgrade; on 25 February, the Campaign for Nuclear Disarmament was launched while the nuclear tests were going on; on 1 August, the first “Carry On” film, “Carry On Sergeant”, which was about army life, was released; and Cliff Richard’s first record reached number 2 in the UK charts—it was the first American-type rock ‘n’ roll record to be released by a British artist.

Nineteen-year-old Ken was more interested in all those things than in what was going on with the nuclear tests. He has said to me on numerous occasions that he was aware of Hiroshima and Nagasaki, but he had no real knowledge of nuclear bombs. For Ken and his comrades as they went to the other side of the world, it was like a Boy’s Own adventure. The big thing for Ken was stopping off at Hawaii on the way over, because that was like a different planet for a young man from Johnstone. For the rock ‘n’ roll generation, national service was a cool thing to do, because their king—the king of rock ‘n’ roll himself—was conscripted to the US army in 1958. They were living the same life as Elvis Presley, so, for them, it was a completely different reality to the one that we now know it was.

On 28 April 1958 at 10:05 local time, a Valiant aircraft piloted by Squadron Leader Bob Bates dropped a bomb off the coast of Christmas Island. It was the largest British nuclear weapon ever tested—a 3 megatonne monster.

Ken McGinley was a young sapper in the Royal Engineers. He was posted in January 1958 and spent three months building barracks and facilities for the thousands of servicemen who were engaged in the thermonuclear test programme. When the 3 megatonne monster was released, young Ken was 25 miles away on the beach. He was provided with white overalls, which, as we all know, help a lot in a nuclear blast. He was told to turn away and cover his eyes with clenched fists. He told me that when he clenched his fists over his eyes and the bomb went off, all he could see was his skeleton.

I have a quote from Ken about what happened that day. He said:

“I think the bomb exploded at a lower level than anticipated because there was an awful lot of dirt flying about. After the explosion, we were instructed to turn and

watch the mushroom cloud rise. We were then told to take off our overalls and place them in a pile.

It began to rain. The rain was discoloured and fell in large, heavy drops. Men, who I believe were scientists, wearing white suits and distinctive hoods and large black goggles began shouting for us to take cover in the tents.

It was at this time that I got my first taste of black rum. It was a tradition in the Navy to serve black rum after rainfall. I did not like it at all.

Before we went off duty, we were ordered to kill the birds which had been injured by the explosion. Some were still flying around but they were blind as their eyes had been burnt out. We used pickaxe handles to kill the birds. I did not like doing this but we had no choice because of the terrible condition they were in.”

That happened when Ken was a 19-year-old boy. The trauma of having to deal with that alone would be enough to affect anybody.

However, as I said at the very beginning, we must remember our national servicepeople who have suffered because of this. We talk at this time of year of individuals who stormed the beaches at Normandy and of individuals who had to suffer in the trenches in the first world war. I feel that these people, who were used as guinea pigs, have been forgotten by the British state. The UK still does not acknowledge or recognise their plight, even though other nations have already done so. That is not only wrong; it is a national embarrassment for us here in this country. It is time for us to listen to, respect and acknowledge men such as Ken McGinley. We need to do that soon before it is too late and they are no longer with us.

12:55

Kenneth Gibson (Cunninghame North) (SNP): I congratulate my colleague George Adam on securing debating time for this important subject. Back in 2011, I tried to lodge a motion on this issue, but there was a case in the High Court at the time, so it was deemed unacceptable under sub judice rules. However, I wrote to the Secretary of State for Defence, Liam Fox, and the Minister for Defence Veterans, Reserves and Personnel, Andrew Robathan, without success. I then contributed to Christina McKelvie’s debate on the issue later that year.

The very notion of nuclear testing is beyond the imagination of most of us. Indeed, it is hard to fully comprehend that such apocalyptic weapons were deployed while thousands of service personnel were instructed to watch without wearing protective clothing.

UK cabinet papers that were released in 1985 under the 30-year rule revealed that in 1955, the then Prime Minister, Winston Churchill, contemplated evacuating Scotland north of the Black Isle in order to test a nuclear device near Wick. Opposition from the Norwegian

Government, which was concerned about prevailing wind conditions, meant that that mad suggestion was thankfully never taken forward.

However, between 1955 and 1963, the British Government conducted secret nuclear tests at Maralinga in South Australia and on Christmas Island. Perhaps the most notorious of these tests was operation grapple Y in 1958, which tested weapons over 100 times more powerful than the bombs that levelled Hiroshima and Nagasaki.

In 2001, Dr Sue Rabbitt Roff of the University of Dundee uncovered evidence suggesting that troops had been instructed to walk across the sites within hours of detonation, exposing themselves to radioactive materials. That was later confirmed by the UK Government, despite previous contradictory statements that no humans had been used in experiments related to nuclear weapons testing. Understandably, many surviving nuclear test veterans and their families believe that they have a compensation claim against the UK Government.

Tragically, the experience of UK test veterans is not unique and during the cold war, forces personnel from the United States, Canada, France, Russia and China took part in similar trials. However, service personnel from those nations were afforded decent compensation settlements by their Governments.

The UK is the only nuclear power to deny special recognition and compensation to its test veterans, which is shameful. The Ministry of Defence maintains that service personnel suffered no ill effects as a result of the tests, but the evidence that is presented by veterans and their families to the contrary is compelling.

Two thirds of British Nuclear Test Veterans Association members died before the age of 60 and ionising radiation, a known mutagen, impacted on veterans' children and grandchildren in the form of physical deformities. Dr Roff completed a study in 1999 that found that of 2,261 children born to veterans, 39 per cent were born with serious medical conditions—14 times the national figure of 2.5 per cent.

Depleted uranium weapons were tested in Scotland despite warnings from MOD scientists that the contamination could never be cleaned up. Secret Government records give a fascinating insight into the political manipulation and manoeuvring that went on behind the scenes in the 1970s to ensure that Scotland did not thwart MOD plans to test-fire depleted uranium munitions at the Dundrennan military range near Kirkcudbright.

An internal MOD memo from 1973 warned that test firing would leave parts of the range contaminated by "very persistent dust", adding:

"It will probably be impossible to remove this completely and initial consideration of this fact is essential."

Nevertheless, the MOD pursued its plans, opting instead to hide them. In 1979, one senior official wrote:

"My inclination would be not to mention Kirkcudbright at all at this stage, but to wait until we can point to accident-free experience in English ranges before tackling the Scots".

Labour's Secretary of State for Scotland at the time, Bruce Millan MP, protested to the then Prime Minister, Jim Callaghan, that DU testing would compound the problems that he was having with nationalists and environmentalists who were opposing Scotland becoming a "nuclear dustbin".

With regard to Scotland's nuclear veterans, we owe a sincere debt to those who were forced to take part in the tests, and their unique service must never be forgotten. I am glad that our Parliament continues to recognise that. The victims' suffering has been ignored by previous Westminster Governments and the MOD for too long. It is time for UK ministers to accept responsibility for the effects of past policies and to do the right thing for our nuclear veterans and their families.

13:00

Maurice Corry (West Scotland) (Con): I, too, thank my colleague George Adam for bringing to the chamber for debate his important motion, which describes in graphic detail the issue that we are discussing and the seriousness of it. I also pay tribute to Ken McGinley, given his experience of what was an appalling situation. I served in the Argyll and Sutherland Highlanders with a colleague whose father was in the Royal Air Force and was on the Valiant that Mr Adam mentioned. I know about the problems that he suffered, which we looked into, and that is going back 20 or 30 years.

The people in the armed forces are some of the bravest men and women our nation has to offer. They are called upon to make numerous personal sacrifices—in some cases, the ultimate sacrifice—on behalf of our nation. The gravity of those sacrifices varies, but that does not lessen their significance or veterans' right to recognition and respect for their service.

With the discovery of nuclear fission in the 1930s and the resulting events at Hiroshima and Nagasaki in 1945, the landscape of military weapon development was drastically changed, and the UK began to research and develop nuclear warheads in order to stay at the forefront of that emerging powerful technology. Enormous resources were allocated to the operation to ensure that it was successful. As has been

mentioned, that included manpower of approximately 22,000 servicemen, who fulfilled tasks ranging from construction of runways and camps to gathering radiation samples from mushroom clouds. It is easy to forget about their service, because no combative battles were fought and no soldiers were killed by enemy fire—but that is an unacceptable justification on our part for what happened on Christmas Island all those years ago.

The individuals in question not only ensured the security of the nation during a particularly volatile and uncertain time, but did so at great personal risk. Although the possible dangers of radiation were acknowledged at the time, the full impact of ionising radiation was not well understood. As we have progressed further into the nuclear age, more resources have been put into research on that and deeper understanding has developed.

Unfortunately, our vision in hindsight is 20/20. We cannot go back in time to provide our nuclear veterans with the protection that they needed at the time but, moving forward, there is much that can be done to support them.

As I have said, there should be no question about recognition of those veterans for the valiant work that they did. They deserve it. They have done much on behalf of our nation, and I thank them deeply for it.

However, we should not stop at recognition alone—action must be taken. In 2011, the armed forces covenant created the understanding that, in return for the services and personal sacrifices of soldiers, sailors and airmen, we would, as a nation, ensure that they would be sustained and rewarded in commensurate terms.

That agreement to support veterans also includes a commitment to support their families and, in this case—on account of the nature of radiation—their descendants, as George Adam's motion highlights. That can be done by providing the families with access to accurate information and specific guidance concerning current and future health risks; by helping the families to understand the further impact of their husbands' and fathers' participation in nuclear tests; by providing relatives with the necessary support as technology advances and knowledge is gained; and by ensuring that requests for compensation both past and present are fully investigated and given the consideration that they deserve.

It is important to note that those suggestions only scratch the surface of what can be done for the men in question and their families. As convener of the cross-party group on the armed forces and veterans community, I undertake to look into the matter and to write again to the Secretary of State for Defence on behalf of the

group as it becomes stronger and gains a greater presence in the Parliament.

We must not forget the important sacrifices that our servicemen and servicewomen make on behalf of our nation, or our duty to them in return. Let us not forget that our nuclear test veterans fulfilled their role more than 50 years ago. It is now our turn to step up to the plate and offer support wherever we can.

13:04

Mark Ruskell (Mid Scotland and Fife) (Green): I thank George Adam for introducing the debate and for bringing into the chamber the personal testimony of Ken McGinley, which I found incredibly moving. It was one of the most moving testimonies that I have ever heard: the words will stay with me for a very long time.

As George Adam pointed out, this is the time of year when we always turn our thoughts to those in the services who have made huge sacrifices. Although it is always heartening to see charitable fundraising to support our veterans, I am always left with a sense of shame that our Ministry of Defence has done so little to support those who have given so much. From nuclear test veterans to the Gurkha soldiers, people have suffered injustices and need our support. As a country, we have a responsibility to provide support and treatment for their injuries, illnesses and ill-health.

The British Nuclear Test Veterans Association estimates that about 22,000 British servicemen—military and merchant navy—were present for the various tests in operation grapple and in the American military's operation Dominic. As we have heard, those men—some of whom were as young as 17 years old—were stationed as close as just 23 miles from the detonations and ordered to watch as the mushroom clouds rose and dispersed across Christmas Island and Malden Island.

One veteran described being able to see his bones through his skin. Another claimed that the flash was so bright that it was like seeing a second sun. Those young men had no idea of the damage that nuclear weapons of that kind would do to them. Of the estimated 22,000, around 1,500 are still alive today and are able to provide such testimony. They have suffered from long-lasting health issues, having been affected by cancers, weak bones and countless other illnesses.

Unfortunately, for many of those men, the injustices of the tests have been inherited by their children and grandchildren. We have heard that 39 per cent of nuclear test veterans' children were born with serious medical conditions, that the partners of test veterans have been three times more likely to suffer miscarriages, and that the

children of test veterans have been 10 times more likely to have a birth defect. The ill-health has even gone on to affect grandchildren.

As the motion mentions, to date

“the UK is the only nuclear power to deny special recognition and compensation to its test veterans”.

Ken McGinley and Edward Egan sued the Ministry of Defence for damages, but were rejected. In 2012, more than 1,000 test veterans were denied permission to sue the MOD by the UK Supreme Court on the ground that too much time had elapsed since they became aware of their medical conditions. The Ministry of Defence insists that the ill-health of the veterans is unrelated to nuclear tests, but the Governments of France, Australia, the US and Fiji are among those that offer formal recognition and varying levels of compensation to their atomic veterans.

The UK has shamefully failed to provide its veterans with appropriate recognition or compensation, and is thereby failing in its most basic duty of care. The British Nuclear Test Veterans Association has campaigned since 1984 for recognition and compensation for those who participated in the tests, and does vital work in offering support and aid to the veterans and their families. Its campaign requesting that the MOD issue a medal for test veterans is expected to be ruled on later this month. I urge the MOD to do everything that it can to recognise both their service and on-going struggle for justice.

Nuclear bombs are devastating, indiscriminate and inhumane weapons that have no place in our society. Scotland's opposition to the Trident nuclear weapons system is well established. We can, and should, lead the charge in creating a nuclear-free world. I hope that the MOD does the right thing and delivers justice for those servicemen.

13:08

Tom Arthur (Renfrewshire South) (SNP): I thank my friend and colleague, George Adam, for bringing the debate to the chamber. I also pay tribute and express my gratitude to veterans and serving personnel in Renfrewshire South, across Scotland and beyond for their dedication and tireless work to keep us safe. I also thank George Adam for his recognition of my constituent and friend, Ken McGinley. Although there is not much that I can add to what George so eloquently said, Ken has led a remarkable life, and I have the greatest respect for his commitment and dedication to the cause of nuclear test veterans. I am glad that his work has been recognised this afternoon.

George Adam's speech contextualised effectively the events of 1958, which reminded us

that we are talking not about far-distant history that is remote from our lives, but about something very relevant that happened in, if not our lifetimes, the lifetimes of our parents and grandparents. It lives with us to this day, given the ever-continuing menace of nuclear weapons.

The debate regarding compensation for nuclear test veterans has often focused on the impact and effects of exposure to radiation. I am not a clinician or an expert who can offer comment on that. I appreciate that test veterans organisations and the UK Government have different points of view. However, that argument rather misses the point, because nuclear test veterans were subject to an exceptional set of circumstances.

Members have shared nuclear test veterans' accounts of the experience of witnessing a nuclear detonation: having one's back to the explosion, with fists clenched, and, due to the intensity of the flash, being able to see the skeletal structure and outline of blood vessels in one's hand. Ken McGinley described the experience to me as like having a three-bar fire passed across his neck.

Perhaps the most elegant, poetic and chilling account of a nuclear detonation was that given in 1945 by the father of the atomic bomb, Robert Oppenheimer, who, on witnessing the detonation of Trinity, the first nuclear device, quoted from the Bhagavad Gita:

“Now I am become Death, the destroyer of worlds”.

No one who has witnessed a nuclear test and its devastating impact, or “chilling beauty” as some veterans have described it, could not be profoundly impacted for the remainder of their life. No one could be subjected to that experience and not have an increased risk of post-traumatic stress disorder and other mental health conditions. No one could be subjected to that and, regardless of the reassurances that they have been given, not have deep concerns about the impact that the exposure to such an event could have on their health. That alone should be grounds for compensation.

In 2000, the UK Government recognised the exceptional circumstances of prisoners of war in Japan during the second world war. An ex gratia sum of £10,000 was awarded to those survivors or their widows. That was the correct decision and recognised an exceptional set of circumstances. Nuclear test veterans are an exceptional set of veterans. They should be recognised and they should receive compensation.

13:13

The Minister for Parliamentary Business and Veterans (Graeme Dey): As ever, I am grateful to George Adam for bringing the debate to the

Parliament. I thank members for their speeches. I also welcome the accidental timing of the debate, which is timely given that this weekend is remembrance Sunday, when we reflect on the service and sacrifice of many generations.

As part of that reflection, there must be recognition of that awful decision all those years ago to place British service personnel in harm's way as nuclear devices were tested—to treat them, as George Adam said, as guinea pigs—and of the hard work of groups representing and supporting nuclear test veterans across the decades.

George Adam and Tom Arthur talked about one individual: Ken McGinley. As we have heard, my ministerial colleague, Kevin Stewart, has been championing the cause of one of his constituents from Aberdeen. I also know that Christina McKelvie—who was with us earlier—did similar work on behalf of a constituent who, sadly, is no longer with us. Despite the passage of time, there will be nuclear test veterans living in most, if not all, of our constituencies.

In preparing for the debate, I was struck by the fact that my dad did his national service in the 1950s. Had circumstances been different, he could have been among the 20,000-plus personnel who were made to be present at the tests. I suspect that colleagues might have family members who could have been similarly caught up in them. Once again, therefore, I thank George Adam for bringing the debate to the chamber, as the timing is impeccable and the significance indisputable. I also thank him for his moving speech.

The Scottish Government is clear that where ill-health is proven to be a result of service in the armed forces, it is right that the UK Government provides adequate and appropriate compensation. I am aware that it is the right of any veteran who believes that they have suffered ill-health as a result of service to apply for no-fault compensation under the war pensions scheme, and I encourage them to do so. However, I recognise that for this particular cohort, the issue is about more than compensation. It is also about getting an acknowledgement that there were serious detrimental consequences for some of them as a result of what they were exposed to, and it is about justice.

As we heard, more than 20,000 UK and Commonwealth personnel were involved in the UK's atmospheric nuclear weapons test programme in Australia and the south Pacific in the 1950s and 1960s. Although that was a long time ago, the responsibility for proven detrimental consequences of involvement in that programme cannot and should not be ducked. To that end, the amassing of a robust, objective and undisputed

evidence base—challenging as it might be to achieve that all these years on—is essential, because the two perspectives on the matter are so far apart. Doubt is cast by one side on the veracity and reliability of the 1999 health study to which George Adam's motion refers. Although there are other accepted international studies to which Governments have responded appropriately, the veterans have been left deeply disappointed and doubting the findings of more recent, domestic pieces of work.

In the 1980s, scientists from the National Radiological Protection Board, which became part of the Health Protection Agency in 2005, established a study to investigate whether the radiation to which UK personnel were exposed during those tests had detrimentally affected their health. Those studies have continued to date without settling the issue, certainly from the perspective of the veterans and those who support them. I therefore welcome the fact that, in July 2018, the MOD commissioned a fourth study in order to bring the evidence completely up to date. That study is still under way, and I believe that it is planned that the results will be published sometime in the early or middle part of next year. That work will add a current perspective to the studies involving research into the comparison of incidences of certain types of cancer among the veterans with a control group of the general population, and I look forward to learning the results in due course.

I understand entirely if the veterans concerned and their families feel that they have had enough of studies, and that the undertaking of such is a delaying tactic. Nonetheless, in a few months' time, we should have a clearer picture, and we will, it is hoped, be embarking on a process that will offer those veterans some long-overdue degree of closure.

That said, back in April, I wrote to Tobias Ellwood, the then Parliamentary Under Secretary of State and Minister for Defence People and Veterans, asking both that the Scottish Government be kept up-to-date on the progress of the study and that the possibility of expanding it to include the wellbeing of children be considered. I still await a reply from the UK Government, although ministerial reshuffles and the fact that we now have a Westminster election coming up may have contributed to the lack of a response. I certainly hope that that is the reason.

I will not be alone in being thankful that atmospheric nuclear testing is now a thing of the past for the vast majority of nations. However, the recent activity in North Korea serves as a reminder to us all that nuclear weapons remain an aspiration for many. What long-past and recent years have taught us is that the world remains a

dangerous and volatile place, and that nuclear weapons have exacerbated the situation rather than improving it. The fact that many nations now possess the so-called nuclear deterrent has not discouraged the continued development of nuclear missile programmes by aspiring nuclear-weapons states. Lessons have still not been learned.

The Scottish Government—and, I am sure, the majority of members of the Scottish Parliament—remains of the belief that there is no place for these dreadful and indiscriminate weapons, and that they should be consigned to history, where they belong. It is clear from the contributions today, for which I commend members, that members of this Parliament understand entirely the concerns of nuclear test veterans and the inexplicable, unforgivable nature of what they were exposed to. I thank all members again for their contributions, and George Adam in particular for providing us with the opportunity to air this hugely important issue today.

13:19

Meeting suspended.

14:00

On resuming—

Portfolio Question Time

Rural Economy

European Union Regulations (Standards and Protections)

1. **David Torrance (Kirkcaldy) (SNP):** To ask the Scottish Government what discussions it has had with the United Kingdom Government regarding the level playing field provision.

The Presiding Officer (Ken Macintosh): Mr Torrance, that is not the question that I have in front of me, which is about the impact on Scotland's rural economy of the UK Government moving away from European Union standards and protections.

David Torrance: I apologise, Presiding Officer. Someone has printed off the wrong question for me.

The Presiding Officer: All right.

David Torrance: To ask the Scottish Government what the impact could be on Scotland's rural economy of the United Kingdom Government moving away from the standards and protections that are offered by EU regulations. (S5O-03719)

The Minister for Rural Affairs and the Natural Environment (Mairi Gougeon): The UK Government's decision will have a detrimental effect on all aspects of Scottish rural life and will remove the standards and protections that Scotland is currently afforded. It puts Scotland at a competitive disadvantage in terms of exporting our produce to European markets, and our organic produce will lose its recognition status on the European Union market. Scottish produce could also lose the geographical indication protections that we currently enjoy.

Those are just some of the reasons why the Scottish Government entirely opposes the UK Government's position.

David Torrance: Boris Johnson wrote to Donald Tusk last month to say that the UK Government wants to move away from the standards and protections that are offered by EU regulations. Does the cabinet secretary agree that that represents a threat to the future of the common frameworks project, given the implications for significant areas of devolved competence, such as environmental protection, regulations on genetically modified crops, marine policy and energy?

Mairi Gougeon: Yes. The agreement in October 2017 to the joint intergovernmental programme of work on common frameworks was reached when all four Administrations agreed that level playing field commitments should be maintained, should the UK leave the EU.

A move away from that shared assumption of continued regulatory alignment would have implications for the development of common frameworks, because it would widen the scope for policy divergence between the Administrations in the different parts of the UK to a much greater degree than was anticipated when work on the project began. That could be damaging to Scotland's interests, not least in maintaining high standards in animal welfare and plant health.

Peter Chapman (North East Scotland) (Con): I declare an interest: I am a farmer.

The UK has led the way on standards, as far as animal welfare and environmental issues are concerned, for a long number of years and there is no reason to believe that that will change, post-Brexit. Our standards could rise, post-Brexit. Does the minister recognise that?

Mairi Gougeon: Perhaps they will in Scotland, but I have serious concerns about that elsewhere. When we compare the previous protocol with what we have now, we see that the previous protocol set out specific environmental and climate change commitments, including non-regression in the level of environmental protection, respect for environmental principles, commitments to joint setting of minimum air quality standards and other such measures. Those commitments are not included in the revised protocol.

That is seriously concerning to the Scottish Government, as I said in answer to David Torrance.

Agriculture Support (Convergence Money)

2. Peter Chapman (North East Scotland) (Con): Presiding Officer, do I have to declare an interest again?

Members: Yes!

Peter Chapman: Well, I will. I am a partner in a farming business.

To ask the Scottish Government how it proposes to spend the £160 million in convergence money to support agriculture. (S5O-03720)

The Minister for Rural Affairs and the Natural Environment (Mairi Gougeon): The Cabinet Secretary for the Rural Economy announced last week that £80 million will be paid by the end of March 2020 to Scotland's active farmers and crofters. The anticipated remaining £80 million will

be paid by the end of March 2021, once it has been delivered by the United Kingdom Government.

The cabinet secretary has since announced that the Scottish Government will provide an extra £10 million in 2019-20 to people who are farming and crofting Scotland's most challenging land. That money is additional to the £80 million that is being provided in this financial year and will be drawn down early from the second £80 million tranche of convergence money.

Peter Chapman: We have established that £13 million of hard-won convergence money has been used to replace less favoured area support scheme funds that were taken from the budget and spent on other things by Derek Mackay. We also know that £10 million of extra funding to crofting communities has been borrowed from the second tranche of £80 million that is due next year. I am very concerned that the further £40 million will be used to fill next year's LFASS shortfall. Can the minister confirm that that is not the intention?

Mairi Gougeon: First, I want to say that when I saw this question from Peter Chapman, I thought that it was particularly brave of him to raise convergence in the chamber, especially given that it was the Conservative Party that withheld that funding from the people to whom it was due in the first place—Scottish farmers and crofters—and distributed it everywhere else bar Scotland. That was a historic injustice that the Prime Minister admitted to. He said that it is an injustice and that he will try to right it, but his own party in Scotland has never once admitted that.

It is only because of the Scottish Government, and those ministers who have been in the rural economy portfolio since the time that the money was first withheld, that we got the £160 million back, and it is only because of the Scottish Government and the pressure that we put on the UK Government that we have been able to get the first tranche of that £80 million in funding now.

I am not surprised that we will be criticised by the Tories no matter what we do. If we had not pressured for that funding and we were taking too long—guess what?—we would have been too slow. Then we are criticised because we are acting too fast. I recognise that there are strong views on either side about this funding; that is why we are trying to make the process as straightforward, open and transparent as possible.

I must address some of the comments that Peter Chapman made last week, after the statement in which the Cabinet Secretary for the Rural Economy updated the chamber on the convergence moneys. To state that that money has either been stolen or spent elsewhere shows

that the Tories are either completely ignorant of how the system works, or that they are deliberately trying to mislead people. I do not know which is worse.

A long time ago, when it was proposed that we could move from the LFASS system to areas of natural constraints, the consensus among stakeholders was that the preference was to stay with LFASS, even though we knew that those reductions would take place. That is why we are attempting to use the money where it is needed most—in helping and supporting the farmers and crofters.

Gail Ross (Caithness, Sutherland and Ross) (SNP): I welcome the fact that the cabinet secretary met the Scottish Crofting Federation this week and that the agreement that has been reached to move things on has been cautiously welcomed by the federation and others. What else is the Scottish Government doing to support crofting and crofters?

Mairi Gougeon: The Government has a strong track record of investing in and supporting crofting in Scotland. In the last financial year alone, we have approved and provided croft businesses with over £46 million in common agricultural policy and other payments. Since 2007, we have approved over £20.3 million in croft house grants for croft housing and helped to build and improve over 970 homes for crofters and their families. We have also provided subsidised rates for crofters to hire health status bulls, subsidised veterinary support, and discounted fees for consultancy services through the farm advisory service for over 2,000 crofters who subscribe to it

The Government values crofting and the contribution that it makes, particularly to keeping people on the land in island and remote and rural areas, and we will continue to support and invest in it.

Colin Smyth (South Scotland) (Lab): As the minister said, the cabinet secretary announced that £10 million of the second round of funding will be brought forward to this year, leaving £70 million to be allocated. Does the Government still intend to continue to use this funding to plug the growing shortfall in LFASS and, if so, how much of the £70 million will be used to plug that gap and what will be left?

Mairi Gougeon: The Cabinet Secretary for the Rural Economy will bring forward plans at that time as to how that further tranche of funding will be spent.

Agrifood and Nutrition Hub for Innovation (Aberdeen)

3. Tom Mason (North East Scotland) (Con): I declare an interest as an Aberdeen city councillor.

To ask the Scottish Government whether it will provide an update on the proposed agrifood and nutrition hub for innovation for Aberdeen. (S5O-03721)

The Minister for Rural Affairs and the Natural Environment (Mairi Gougeon): The project will build on the strengths of the food and drink sector in the region, providing essential development space that will support the creation of start-ups and accelerate the growth of small businesses. The business case received approval in January 2019 and construction is due to start in 2020.

Tom Mason: I welcome progress towards the implementation of the project. My region accounts for 17 per cent of the food and drink sector's gross value added and 18 per cent of its employment. Excluding whisky, the region contributes around 20 per cent of Scotland's output, approaching 25 per cent of Scotland's primary agricultural output, and 50 per cent of its fish landings. In contrast to the innovation hub, the Scottish Government has announced the good food nation bill four times since 2016 and we are still waiting for its introduction. The innovation hub will be a huge step forward for the north-east and for Scotland as a whole, so will the minister commit that it will be delivered on time?

Mairi Gougeon: On Tom Mason's point about the good food nation bill, I would not want to take too much away from my response to the question that James Kelly will ask later on.

As far as I am aware, the project should be running to plan—I have not heard anything different. If that changes, I am sure that the member will be made aware.

Brexit (Scottish Seed Potato Exports)

4. Angus MacDonald (Falkirk East) (SNP): To ask the Scottish Government what action it is taking to ensure the continuation of Scottish seed potato exports in the event of a no-deal Brexit. (S5O-03722)

The Minister for Rural Affairs and the Natural Environment (Mairi Gougeon): The Scottish Government has met regularly with Scottish seed potato representatives to understand the potential impact of a no-deal Brexit. Most recently, I raised those concerns directly with United Kingdom Government ministers at a meeting that was held with the devolved Administrations in Edinburgh on 10 October.

The Scottish Government has also written to the UK Government seeking assurances that Scottish seed potato exports to third countries would not be impacted by a no-deal Brexit.

Angus MacDonald: This is yet another sector of the industry in which there is unacceptable

uncertainty. Egypt and the Canary Islands are two of Scotland's major export markets for our seed potatoes, and there is a strong case for the rolling over of existing export agreements with them. Will the minister continue to impress on the next UK Government the need to protect the export market for the 60,000 tonnes of seed potatoes that are exported from Scotland under current trading arrangements?

Mairi Gougeon: I can give Angus MacDonald an absolute assurance on that. Our seed potatoes are prized around the world because of their high health status, and we simply cannot afford to have that business put at risk by Brexit. The issue disproportionately affects us in Scotland compared with the rest of the UK. I have been in regular contact with the British Potato Trade Association to hear its concerns and, in turn, to impress those concerns on the UK Government.

It will not surprise anyone in the chamber to hear that people in Scotland did not vote for Brexit. Despite that, this is another example of a very successful sector in the Scottish rural economy that might have to pay a high price because of Brexit.

On a number of occasions, I have raised with the UK Government the issues of tariffs and future trading arrangements with the likes of Egypt and the Canary Islands—I wrote most recently about those issues on 2 October. We still have absolutely no clarity about what future trading arrangements will be and whether the sector will be affected. We will continue to work with the sector and to press the UK Government to get a positive outcome for our seed potato producers.

Knowledge Transfer and Innovation Fund

5. Liz Smith (Mid Scotland and Fife) (Con): To ask the Scottish Government whether it will provide an update on the latest applicants to the knowledge transfer and innovation fund. (S5O-03723)

The Minister for Rural Affairs and the Natural Environment (Mairi Gougeon): The knowledge transfer and innovation fund assessment committee approved six applications on 6 September this year and my officials are currently finalising contract arrangements with the beneficiaries. Once concluded, that will bring the total number of approved projects to 33, with a total commitment of just under £5.8 million in the Scottish rural development programme 2014 to 2020 programme period.

We are scheduled to assess another round of applications in February 2020. Those innovative projects will focus on restoring, preserving and enhancing ecosystems that are dependent on agriculture and forestry.

Liz Smith: I thank the minister for her very helpful answer. Will she confirm whether she is referring to operational groups? That is the question that I am getting from some farmers. Will the minister also tell us exactly how many people have been enrolled in the scheme?

Mairi Gougeon: I would have to check and get back to Liz Smith with that information. The fund is very important because it is vitally important that we see innovation in rural communities, where I have personally visited some of the projects. I will get the information on her specific points to Liz Smith.

Good Food Nation Bill

6. James Kelly (Glasgow) (Lab): To ask the Scottish Government when it will publish the good food nation bill. (S5O-03724)

The Minister for Rural Affairs and the Natural Environment (Mairi Gougeon): Work is under way to draft the bill and we plan to publish it as part of the legislative programme that is set out in the programme for government for this parliamentary year.

James Kelly: Prompt action would be welcomed by all parties. Will job insecurity and low wages in the food industry be considered in the bill, in order to ensure that workers in that industry are better paid and better protected?

Mairi Gougeon: The wider work that we are doing on our way to becoming a good food nation encompasses many different areas. Of course we want more people working in our food and drink industry. We need to employ more people, and addressing the working conditions for people in the sector is a vital part of that work. I cannot say for certain whether such provisions will be included in the bill, but those issues will be looked at as part of the overall package of work that we will do as we progress towards becoming a good food nation.

Ruth Maguire (Cunninghame South) (SNP): Clearly, introducing a bill is important for Scotland's ambition to become a good food nation, but achieving that ambition will require more than legislation. Will the minister outline what else is being done to support the ambition?

Mairi Gougeon: As we confirmed in the report, "Good Food Nation: Programme of Measures", which was published last year, much is already happening across Government to make Scotland a good food nation. In the programme for government, we committed to publish a progress report on that work, and that report will be published shortly.

As an example of the work that is being done, through a further round of the highly successful

regional food fund, a further £100,000 has been made available this week to new collaborative businesses and projects to promote Scotland's world-leading food and drink sector. The fund has already supported 57 innovative projects across Scotland to the tune of £259,000. Recently, I had the pleasure of visiting the Stranraer oyster festival, which the fund has supported for the second year running. I saw at first hand the benefits that such support brings. It was an absolutely fantastic festival, and I could tell that it does so much for the local community. The fund helps our local economies to grow, and it plays a major part in promoting the importance of locally produced food and drink and the environmental benefits of sourcing produce close to home.

Forestry and Land Scotland (Leasing of Holdings)

7. Richard Lyle (Uddingston and Bellshill) (SNP): To ask the Scottish Government what income is generated, and how many jobs are supported, by the leasing of holdings from Forestry and Land Scotland. (S5O-03725)

The Minister for Rural Affairs and the Natural Environment (Mairi Gougeon): This year, the forecasted gross income from leases from Scotland's national forest and land is about £20 million. Of that, about £12 million is from leases of land to wind farm developers and operators. Just last week, a further two new wind farms have been announced by Scottish Power Renewables for developments on Scotland's national forest and land in Argyll and Caithness.

Unfortunately, Forestry and Land Scotland does not hold jobs data for those who lease land on Scotland's national forest and land. However, renewable energy projects create employment and local economic activity, as well as providing annual local community benefit payments in excess of £3 million.

Richard Lyle: A few weeks ago, my wife and I visited Pitlochry—

The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney): Aw!

Richard Lyle: Yes, I know where it is, Deputy First Minister. We visited Pitlochry because we had tickets for the enchanted forest show, which was excellent, well attended and very well organised. Will the minister join me in complimenting the people who run the enchanted forest, and Forestry and Land Scotland for its involvement in the project? Will she encourage Forestry and Land Scotland to look at the possibility of such a show taking place in other areas in Scotland?

Mairi Gougeon: At the risk of upsetting the Deputy First Minister, I must admit that I have not had the opportunity to attend the enchanted forest, but I will definitely make the effort to do so. I am happy to join Richard Lyle in commending the work that Forestry and Land Scotland does with communities across Scotland to encourage and enable events such as the enchanted forest. I also commend the work that is done by the community interest company to put the event together—it is an innovative and stunning use of forestry.

Forestry and Land Scotland actively supports such work, and it is open to proposals from groups and communities that are looking to develop and deliver such events.

Venison

8. Linda Fabiani (East Kilbride) (SNP): To ask the Scottish Government how it promotes venison as a nutritional food. (S5O-03726)

The Minister for Rural Affairs and the Natural Environment (Mairi Gougeon): Last year, I visited apprentices at Downfield farm, in Fife, to help the industry to launch the first-ever strategy for Scotland's wild and farmed venison sector. The strategy includes action to build on the good work that is already being done in schools and communities to promote the nutritional benefits of venison as a low-fat and high-iron quality food. That work has included recent events that have been delivered in partnership with the Royal Highland Education Trust at the Gilston estate in Fife and at the Luss estate, with about 600 primary-aged children in attendance.

More broadly, we will continue working with stakeholders in the venison sector to take forward wider actions in the strategy to develop more consumer-driven communications campaigns to a wider audience.

Linda Fabiani: Everyone in the chamber will be aware that we have issues with peri-urban deer, and lowland deer stalkers do a great deal of work in that regard to keep our roads and urban areas safe. However, I have often thought it a loss that in urban Scotland we do not promote venison as the healthy and nutritious food that it is. I have previously raised the issue of venison larders in urban settings. Will the minister let me know whether that is being actively discussed?

Mairi Gougeon: Through its beyond the glen strategy, the venison industry intends to invest in area-based facilities to maintain wild carcase quality and open new routes to local markets. That includes working with deer groups in the lowlands to implement a scheme around co-operatively owned and operated chillers and larders to meet that market's needs. There are existing legal routes to market through licensed venison dealers

for deer that are shot locally for onward sale, and discussions are under way with Scottish craft butchers to enhance the promotion of those channels next year.

Referendums (Scotland) Bill: Stage 1

The Presiding Officer (Ken Macintosh): The next item of business is a debate on motion S5M-19743, in the name of Michael Russell, on the Referendums (Scotland) Bill at stage 1.

14:21

The Cabinet Secretary for Government Business and Constitutional Relations (Michael Russell): I thank the Finance and Constitution Committee and the Delegated Powers and Law Reform Committee for their consideration of the bill. I thank their conveners, Bruce Crawford and Graham Simpson, for their unfailing courtesy, and their members, for the positive nature of the discussion that we had. We had a good debate about the bill in both committees and I hope that that tone will mark all our contributions to today's debate. I am not looking at Graham Simpson in particular, but if the cap fits, no doubt he will wear it.

Adam Tomkins (Glasgow) (Con): Will the member take an intervention?

Michael Russell: If I can be allowed to make a little progress beyond the first paragraph, that would be helpful.

The Scottish Government will provide a response to the lead committee before the start of stage 2. I make it clear that I am seeking the maximum and widest possible support for the bill and I hope that I will indicate in what I say today how open I am to changes to the bill.

Adam Tomkins: In his opening remarks, the cabinet secretary talked about the courtesy of the Finance and Constitution Committee and the Delegated Powers and Law Reform Committee. Has the Government matched that courtesy by publishing its response to the Finance and Constitution Committee's report?

Michael Russell: I am sorry that Adam Tomkins did not listen to the paragraph that I have just read, because it gave the answer to his question. The Scottish Government will provide a response to the committee before the start of stage 2, and it will be a positive response.

The purpose of the bill is to put in place a standing framework of conduct and campaign rules that could be applied to any national referendum in Scotland. My intention is that the rules will meet the highest standards of electoral administration and regulation and reflect international best practice. That will ensure that the debate on a future referendum concentrates on the merit of the issue, not the process.

There is existing legislation that sets out the rules and approaches to referendums held in Scotland, but there is no such Scottish legislation. This bill, therefore, addresses a specific gap in the devolved legislative landscape, which is important considering that we are responsible for our own franchise. I am pleased that the committee has recognised the importance of the work and has unanimously supported the policy intention of the bill. I am sure that the Westminster maxim that the vote follows the voice—and vice versa—will, therefore, be followed.

As with all elections, the needs of voters should be at the heart of our considerations. By establishing a consistent set of rules and aligning those with rules familiar to voters from other polls, we will ensure that it is as easy as possible for voters to participate.

As I indicated when I gave evidence to the Delegated Powers and Law Reform Committee and the Finance and Constitution Committee, I am always open to alternative approaches to aspects of any bill for which I am responsible, where those would more effectively facilitate the policy aims. I therefore welcome the suggestions made by the finance committee on ways to improve the bill.

The committee recommended that the bill be changed to mandate that referendums on constitutional matters must be taken forward by primary legislation and that other referendums should normally require primary legislation. I am happy to accept the committee's recommendation that changes should be made to section 1 of the bill.

I agree that, normally, a short bill should be the way to trigger a referendum. For the avoidance of doubt, I can confirm that any proposal for a future Scottish independence referendum, for example, should now require a short bill.

I will also reflect seriously on the second question that the committee posed for me, which is whether it is appropriate for some less contentious referendums to be triggered by secondary legislation. I will bring forward further details of my approach before stage 2.

One thing that would be set by the trigger legislation would be the regulated campaign period for the poll, which is also referred to as the referendum period. The committee heard evidence that suggested that a default period should be set. I have always been open to setting a default campaign period, and I am convinced by the evidence that has been put forward that it is in the interests of voters that that should happen and that the period should be 10 weeks. Therefore, I intend to move an amendment at stage 2 to set that default.

Voter information and engagement before and during any referendum campaign is an important matter, as is the scope of restrictions on publications in the days leading to the poll—which, of course, the Scottish Parliament is presently suffering. The Scottish Government works in close partnership with other agencies, such as Education Scotland, to ensure that young voters receive appropriate education in citizenship and political literacy. Electoral stakeholders also undertake specific work to engage with young voters on registration matters. There is a clear role for specific organisations to provide information during the run-up to the poll. We will therefore make changes to the provisions on pre-poll publication restrictions to ensure that the Scottish Parliamentary Corporate Body can continue its business as usual and to allow electoral registration officers to continue their work on promoting voter registration.

The committee has made a number of recommendations on the conduct of polls. I greatly value the expertise of electoral administrators and the Electoral Commission in delivering elections and referendums. We will give careful consideration to the recommendations of the Electoral Commission and other stakeholders on possible refinements to the conduct rules. I can confirm that I will lodge amendments on a number of technical issues, such as to require the chief counting officer to consult with the Electoral Commission on issuing directions. I reiterate my strong intention that administrators should have the appropriate time and resources to undertake their duties to the highest standard.

We have made it clear that the Scottish Government will fund the necessary arrangements for a referendum that is held under the framework. We have reflected on the feedback from stakeholders and have made specific provision in the bill to account for areas of additional costs, such as any additional registration costs that might fall on electoral registration officers. My officials will continue to work with administrators during the implementation of the bill to ensure that they receive all the support that they need to deliver any future poll, which has been promised.

I intend to work with the SPCB and the Electoral Commission to ensure that the funding arrangements in the bill are acceptable and align with the conversation that the Parliament is due to have on the Scottish Elections (Reform) Bill over the coming months.

I will respond positively in due course to the committee's request for additional information on the costs that are set out in the financial memorandum.

I turn to the recommendations concerning the campaign rules. It is imperative that any electoral event is properly regulated.

Neil Findlay (Lothian) (Lab): Before the cabinet secretary moves on, will he give us examples of other referenda that might happen? What type of issues might be covered?

Michael Russell: A number of examples were, of course, given during the discussion of the matter in the Delegated Powers and Law Reform Committee, of which Neil Findlay is a member, and in the—

Neil Findlay: I am not a member of it.

Michael Russell: Mr Findlay should allow me to finish. They were also laid out in the discussion in the Finance and Constitution Committee. For example, a range of issues might arise from the work of the citizens assembly that could be considered. That happened in Ireland. I will not go through a list of possibilities, but it is clear that possibilities were discussed and could continue to be discussed.

Mike Rumbles (North East Scotland) (LD)
rose—

Adam Tomkins *rose—*

Michael Russell: A man of such imagination as Mr Findlay, and Mr Tomkins and Mr Rumbles, who have now risen, will have proposals. I have no idea what they are, but I welcome hearing them.

Adam Tomkins: In response to Mr Findlay's question, the cabinet secretary talked about referendum proposals from the citizens assembly. Why is there no provision in the bill for anything relating to a citizen-initiated referendum?

Michael Russell: Because the assembly has made no such proposals, and it is only just under way. Were it to make proposals, they could be fed in through the Government or by other means. It should be remembered that the citizens assembly is reporting to the Parliament and the Government, so there is a route for that to happen.

I will take an intervention from Mr Rumbles.

Mike Rumbles: I thank the cabinet secretary for giving way. I am not a member of the Finance and Constitution Committee and neither are any of my Liberal Democrat colleagues, so we are unaware of the examples that the cabinet secretary set out to it. Will he do that again now for the benefit of members?

Michael Russell: I said that there were discussions; I did not say that I set out examples. I commend the wonderful *Official Report* of those committee meetings. They will contain all the information that Mike Rumbles seeks, and I am sure that he will find the time to peruse it.

I turn to the recommendations concerning the campaign rules. The experience of the 2016 European Union referendum demonstrated that campaigning is changing, and not always in a way that benefits voters. If we are to provide the space for rational, respectful debate of the type that has just been demonstrated, we must change our approach to regulating campaigning.

A key area of development is the transparency of online campaign materials. In 2014, Scotland led the way by mandating that online campaign materials needed to have an imprint showing the name and address of the person who was responsible for the material. The experience of innovating in that area provided valuable information about how to improve the approach.

The bill builds on the experience of 2014 by focusing regulation more closely on campaign material itself. I welcome the committee's support for changes to the imprint rules, and intend to lodge amendments to make a number of adjustments to those provisions. Those adjustments, taken alongside other changes to the enforcement regime, will give the Electoral Commission additional regulatory tools. It will then be able to focus more closely on monitoring campaign activity.

In particular, I intend to remove the "reasonably practicable" exemption for campaign material, which will incentivise online companies to continue to innovate to ensure that material can always be clearly identified as campaign material.

I have also carefully considered the other recommendations regarding excluding individual opinions from the scope of the provision. I intend to lodge an amendment to exempt personal opinion from the imprint rules and, therefore, focus the imprint requirement more closely on campaigners. That will ensure that individuals are not deterred from participating.

Another key element of the regulatory regime is the penalties that can be applied. When I gave evidence to the Finance and Constitution Committee, I said that a major increase in the maximum civil fine was required. I intend to lodge an amendment at stage 2 to increase the maximum fine from £10,000 to £500,000, which indicates the seriousness with which the matter is taken. That will significantly strengthen the powers of the commission and act as a deterrent to breaches of the rules.

I also intend to accept other recommendations made by the commission to change the procedure for some offences in the bill. Taken together, the changes will help to deter those who might consider breaking the rules and ensure that those who break the rules are suitably sanctioned. The experience in the 2014 Scottish referendum was

positive, but it was not positive in the 2016 United Kingdom-EU referendum.

The Electoral Commission has made a number of recommendations on donations, including on the frequency of reporting and assets held. However, from discussions with the commission, I understand that further work needs to be undertaken before it is able to recommend a specific set of measures. We will continue to work with it on those matters, and we look forward to developing further refinements when appropriate.

With that in mind, I am heartened that the committee supports the objective of ensuring that the bill remains a dynamic framework that can be responsive to changes in campaigning and electoral administration. The provision in section 37 addresses a specific concern of the electoral community, but I accept the recommendation of the committee to consider how to narrow the breadth of that delegated power. I will lodge a suitable amendment at stage 2.

I turn to the one area in which the committee and I have a difference in opinion. We all believe that all questions should be tested before use. That was the case in the only referendum for which this Parliament has so far taken responsibility, and the process resulted in the changing of the proposed question for the 2014 independence referendum. That question was used not only on 18 September 2014, but in 58 opinion polls over the past five years since then. Polling evidence from Progress Scotland shows that the question is well recognised and regarded as fair. Moreover, 77 per cent of respondents in a recent poll said that they would be satisfied if it was asked again, and only 10 per cent disagreed with that.

However, questions will go out of use and require to be altered as time passes. Therefore, questions should have a shelf life, which might be the duration of two parliamentary sessions. I will lodge an amendment to achieve that at stage 2. *[Interruption.]* I think that members should wait until I have concluded.

Some of those who propose testing every question, even those that have been tested before, do so out of principle, which I respect. I entirely accept that it is right for me to look at the issue again in the light of those views and the evidence that the finance committee has received. I am therefore in agreement with the committee that I should discuss this matter with the Electoral Commission and come back at stage 2 with any proposals that may arise from those discussions. I am happy to commit myself to doing so in the spirit of trying to reach an agreement that will be acceptable to those who take a positive view of the bill and want it to go forward with the widest support, which I certainly do.

Neil Findlay: Will the cabinet secretary give way?

Michael Russell: No, I am almost finished.

The bill seeks to establish a high-quality set of rules developed specifically for Scotland, which will ensure that the conduct of future referendums is robust, transparent and in the interests of the voters. I thank both committees for their work.

I move,

That the Parliament agrees to the general principles of the Referendums (Scotland) Bill.

The Presiding Officer: I call Bruce Crawford, convener of the Finance and Constitution Committee, to speak on behalf of the committee.

14:35

Bruce Crawford (Stirling) (SNP): One of the ambitions of Scottish devolution was to create a new politics based on a much more consensual approach rather than the more adversarial style of politics that was seen at Westminster. That was perhaps always just a bit idealistic but, my goodness, do we need more consensual politics at this time—perhaps more so now than at any other time in my life. I am therefore glad to say that the Finance and Constitution Committee was able to come to a consensus and to produce a unanimous stage 1 report on the Referendums (Scotland) Bill.

That demonstrates quite clearly that it is still possible for colleagues right across the political spectrum to work together constructively and collaboratively to come to a conclusion. Frankly, if someone had asked me at the beginning of our evidence-taking process whether such an outcome was achievable, I would have been sceptical about that.

I therefore warmly thank my colleagues on the committee for the spirit in which they approached our scrutiny of the bill, particularly their collective willingness to reach a consensus based on the evidence. That enlightened approach is very welcome, given the voracious cynicism and increasing public distrust that threatens to undermine our democratic values. I believe that the report is an excellent example of good scrutiny based on a detailed examination of expert evidence.

It is clear to me, as I am sure it is to the rest of my committee colleagues, that this unanimous outcome would not have been possible without the high level of professional input from our clerking team, led by James Johnston, or the excellent advice provided by our adviser, Alistair Clark. The support that I received from the deputy convener, Adam Tomkins, in this process was also invaluable in achieving the outcome that we did.

We also very much welcome the spirit in which the report has been received by the cabinet secretary and recognise his willingness to consider our findings. He has already outlined some of the areas in which the Scottish Government intends to lodge amendments.

I turn, in some detail, to our key conclusions and recommendations. The committee supports the policy objective of the bill to put in place a generic framework for referendums on the basis that the bill is amended to reflect the weight of evidence that we received.

Almost all our witnesses welcomed the proposal for a generic framework as being consistent with international good practice. There are two main areas in the bill that the committee believes need to be considered again by ministers. The first of those is the powers in section 1 that enable ministers to make regulations under the affirmative statutory instrument procedure to provide for the holding of a referendum. The second is the power in section 3(7) to allow ministers to specify in subordinate legislation the wording of the question in a referendum without consulting the Electoral Commission if that wording has previously been tested.

As far as section 1 is concerned, the expert opinion that we received was somewhat critical of the extent of that power. Indeed, Dr Alan Renwick, deputy director of the constitution unit at University College London, told us that he could find

“no well-functioning parliamentary democracy that gives Ministers blanket authority to call a referendum by secondary legislation.”

Dr Renwick and a number of our other expert witnesses recommended that the power should be removed from the bill. We heard what the cabinet secretary said today in that regard.

Therefore, the committee recommended that the bill be amended so that, first,

“referendums on constitutional issues must require primary legislation”

and, secondly,

“all other referendums will ordinarily require primary legislation.”

Thirdly, the committee recommended

“that if the Cabinet Secretary wishes to identify specific criteria for other referendums which would not ordinarily require primary legislation, he should lodge the necessary amendments at Stage 2.”

The committee also explored the matter of question testing in some detail. The key consideration was whether a referendum question that had been tested by the Electoral Commission should be retested if it is proposed that it be used again in a future referendum. The cabinet

secretary explained to us that, although he was in favour of question testing, he was

“not in favour of confusing people.”—[*Official Report, Finance and Constitution Committee*, 25 September 2019; c 11.]

I do not think that many of us are. In relation to the possibility of a second independence referendum, his view is that the question that was used in the referendum in 2014 remains “in current use”. To support that view, he cited the use of the wording in many opinion polls.

However, in the evidence that the committee received, it was mainly a different view that was taken. In particular, the committee noted the evidence from the Electoral Commission. It told us that it strongly believed that it should be asked to test a question even when that question has been asked before. In its view, that is because contexts can change. It argued that a formal testing process provides assurance to the voter about the integrity of the referendum. The committee therefore recommended that the cabinet secretary should recognise the weight of evidence in favour of the Electoral Commission testing a previously used question. We also recommended that he must come to an agreement with the Electoral Commission, based on that evidence, prior to stage 2.

The committee also examined in some detail a number of other technical aspects of the bill, including the regulation of digital campaign material, which the cabinet secretary mentioned earlier, and, in particular, the provision of imprints on such material. We recommended that the bill could be amended to tighten the requirements for providing imprints on digital material. We also recommended that ministers could provide some clarification of the intended scope of the bill in this area.

On timing issues, we agreed with our witnesses that adequate time is required in advance of polling day for two key purposes: first, to allow sufficient time for the campaign so that voters have sufficient opportunity to be properly informed about the issues; and, secondly, to allow administrators and regulators enough time to prepare for any referendum. We recommended that the bill be amended to include a minimum period of 10 weeks for the regulated referendum period.

On thresholds, we did not consider that there was sufficient evidence to support anything other than a simple majority.

The committee looked closely at section 37, which provides ministers with the power to modify the eventual act by regulations. Some of our witnesses expressed concern that the modification power is very wide. The cabinet secretary

explained that the intent of the power was to provide for “dynamic legislation”—he used that term again today—

“and to ensure that electoral legislation is not static.”—*[Official Report, Finance and Constitution Committee, 25 September 2019; c 7.]*

The committee supports that objective, particularly given the need to respond to the increasing influence of electoral campaigning via social media. However, we also recognised the concerns of our witnesses about the width of the power. We therefore recommended that the cabinet secretary should lodge at stage 2 amendments that provide the necessary assurances that the section 37 power cannot be used for

“amending by the back door”.—*[Official Report, Finance and Constitution Committee, 25 September 2019; c 6.]*

It is refreshing that, during a period when our politics has become increasingly volatile, our committee system can still deliver robust, constructive and consensual scrutiny of the Executive. That is a credit to my colleagues on the committee and the wider political culture here at Holyrood. The recommendations in the committee’s stage 1 report were intentionally drafted to inform an open discussion about how the bill can be improved.

Finally, we welcome the willingness of the cabinet secretary to seriously consider our recommendations and look forward to further discussing the bill with him at stage 2. In particular, I was encouraged by his comments with regard to the question. I know that the cabinet secretary feels strongly about the issue, but I also know that he will try to find an agreement with the Electoral Commission, if at all possible.

14:45

Adam Tomkins (Glasgow) (Con): Let me open with a quote:

“We have never hidden the fact that I see this bill being used by the Parliament and the Government to create the referendum for independence”.—*[Official Report, Finance and Constitution Committee, 25 September 2019; c 4.]*

So said Mike Russell in evidence to this Parliament’s Finance and Constitution Committee in September. Let there be no doubt: for the Scottish National Party, this bill is not about referendums in general—it is about indyref 2. This bill was announced by the First Minister in a statement about independence, and—as we heard from the cabinet secretary earlier this afternoon—there is no issue other than independence that the SNP proposes to put to the people of Scotland in a referendum. This bill is designed with only one purpose in mind: to pave the way for an unwanted second independence referendum.

Scottish Conservative MSPs were elected to this Parliament on a manifesto commitment that was crystal clear. We will oppose the SNP’s attempts to steamroller Scotland into an unwanted second independence referendum every step of the way.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): Will the member take an intervention?

Adam Tomkins: I will do so in a minute.

For that reason we will oppose this unwanted referendums bill at every stage, including in the stage 1 vote this evening. We will vote against this bill. We do not support its general principles. We do not want a second independence referendum.

The question of independence was put to the people of Scotland in a referendum in 2014, which Nicola Sturgeon herself described as “once in a lifetime”. We said no and we meant it. However, even now, Nicola Sturgeon is not listening.

If the general principles of the bill are bad enough, its detail is worse.

Stewart Stevenson: Will the member take an intervention before he gets to the detail?

Adam Tomkins: Not at the moment.

Not only is the SNP trying to steamroller us into a second independence referendum; it is trying to rig that referendum by playing fast and loose with its rules. Let us start with section 1, which says:

“the Scottish Ministers may by regulations provide for a referendum to be held throughout Scotland”.

That is an astonishing provision, which the Finance and Constitution Committee unanimously recommended must be amended. There is no equivalent power in the UK’s standing legislation on referendums. No referendum can be held in the United Kingdom without the authority of an act of Parliament, which is the highest source of law that we have, and yet here, Mike Russell wants to give himself the power, by a click of his ministerial fingers, to hold a referendum by order.

Alan Renwick of the constitution unit at University College London told the committee that he knows of no well-functioning parliamentary democracy in the world that gives ministers blanket authority to call a referendum in that way. The Institute for Government agrees. It said that section 1 should be removed from the bill and that primary legislation should provide the basis for any future referendum in Scotland. That is so obviously right that it should not need saying. Referendums decide things. They are not expressions of opinion but formal devices for making decisions. Scotland decided not to become independent of the rest of the United

Kingdom in 2014; and the United Kingdom decided to leave the European Union in 2016.

Michael Russell: Will the member give way?

Adam Tomkins: In a few moments.

Those are big decisions, and the process for making them deserves—indeed, demands—the fullest scrutiny. That is why passing a bill, rather than just having Mr Russell click his fingers, should be a mandatory requirement for any referendum. I will give way in one second, but I say to Mr Russell that referendums are about enhancing democracy; they are not about augmenting ministerial powers to rule by diktat. Section 1 of his bill is badly misconceived, and it should be removed.

Michael Russell: It is disappointing that the member, who is a professor of constitutional law, does not know that secondary legislation is not about clicking fingers—but we will let that pass. How does it enhance democracy to ensure that the people of Scotland are not heard when they vote not to leave the EU?

Adam Tomkins: How does it enhance democracy for this Parliament not to be allowed to debate whether there should be any future referendum? That is the question before us today.

I will move on to the role of the Electoral Commission. It has become a much-valued, widely respected and absolutely core aspect of referendums in the United Kingdom that a proposed referendum question must be tested for its intelligibility by the independent Electoral Commission. Referendum questions are proposed by ministers, tested by the Electoral Commission, and, ultimately, set by Parliament. Section 3(7)—a provision every bit as egregious as section 1—would allow Scottish ministers to bypass altogether the Electoral Commission's role in question setting in the event that a proposed referendum question has been tested at some point in the past. I can find nobody—other than Mike Russell—who thinks that that is anything other than a terrible idea.

The Electoral Commission was robust in the evidence that it supplied to the committee. It stated:

“The Electoral Commission must be required to assess any referendum question proposed in legislation ... regardless of whether the Commission has previously published views on the question proposed.”

That is the Electoral Commission's view and it is absolutely correct. It was supported by all the witnesses that the committee heard from, including the constitution unit, the Institute for Government and the Law Society of Scotland.

Referendums require the fullest public confidence if their results are to be respected. The

Electoral Commission's expert and independent testing of the question is key to establishing and maintaining that confidence. It should never be bypassed. Ministers have given no good reason for wanting to oust the jurisdiction of the Electoral Commission. It is nothing other than another ill-conceived power grab by a minister desperate to have indyref 2 and to ensure that his side can campaign under flags and banners for “Yes”, as Nicola Sturgeon did in George Square at the weekend and as they all did in 2014.

We need to learn from the experience of previous referendums. We know much more about referendums, referendum campaigns and the impact of referendum results than we did before the 2014 and 2016 constitutional referendums that have left such a mark on Scottish and British politics. It is vital that the Electoral Commission is not merely permitted, but is required by law, to assess all referendum questions, whether novel or recycled, in order that we learn all appropriate lessons from past experience. The Electoral Commission's full role must be restored and the minister's attempts to bypass it in section 3(7) must be removed from the bill.

In legislating for electoral events, whether elections or referendums, the paramount principle is surely to put the interests of voters first. The bill fails that test. The Institute for Government said:

“it is imperative that the Scottish government avoid the perception that it is seeking to avoid full scrutiny of any future referendum proposal by intention, or as a consequence of a desire to fast-track the process.”

I hope that the minister is listening and takes heed of that advice. Seeking to sideline the independent expertise of the Electoral Commission is not a good look—the minister should change course while he still can.

As it stands, the Referendums (Scotland) Bill is a bad bill. It seeks to pave the way for a second independence referendum that Scotland does not want, in clear breach of the promises to the Scottish people that Nicola Sturgeon made when campaigning in the 2014 referendum. It is also a bad bill because it purports to give to Scottish ministers powers that no Government minister should have in a well-functioning democracy—powers that no minister who respects the democratic process should want. The bill seeks not only to hold an unwanted second independence referendum but to rig the rules of that referendum. To both of those propositions, the Scottish Conservatives say, “No thanks”. For all those reasons, the Scottish Conservatives will vote against the bill at decision time tonight.

14:54

Alex Rowley (Mid Scotland and Fife) (Lab): In opening for Labour, I acknowledge the work of the Finance and Constitution Committee in holding evidence sessions and producing a report for the stage 1 debate.

The committee supported the bill's policy objectives. If we, as a country, were to want to move to a more direct democracy in which referenda were used more and more in decision making, the objectives that the bill sets out would be sound. That is not to say that the bill as it stands is sound: the committee made a number of key recommendations on how to improve some fundamental flaws in it.

However, the first point—indeed, the main point—that I want to raise is to question whether there is a need for the bill. Are we moving in the direction of the people of Scotland being engaged in more referendums? Are the people of Scotland at this time demanding more referendums? They want Brexit to be fixed, so if a people's vote would give us the opportunity to move forward on that, I would say yes.

However, in my experience, the people of Scotland are sick fed up of constitutional conflict. I am not sure that there is demand for a bill on referendums at this time, and certainly not until the current constitutional crisis—which was created by the Tories, and has been made even worse by the Tories—is resolved.

Patrick Harvie (Glasgow) (Green): It is clear that Alex Rowley has concerns and disagrees with those of us who support independence on the idea of more constitutional referendums. However, did any of the witnesses who gave us expert evidence on the democratic process and on referendums, including those from the Electoral Commission, say that the principle of a framework bill for referendums is in itself a bad idea? I seem to recall that they all supported it.

Alex Rowley: I am coming to that, so I will address Mr Harvie's point.

The SNP has, on the one hand, tried to portray the bill—just as Mr Harvie does—as simply an administrative procedure to facilitate future referendums, rather than retaining the current ad hoc approach. However, the bill is, of course, only really about one referendum. In fairness, I say that the SNP has made no secret of that—it is the SNP indyref 2 bill. As Nicola Sturgeon has made clear, the bill is being introduced to pave the way for an independence referendum in the current session of Parliament.

Labour cannot support the bill on that basis. We believe that it is not in Scotland's interests to create, in the midst of the Tory Brexit chaos, even

more uncertainty and chaos. Indeed, I suggest that it would, during this chaos, be impossible to put a clear proposition to the Scottish people. Would we be in or out of Europe? Mr Russell suggests that he has had a nod and a wink from some people in Europe that we would be welcomed with open arms. I am not sure who nodded—

Michael Russell: To be entirely fair, I draw Alex Rowley's attention to the reported remarks—not nods and winks—of Herman Van Rompuy, the former President of the European Commission. He made it clear that although he does not describe himself as a separatist—as he put it—there is a path open, if Scotland were to take it in the usual conventional and constitutional way. That is not nods and winks; that is an open path.

Alex Rowley: If we have learned anything from the failed attempts by the Tories over three years, it is that it would not be as simple and straightforward as that. Mr Russell needs to acknowledge that. He was quoted as saying that the relationship with the rest of the UK and the border between Scotland and England will be governed by the European Union in the event of Scotland becoming independent.

Nicola Sturgeon has rightly expressed concern about our £14 billion trade with the European Union being put at risk by a failed Tory Brexit. However, what about the £50 billion trade that we have with the rest of the United Kingdom? That is the inherent contradiction in the SNP ideology. How is it possible that it would be a disaster for Scotland to leave the single market of the European Union but somehow a triumph to leave the larger single market of the United Kingdom? The majority of our trade takes place in the UK.

Michael Russell: I do not know anybody who has suggested leaving the single market of the United Kingdom. Alex Rowley referred to Nicola Sturgeon's remarks. They were about making sure that such provision is part of the arrangement between the EU and the rest of the UK. The rest of the UK has indicated that it wishes for a seamless trading relationship. Therefore, there is no problem.

Alex Rowley: Trade with the rest of the United Kingdom is worth £50 billion.

This morning, I read an article in *The Scotsman*, in which Michael Russell said that it would be down to the governance of the European Union as to how that border, or hard border, would work. How can we in this Parliament argue that a hard border in Ireland is a bad thing, but a hard border between Scotland and England is a price worth paying? The answer is that we cannot.

Most people do not want never-ending constitutional division and chaos. The bill is not

required at this time, when we have gone through years of failed Tory austerity, when our public services are buckling under the failures of the Westminster and Edinburgh Governments, and when people are struggling daily to get by.

People are crying out for change. That change will not be delivered by putting up a border and changing a flag. The SNP's growth commission demonstrates that independence cannot deliver the fundamental change that Scotland needs in our economy and in our society. There is no indication that an SNP-led independent Scotland would avoid the damage that is inflicted by neoliberal economic policies. The SNP growth commission also acknowledges that an independent Scotland would be shaped by foreign direct investment, low taxation and prolonged and intensified austerity—austerity on stilts.

Neither the status quo nor the nationalists' proposals can provide what Scotland needs. Labour's alternative for the future of our country is one in which our economy and our society are transformed for the better and for the many. It is a future in which real change has a real impact in order to make people's lives better. We will invest on a scale that has never been seen before and we will deliver the necessary shift in the balance of power and wealth that we need to make our country fairer.

That will mean £250 billion of investment across the whole UK over the next 10 years, as part of our green transformation fund. It will mean £150 billion over the first five years of a Labour Government, as part of our social transformation fund—

The Presiding Officer: Mr Rowley, I will stop you there. You have moved from the Referendums (Scotland) Bill into election campaigning. It sounds like you are reading out the Labour Party election manifesto. Please get back to the Referendums (Scotland) Bill.

Alex Rowley: Time and again, the First Minister and cabinet secretary have said that the bill will pave the way for independence for Scotland. I am trying to contrast what they propose for Scotland with what the Labour Party proposes for Scotland. We propose a transformational change in the way that our economy and society work, through the types of investment that I am setting out.

The Cabinet Secretary for Finance, Economy and Fair Work is sitting having a wee chuckle to himself, but the growth commission, which Derek Mackay sat on, has made it clear that we would have decades more of austerity as a result of the independence referendum bill that is in front of us.

Rather than try to rig a referendum, the Government here in Edinburgh should bring the bill to a halt, and instead free up time to allow

Parliament to focus on the kind of transformation that our country needs. The bill is flawed: members should vote it down.

15:05

Patrick Harvie (Glasgow) (Green): Although it is always great fun to debate borders, flags or the growth commission, I have come here to debate a framework bill on referendums, because I value the work that my colleagues and I on the Finance and Constitution Committee have done in taking evidence on the bill.

The evidence on the basic principle that there should be framework legislation for referendums is pretty clear. I cannot remember hearing a substantial case against it in any of the evidence that we received. However, as the cabinet secretary has acknowledged, the bill will clearly require changes. For example, I have struggled to understand the case whereby a question can be so urgent that primary legislation cannot be used and secondary legislation should be used, while that same question can be so unimportant that scrutiny can be dispensed with. I am not saying “never” to the idea of using secondary legislation in that way, but the Scottish Government needs to be far clearer about the principles and in what circumstances it thinks that that would be justified.

On question testing, a case can be made for a shelf life, but it is not an overwhelming case. I struggle to see why, if there is time to conduct question testing in preparation for a referendum, it should be dispensed with.

We must acknowledge the importance and legitimacy of having an independent body that can advise on democratic processes. Either we trust the Electoral Commission to be that body or we do not. A case might be made for Scotland creating a new independent body to take on those functions. In that context, I am unclear why only political parties that have at least two members of Parliament at Westminster should be able to nominate commissioners to the Electoral Commission. I have no idea why, for example, a Democratic Unionist Party commissioner should have any say in issues reflecting Scottish democracy.

However, there is no case for saying that we will use the Electoral Commission as an independent body but only if we think that it will make decisions that we agree with. The context here is clearly indyref 2 and the fear that some people would seek to muddy the waters by reframing that debate, when it comes, using terms that have never been used in relation to independence but which are solely defined around Brexit.

People have mischievously suggested reframing that debate around “leave” and “remain”. However,

Vote Leave and Leave.EU are established and distinct political brands that come preloaded with their political values. Both organisations are permanently associated with their track record of anti-European attitudes, hostility to immigration and serious breaches of electoral law. Although in this chamber we are not allowed to accuse anyone of lying, both those organisations have made countless statements that strain my ability to describe them otherwise.

On the other hand, “remain” is also strongly associated with EU membership, freedom of movement and the single market—positions with which not all supporters of independence agree.

The purpose of the Electoral Commission’s testing is therefore to develop clear advice on intelligibility. It seems to me to be overwhelmingly clear that any proposal to reframe a question on independence around “leave” and “remain” would be rejected by any fair assessment.

Neil Findlay: Mr Harvie rightly lays into the mistruths that have been expressed by the leave campaign, but I have to ask him to reflect on some of the utter rubbish that was in the white paper that was presented for the independence campaign. Will he reflect on that as well?

Patrick Harvie: I have reflected on many occasions on why I did not support the SNP’s white paper. On another occasion we will debate that in detail.

I urge the Scottish Government to have confidence in the Electoral Commission’s process for question testing. If the cabinet secretary does not have confidence in it, the Government should propose an alternative. I am glad that, from the Scottish Government’s point of view, the door does not appear to be closed on testing, so we need to hear more on that before stage 2.

There are many other issues that I wanted to touch on in the brief time available to me: the lessons that we need to learn from 2014, 2016 and more; the issues around political interference and dark money; and political education, which needs to be so much stronger. The Scottish Parliament now has responsibility for our democratic processes, and the integrity of our democracy is clearly under threat. We need to make sure that we are passing legislation that is up to addressing and minimising that threat.

In particular, two issues stemming from the Representation of the People Act 1983 need to be addressed. Digital campaigning is now a core part of the electoral process. The 1983 act is clear on publications: criminal offences arise when publications do not include required information. That is so that people know the source of what they are looking at. That does not apply just to candidates or parties; it applies to everyone.

Publishing online, including via social media, is not just like chatter around the water cooler; rather, it is a core campaign tool, and it deserves the same level of regulation.

The Finance and Constitution Committee did not recommend that either the Electoral Commission or a new body should rule on the question of providing objective information, but misleading information is far more powerful in this digital age, when rumours or deliberate misrepresentation can go viral and can become unchallengeable very quickly.

As regards the aspect of the 1983 legislation that proposed criminal offences for misrepresenting the character of an election candidate, we need to find a way to translate that principle into a relationship with referendums, so that the requirements for honesty—not just from campaign bodies, politicians and activists, but from everybody—are applied in the same way in relation to referendums as we expect and hope them to be applied in relation to elections.

15:12

Mike Rumbles (North East Scotland) (LD): The Referendums (Scotland) Bill is a bill that the people of Scotland do not want. It is a fact, however, that the two nationalist parties in the Parliament have the votes to push this fraud of a bill through at decision time.

The Scottish Government has wasted a huge amount of time and resources in bringing this 163-page bill forward. Of course, it is the Scottish Government’s right to waste taxpayers’ money on the bill if it wishes to, but it will face electoral consequences for doing so. It will face those consequences sooner rather than later, because everyone knows that the First Minister has framed indyref 2 as her number 1 priority now. The Cabinet Secretary for Government Business and Constitutional Relations made it obvious in his opening speech and when taking interventions—I thank him again for taking my intervention—that the Government does not have any examples at all to which the bill is relevant, other than indyref 2. That gives the game away, for a start.

Exactly what happened to the First Minister’s declaration that education was the Government’s number 1 priority?

Stewart Stevenson: Will the member take an intervention?

Mike Rumbles: No.

Nicola Sturgeon asked us to judge her Government on its performance on education. Is it any wonder that the First Minister now wants to focus on indyref 2, rather than the state of Scottish education?

The First Minister has made it clear that, before the end of the year, she will ask whoever is Prime Minister to authorise another divisive referendum in order to break up our country—just five years after the UK and Scottish Governments said in the Edinburgh agreement that they would honour the result of the 2014 referendum. Of course, I do not expect the two nationalist parties in the Parliament ever to give up on their nationalist aims to break up Britain, but I did expect that the Scottish Government's commitment to uphold the 2014 result would last, to quote the First Minister at the time, a certain Alex Salmond—remember him?—for “a generation”.

At least our current First Minister is clear. She wishes to tear up the Edinburgh agreement and focus everything on her ambition to break up Britain, and the Referendums (Scotland) Bill is the first step along the legislative route to doing that. She was warned about the implications by the head of the civil service in Scotland—we have *The Herald* to thank for publicising that. Not only did the permanent secretary say that there would be “wider implications” for the Government's business, but the First Minister was also told that constitutional change would mean the “deprioritisation of activity”—in other words, it would have direct implications for getting on with the day job of running Scotland properly.

The Scottish Government has seen fit to ignore—

Graham Simpson (Central Scotland) (Con) *rose—*

Mike Rumbles: I will give way to Graham Simpson if his intervention is brief.

Graham Simpson: It is on that point. *[Interruption.]*

The Deputy Presiding Officer (Christine Grahame): I think that Mr Simpson would like to say something, although members are cheering him on.

Graham Simpson: I am often cheered on by the cabinet secretary.

Does Mr Rumbles agree that ramming the bill through by the end of this year—which is what the Government wants to do—would not make for good legislation?

Mike Rumbles: I quite agree. The bill is an example of bad legislation, and ramming it through regardless is an example of what the Parliament was designed not to do.

As I was saying, the Scottish Government ignored the permanent secretary's advice.

Michael Russell: Will the member give way?

Mike Rumbles: Will the cabinet secretary give me a minute to make some progress? I will give way to him in a moment.

I have to thank the First Minister for being so unusually clear about what she wants to do. If they examine the detail of the bill, the people of Scotland can also be in no doubt that the SNP Administration will use any device to maximise its support by any means, fair or foul. I refer to section 3(7), which clearly states that the Electoral Commission need not bother to examine the veracity of the proposed referendum question if it has previously done so. The message from the Scottish Government is clear: “We don't want the Electoral Commission to interfere with our question—it gives us a fine advantage as it is, thank you very much.” I remind members that I said “by any means, fair or foul”.

On that note, I give way to the cabinet secretary.

Michael Russell: As Mr Rumbles will be aware, I made an opening speech—in which he intervened—in which I made it clear that I have proposals for that area and that I accept the committee's recommendations, for which I had thought that I would be commended.

I add that I am very surprised that the convener of the Delegated Powers and Law Reform Committee should use the word “ramming” when the bill is following the normal procedure for bills in the Parliament, which he knows well. That is highly surprising.

Mike Rumbles: I noticed that the cabinet secretary said that he would come to an agreement with the Electoral Commission—not that the commission is right. It is a measure of the Scottish Government's integrity that it should even try to get away with that.

I would much rather have been in the chamber today to respond to a debate about the Scottish Government's domestic agenda, which is about dealing with the devolved issues for which it actually has responsibility. The constitution of our country is the responsibility of our other Parliament, at Westminster. Our Parliament at Holyrood is responsible for important issues that affect Scottish people's lives. The Scottish Government has told us that it has neither the time nor the resources to work on the promised crofting bill that was dumped so unceremoniously. What has delayed the agriculture bill? Why do we not have a bill to ensure that mental health issues will be treated as well as physical ones? Why do we not have a bill to end homelessness? Where is the good food nation bill? I could list so many more areas that should be addressed but on which the Scottish Government has delayed or dropped bills while it proceeds with this fraud of a bill. It has done so because it values the Referendums

(Scotland) Bill and indyref 2 above everything else.

Liberal Democrats do not want the chaos of breaking up Britain to be added to the chaos of Brexit that we already face. We do not support the bill and will vote against it at decision time.

The Deputy Presiding Officer: We move to the open debate. Speeches should be of six minutes or so.

15:18

Angela Constance (Almond Valley) (SNP): When the Finance and Constitution Committee was in the process of finalising its stage 1 report, I was representing the Parliament at the Council of Europe's Congress of Local and Regional Authorities. Nonetheless, I have no hesitation in associating myself with the report because—as is usual under the stewardship of Bruce Crawford—the committee has pursued the art of the possible and of achieving consensus wherever possible. It is a pity that some contributors to the debate—especially those who are members of the committee—have not taken on board Mr Russell's opening remarks or his significant concessions.

The committee convener outlined that the recommendations in the stage 1 report were drafted with the intention of informing further discussion and debate on how we get the very best referendums legislation. I believe that the committee's report can help us to learn from the best of the 2004 referendum experience, but also from the worst of the 2016 experience and its unfolding consequences.

I have never hidden that I have believed in independence since I was eight—I have waved a few flags in my time, and I have campaigned and marched for independence since I was 18, at a time when it was far from fashionable.

In 2016, I was elected on a manifesto commitment that said:

"We believe that the Scottish Parliament should have the right to hold another referendum if there is ... a significant and material change in the circumstances that prevailed in 2014, such as Scotland being taken out of the EU against our will."

I want our journey towards independence to be built on the highest of international standards, so we cannot pick and choose when we apply that gold standard. Therefore, I want any referendum on Scotland's constitutional future to be built on primary legislation, because fundamentally I want this Parliament to decide and every member of it to have the opportunity to choose to vote for or against.

I have never expected or demanded either citizen or politician to abandon their own deeply

help convictions and conscience. We can seek only to persuade, and we can never do that by closing down debate or scrutiny.

Ultimately, it should be this Parliament that decides whether there is a referendum, the details of the legislation and what powers to confer—or not—on ministers. For the record, I support amending the bill so that it includes a minimum campaign period. Such a measure is based on good democratic practice, and I welcome the cabinet secretary's commitment to it.

The issues of the referendum question and testing were robustly explored by the committee. I am somewhat surprised that there seems to be some concern about conspiracy, given that there are different views on the issue across the wider yes movement. My own view is that it is entirely logical and legitimate to say that the 2014 question has already been tested by the Electoral Commission and that it remains current because it has been asked 200 times since 2014. Also, there is nothing to prevent the Electoral Commission from publishing and sharing its views in the future.

Nonetheless, I accept that it is prudent and mature of the committee to ask both the cabinet secretary and the Electoral Commission, in the first instance, to go away, find some space, look at the evidence together and see whether they can come to an agreed way forward to bring back to members prior to stage 2. I can support that approach, despite my own grumbles about some aspects of the Electoral Commission's structure as a UK-wide body. I will not repeat Patrick Harvie's comments—I raised those issues at committee.

Although the cabinet secretary is characteristically up front about his own thinking and instincts, in his remarks today and at committee, he has consistently indicated that he remains open to on-going discussion. I was tempted to say that he is being uncharacteristically flexible, but that would be unfair, as very few people will have observed the inflexibility of Westminster in recent times without seeing the self-destruction of the UK Government's approach and seeking to avoid it.

The UK Government has failed to generate consent and trust among remainers, and it has even lost the support of some of its own. If Brexit has taught us anything, surely it is what not to do if we want to persuade and lead. We have to reach out, and we have to reach out to those of a different opinion.

Although we live in uncertain times, I believe that history will show that ignoring the highest remain-voting part of the UK will lead to the demise of the UK. I suspect that I am not alone in that thinking, and it may be the reason why the UK

Government is running scared of a section 30 order—

The Deputy Presiding Officer: I was just thinking that you were making an excellent speech, as you were actually speaking to the bill at stage 1, but you are just beginning to drift into electioneering. You are just easing yourself into it; nevertheless, that is what you are doing, so stop.

Angela Constance: I will take your advice, Presiding Officer, and stop. However, I end by saying that, whatever views about Scotland's constitutional future people may hold, the bill could help us to build a future and build a consensus.

The Deputy Presiding Officer: I remind members that we are discussing stage 1 of a very technical bill, and it would be useful if they would, in the main, speak to the bill.

15:25

Alexander Burnett (Aberdeenshire West) (Con): I thank the committee clerks for their considerable efforts in producing the report. I also thank those who gave evidence on the bill, both written and in person. As ever, their time and effort are much appreciated.

Like most committee members during multiple evidence sessions, I focused on a particular theme. My area of focus was the role of the Electoral Commission and the testing of any referendum question, and it came as little surprise that there was unanimous agreement among those who gave evidence. I hope that the cabinet secretary has taken that on board and ensures that the bill that he is seeking to take forward meets the level of credibility to which I hope he aspires.

The fact that ministers will be able to set referendum timing and questions in secondary legislation is cause for concern. That is not a party-political point, but a democratic one. Would the cabinet secretary be happy when the shoe is on the other foot and such important details are at the discretion of a Scottish Conservative minister?

The truth is that the whole bill is a political point, from the speed at which it is being rushed through Parliament at the expense of existing responsibilities, to the pretence that it is not a foundation stone for a second independence referendum. That hypocrisy can even be seen in the bill, otherwise why would a bill that will cover only devolved issues include a specific provision to approve a previously asked question when that question is a reserved issue? The only question that has been asked before is the one on independence, and it is the only one in relation to which the SNP seeks to legislate against scrutiny.

The scrutiny that is required is very clear. That has been set out by the Electoral Commission and it covers requirements for clear timescales, focus groups, interviews, geographical testing, accessibility and more.

I asked Dame Sue Bruce, the Electoral Commission's commissioner with responsibility for Scotland, what her position is on the fact that panels from whom we had taken evidence had been very clear about not only the need to test the referendum question but the Electoral Commission's role in that, including when the question has been asked before. Her response could not have been more clear. She said that she strongly believes

“that the Electoral Commission should be asked to test the question. I refer again to putting the voter at the centre of the process. We think that formal testing of the question helps to provide confidence and assurance to the voter and to the Parliament that is posing the question and, with regard to the integrity of the process, to establish that the question is clear, transparent and neutral in its setting.”—*[Official Report, Finance and Constitution Committee, 18 September 2019; c 37.]*

Based on the evidence, it was not surprising that the committee recommended in its stage 1 report

“that the Cabinet Secretary recognises the weight of evidence ... in favour of the Electoral Commission testing a previously used referendum question and must come to an agreement, based on this evidence, with the Electoral Commission, prior to Stage 2.”

However, we must wait to see whether that will happen.

In committee, when I asked the cabinet secretary repeatedly about his view of testing a referendum question, his response—despite the evidence that we had heard—was that the question had already been tested. When probed on why the matter was beyond question, he said,

“I am not in favour of confusing people. If a question has been used again and again and it continues to be in use, it would be a serious step to try to throw it out.”—*[Official Report, Finance and Constitution Committee, 25 September 2019; c 11.]*

As an aside, I do not think that the cabinet secretary has much regard for the intelligence of the electorate if he thinks that they would be confused.

I believe that it is a grave mistake to simply accept a question because it has been used previously. There is an unfortunate arrogance in the cabinet secretary's position. What he is really saying is that he knows best and that he is afraid to seek and trust the Electoral Commission's endorsement. Arrogance and fear—that is no way to legislate.

The cabinet secretary's rejection of the Electoral Commission's wish to be involved demonstrates

scant support for the protectors of our democracy. We need to ensure that the question is as fair to the electorate as possible. As ever, the Scottish Conservatives think that it is important that every question is tested and created using an evidence-based approach.

All of us—the Electoral Commission, MSPs and the electorate—are learning on a daily basis. The only person who appears to have given up on learning—possibly in line with his party's education record—is the cabinet secretary. Many lessons need to be reflected in the bill, not least the fact that Scotland wants to move on from repeating referenda. The Scottish people rejected separation in 2014 and see this constant constitutional posturing as nothing more than disrespect for their vote. I say to the cabinet secretary that it is never too late to start learning.

15:31

Tom Arthur (Renfrewshire South) (SNP): I am grateful for the opportunity to speak in the debate. I thank the clerks and my colleagues on the Delegated Powers and Law Reform Committee and the Finance and Constitution Committee. I associate myself with the remarks of Bruce Crawford, who spoke in his capacity as convener of the Finance and Constitution Committee. The work that both committees undertook was serious and rigorous. All committee members played an important part, and the bill will be strengthened as a consequence.

I encourage anyone who reads the *Official Report* of today's proceedings or who watches the debate at home or in the public gallery to look at the Finance and Constitution Committee's report and at the work of committees. Although a rather partisan and political debate is taking place in the chamber in the shadow of a general election campaign, the work that the committees undertook was serious and considered, and it reflects the best of the Parliament. I hope that, as the debate progresses, more of that ethos and spirit will come into members' contributions.

I welcome the bill and the cabinet secretary's response, which takes cognisance of the recommendations of the DPLR Committee and the Finance and Constitution Committee. The proposal to increase the minimum fine from £10,000 to £500,000 is welcome and will, I believe, command support across the committee. The principle for a default 10-week regulated period is to be welcomed, too. I also welcome the cabinet secretary's willingness to consider the use of regulation-making powers, as provided for in section 1, and how they can be more clearly defined. I welcome the fact that matters such as a future independence referendum would be dealt

with through primary legislation. That is a sensible way to approach any future referendum.

The bill and our deliberations on it offer us the opportunity to consider the operational matters and the mechanics of any future referendum in as close to a sterile political environment as possible, meaning that any future bill that paves the way for a referendum on Scottish independence can focus primarily on the merits of whether that question should be asked, on which we all have strong views.

I have a degree of sympathy for all positions that have been expressed on question testing. As the committee's report makes clear, the committee was unanimous in recognising the weight of evidence that was submitted.

I note that, to my knowledge, there have been six national referendums in Scotland. Three have been specific to Scotland and three have been UK-wide referendums. The first three referendums took place in 1975, 1979 and 1997—three referendums over 22 years—with two being on devolution and one concerning membership of the European Union. However, in the space of five years, we have had three more referendums.

There is a trend for more and increasingly frequent referendums. They are a useful tool for taking decisions that perhaps go beyond those that it would normally be considered appropriate for MSPs to take. In the committee, certain examples were highlighted. The idea that questions might be referred from a citizens assembly requires further investigation. In the scenario that a question was referred from a citizens assembly, after considerable deliberation and much public discussion, the vehicle of a statutory instrument might be a more appropriate means of initiating a referendum.

I note from the Finance and Constitution Committee's report that reference was made by the DPLR Committee to using a super-affirmative procedure. That would give the opportunity for any aspects of a referendum question that was proposed in such a scenario to be amended and discussed in some detail. Although it should be the norm for referendum questions to be considered via primary legislation, there is a case for retaining the power to create referendums through secondary legislation. That should be considered at stage 2 and I look forward to having discussions with colleagues on the Finance and Constitution Committee and, potentially, the Delegated Powers and Law Reform Committee.

I note that the Finance and Constitution Committee was unanimous in supporting the policy objectives of the bill. I appreciate that today's vote is on the bill's general principles and that some Opposition members will feel that they

are unable to vote for them but, given the unanimity of support for the policy objectives, I urge Opposition members to abstain and allow the bill to progress to stage 2 so that it can be amended and their concerns can be addressed. The cabinet secretary has recognised those concerns and shown a willingness to engage constructively with all members and committees in taking the bill forward.

15:36

Neil Findlay (Lothian) (Lab): There are days when this Parliament inspires and motivates me and delivers for our people, and there are days when it depresses me—when it navel gazes and its focus is on issues that command the energy and attention of the political class or it is used for narrow party advantage that completely ignores the plight of the people we are sent here to represent. I am afraid that this is one of those latter occasions.

In 16 years of elected politics, I have not had a single person come to me and demand that we put through a framework bill on how we conduct referendums. Let me set out clearly what people come to me about and let me tell members what issues are affecting my community. I would bet my last penny that those are the issues filling the mailbox of almost every other member of the Parliament and taking up their time at constituency surgeries.

My constituents in Stoneyburn want to know why they no longer have a general practice in their village for the first time since the formation of the national health service.

The Deputy Presiding Officer: I am sorry, Mr Findlay; please sit down. I know that this is difficult for everybody. This debate is on stage 1 of a bill on technical issues. Yes, speak against the bill—absolutely—but I do not want to hear detailed political points being made instead of discussion of the bill. You have made your general point that you think that there are more important issues. That is your position, but let us discuss the bill. That is what the debate is about.

Neil Findlay: Presiding Officer, I am going to expand on the argument that I am putting across. I need to exemplify the points that I am making, and that is what I am attempting to do. You will see where my argument goes if you allow me to make those points.

The Deputy Presiding Officer: I will give you a bit of leeway, but do not stretch it too far.

Neil Findlay: My point is this: why are my constituents not seeing Parliament address that issue? Why are my constituents across the Lothians who are trying to find somewhere to live

and who cannot access a council house and cannot afford rising rents not afforded a citizens initiative or a referendum on a proposal to address homelessness in this city? I will bet that they would want one.

Tom Arthur: Would Neil Findlay like those issues to be discussed in a future citizens assembly? If significant and radical proposals came forward, would he like them to be put to the people in a referendum?

Neil Findlay: We are starting to move into a whole different set-up. That would need wide discussion.

There are other issues. For example, constituents of mine from East Calder are waiting 54 weeks for orthopaedic operations. They are supposed to have a legal—

The Deputy Presiding Officer: I am sorry, Mr Findlay, but I have warned you already. You are now going into constituency details. Please sit down. I understand your position, but do not abuse it. You do not agree with the bill—that is fine—and you think that there are better things to deal with. You have said that. Now please tackle the report. Attack that. I am not going to listen to constituency details. I will ask you to stop and sit down otherwise.

Neil Findlay: You can do that, but my constituents want to know where the initiative in the Parliament is when ministers in the Parliament break the law more than 100,000 times. We are seeing a new referendum initiative. Where is the new initiative to hold to account ministers who break the law? Where are initiatives coming forward in the Parliament to address drug deaths? We have not even had a debate about drug deaths, never mind a referendum or a citizens assembly—we have had none of that. There are no new initiatives coming forward to address one of the biggest crises that we have, but we want to create new legislation on referendums for something that might never happen. We know that the only thing that the SNP wants to happen is Mr Russell to have his day taking through a bill that paves the way for an independence referendum.

Where is the opportunity for a citizens initiative or a referendum on the Government's failing education policy? That is supposed to be the Government's top priority. There is no opportunity for us to hold the Government to account via a referendum or a citizens initiative. As we have already heard today, the Government has not had an education debate for two years. Where is our ability to hold the Government to account?

If the bill proceeds, I will look to lodge amendments on having a third option or additional options on ballot papers for any future referendum and on different citizens initiatives that will hold the

Government to account when it breaks the law 100,000 times. If all that we have is more binary referendum choices, we will create more divided and more depressing politics.

I adopt the default principle that powers should be devolved to the lowest level unless there is an overwhelming or rational reason not to do so. I believe that that is a sound principle and that we can debate each topic that comes forward and deliver power to the most appropriate level. That is what I believe in, but that debate is for another time.

The bill should not deflect us from dealing with the immediate issues that our people face. People are out there lying in doorways and shivering on the street. I think that, today, people will rightly look at this place and wonder what relevance it has to their lives.

15:43

Jenny Gilruth (Mid Fife and Glenrothes) (SNP): Talk about depressing politics.

I am grateful for the opportunity to contribute to this debate on the Referendums (Scotland) Bill, which, as it says, is for

“An Act of the Scottish Parliament to make provision for the holding of referendums throughout Scotland; to make provision about such referendums and other referendums held under Acts of the Scottish Parliament.”

It is undeniable that the tectonic plates of Scottish politics have shifted somewhat cataclysmically since 2014. Therefore, the importance of getting the legislation right cannot be overestimated.

The two key issues in the Finance and Constitution Committee’s stage 1 report that I would like to focus on are electoral registration and political literacy, with particular reference to sections 4 and 28 of the bill. I declare an interest as a former modern studies teacher and development officer for the national qualifications at Education Scotland, where I contributed to the curriculum for excellence briefing paper on political literacy that was published in August 2013.

The UK-wide introduction of individual electoral registration, or IER, did not happen until after the 2014 referendum. The committee was told that

“It is widely thought that one of the effects of individual electoral registration has been a reduction in the completeness of the electoral register”

and that

“research shows that young people and students in particular were negatively affected.”—[*Official Report, Finance and Constitution Committee*, 11 September 2019; c 35.]

According to the Electoral Reform Society, 9.4 million people in the UK are missing from the

electoral roll, which is nearly 14 per cent of the population. Although the process of individual electoral registration currently remains a reserved matter, that should not deter discussions on how to improve voter registration in the interests of democracy.

In the run-up to the 2014 referendum, I recall attending a meeting in the City of Edinburgh Council chambers with Mary Pitcaithly, who was the chief counting officer for the Scottish independence referendum. I was there as an employee of Education Scotland. I am sure that I am not breaking any confidences when I say that it became clear that there were varying approaches around the country to section 26 of the Scottish Independence Referendum Act 2013, which focused on encouraging participation. Adam Tomkins is absolutely right when he says that we need to learn lessons from referendums. Perhaps the Government can reflect on that and strengthen the provisions in section 28 of the bill, which focuses on participation.

The Electoral Management Board for Scotland advised the committee:

“Rationalising existing laws to create a single, consistent framework governing referendums offers many benefits to the voter, to campaigners, the regulator and electoral administrators and to the extent that the draft Referendums (Scotland) Bill contributes to this objective, the EMB see this as a wholly positive policy direction.”

In the interests of democracy, I hope that members agree with that. It is particularly important that young people are encouraged to register, as we know that individual registration has impacted negatively on that cohort.

I take issue with some of the evidence that the committee received from the Stevenson trust for citizenship. It noted

“gaps in the availability of Modern Studies programmes across Scotland, lack of clarity about the aims and acceptable approaches in dealing with political questions and political literacy in the classroom”.

However, modern studies is not a programme. It is a core part of the social studies curriculum area, which every pupil in Scotland should have experience of until the end of their broad general education. They may then choose to study it in more detail at the level of national 4 or 5, higher or advanced higher.

The trust went on to reference its own research, which polled just 21 schools—that is not even 6 per cent of Scotland’s secondary schools.

Neil Findlay: Like Jenny Gilruth, I was a modern studies teacher. Does she recognise that many schools do not teach modern studies at that level?

Jenny Gilruth: I am not sure what Neil Findlay is referring to when he says “that level”. Do you mean higher than—

The Deputy Presiding Officer: You cannot just have a wee conversation across the chamber. Mr Findlay might wish to intervene again. I do like to earn my keep. Mr Findlay, do you wish to clarify your intervention?

Neil Findlay: The point that I was making was that not all schools teach modern studies at senior level.

Jenny Gilruth: I am coming on to address that point.

There is some evidence to substantiate that point. The 2012 social studies curriculum impact report identified that 20 per cent of Scottish secondary schools did not deliver modern studies via a subject specialist. That means that, up to a certain level, they might deliver it via a history or geography teacher.

Mr Findlay is correct. The teaching of modern studies will be important if we have another referendum, because the proposed franchise will be based on the one that is used for local government and Scottish Parliament elections, which includes EU citizens and 16 and 17-year-olds. I hope that the Education and Skills Committee picks up the issue as the bill progresses. We need to ensure that the next generation gets the knowledge, understanding and skills that modern studies develops, which will allow young people to identify bias and exaggeration, for example, and make an informed choice when they vote. In the era of fake news, the pivotal role of modern studies in doing that has become even more apparent.

The policy objective of the bill is to

“ensure that future referendums on matters that are within the competence of the Scottish Parliament maintain the high standards achieved by the referendum on Scottish independence in 2014.”

The 2014 referendum is often lauded as the gold standard of referenda. There was, for the most part, consensual debate, discussion and a white paper—like it or not. Up and down the country, whether people were yes or no, they became engaged in the political process in their droves. We secured the highest ever voting turn-out in the British isles, with 84.5 per cent of those who were registered to vote doing so.

We need only consider the situation in Catalonia to reflect on why the bill is so vital. Whether you were yes or no in 2014, no honest democrat accepts the political persecution of those who support Catalanian independence as just. The former vice-president of Catalonia was sentenced

to 13 years in prison, the former speaker of the Catalan Parliament was sentenced—

The Deputy Presiding Officer: I am getting an uneasy feeling—you know what I mean. Please go back to the bill. I am trying to be subtle.

Jenny Gilruth: With due respect, Presiding Officer, what I am saying links to why the question and the debate are so important. In Catalonia, there were obviously a number of issues that did not allow the democratic process to prevail in the way it should. Should I move away from that point, Presiding Officer?

The Deputy Presiding Officer: No, I am just wary—please continue.

Jenny Gilruth: As we watch on at the horrific actions of the Spanish Government, we must make doubly sure to tread a path of civility in our use of language and in our actions in this Parliament in the face of the next Scottish independence referendum.

I spent my entire career in education trying to get young people interested in politics. They enjoyed watching Annabel Goldie dangle from an abseil in 2007; they were mildly amused by the Tories “Brown bottles it” stunt. However, it was 2014 that engaged a generation of voters for the very first time. Let us make sure that we get it right for the next generation; let us make sure that they are the next part of Scotland’s story.

15:50

Graham Simpson (Central Scotland) (Con): It is good to be able to speak in this debate on the Referendums (Scotland) Bill—and I will speak about the bill, Presiding Officer.

On the face of it, the bill looks perfectly innocent. It states that it is:

“An Act of the Scottish Parliament to make provision for the holding of referendums throughout Scotland; to make provision about such referendums and other referendums held under Acts of the Scottish Parliament”,

and it comes complete with sections on the franchise, conduct, campaign rules, agents, registration and so on. That does not ring any alarm bells. However, there are all kinds of bear traps lurking in there for the unwary, and some sharp-eyed souls out there spotted them immediately. For accuracy purposes, this bill should be renamed the independence referendum (preparedness for) (cranking up grievance) (Scotland) bill, because that is what it is.

Two committees of this Parliament have raised serious concerns on the back of the evidence that has been received. The DPLR Committee, which I convene, and the lead committee, the Finance and Constitution Committee, have both done an

admirable job of scrutiny. They listened to the evidence on the preposterous idea that any future referendum on any subject would be set up using subordinate legislation.

The Law Society of Scotland said:

“We have reservations about the use of subordinate legislation for the most important questions relating to the Constitution.”

What could it mean? It added:

“Such issues require full and proper scrutiny which subordinate legislation does not provide.”

The Faculty of Advocates said:

“Disregarding the issues about legislative competence, it is difficult to envisage circumstances in which the holding of such a referendum and the framing of the question to be put would be more appropriately initiated under secondary legislation than by the Scottish Parliament considering and debating a Bill.”

Dr Alan Renwick of University College London, who has already been quoted, said:

“A power to call a referendum on any subject by regulations would be highly unusual. In fact, I have found no well-functioning parliamentary democracy that gives Ministers blanket authority to call a referendum by secondary legislation.”

I did some research on that and I can find no examples anywhere—not just in well-functioning parliamentary democracies. It would be a world first, and not one to be proud of.

Stewart Stevenson: Will the member give way?

Graham Simpson: No.

I do not speak for the DPLR Committee in this debate, but when we had Mr Russell before the committee, I opened the questioning. He and I danced around the subject of what a referendum might be used for. I suggested, perhaps rather cheekily, that there might be a vote on bin collections—which is not such a bad idea, given the state of the service in some parts of the country. The cabinet secretary was, to be fair, less combative than usual, and when we discussed where primary legislation might be appropriate, he proffered moral issues such as end-of-life questions.

However, we all know that this bill is not about bin collections or moral questions. It is about one thing and one thing only: independence. To suggest that the details of another vote on Scotland’s constitutional future, which we decided on in 2014, should be rammed through Parliament by subordinate legislation is an outrage.

The stage 1 report notes that the DPLR Committee said that

“there may be times where using delegated powers is appropriate but that different referendums may require a

different level of parliamentary scrutiny—either primary or secondary legislation.”

The committee concluded that a question that is put in a referendum that requires an order to be made under the delegated power in section 30 of the Scotland Act 1998, as well as questions about significant moral issues, should require primary legislation, and the Finance and Constitution Committee agreed with that.

We now come to the issue of who sets a question. Again, let us be honest: this is about independence. Section 3(7) excludes consideration of a question by the Electoral Commission when it has previously published a report on that question or has previously recommended the wording of the question.

The cabinet secretary was rather bullish—to put it politely—about that in committee. Somewhat bizarrely, he claimed that because we had asked one question in 2014, the same question should be set in stone, because, he said,

“it is a current question”.

He went on to say:

“I cannot see why we would suddenly decide, ‘We’d better brush this one down and have it tested again.’ It is still there. It is still being asked. It is current.”—[*Official Report, Delegated Powers and Law Reform Committee*, 10 September 2019; c 24.]

In effect, he wanted to cut out the Electoral Commission, but that antidemocratic ruse was seen through straight away. Mr Russell was rumbled. That led to Mr Crawford’s committee saying that the evidence was in favour of the Electoral Commission testing a previously used referendum question and that Mr Russell should come to an agreement with the commission prior to stage 2. I am pleased to hear that Mr Russell has reined back on his rhetoric.

In an intervention on Mr Rumbles, I said that the bill is being rushed through. That is my view. The Government wants to push it through before the end of the year. It is a serious bill, to which there might be a number of amendments. In my view, there simply is not time for that. If we are to put through such legislation, it needs to be done properly and not rushed.

15:57

John Mason (Glasgow Shettleston) (SNP): I am grateful for the opportunity to take part in the debate.

I joined the Finance and Constitution Committee after the summer, shortly after it had commenced its work on the bill. Although it is quite a technical piece of legislation, it has created a lot of interest, and it deals with many factors in addition to the wording of any question.

I think that there is widespread agreement that there should be such framework legislation so that we do not need to keep reinventing the wheel every time we have a referendum. In the past, I have felt that we should move towards having more referenda on more topics, as happens in countries such as Switzerland and the United States.

We have tended to have referenda on major constitutional questions—for example, the first time that I voted was in 1975, in the European Communities referendum—but some people have believed that we should also have referenda on major moral questions, as has happened on abortion in Ireland. Potentially, we could also use them for local issues, as I think happened for the 1996 decision on Rutherglen leaving Glasgow.

However, I have to say that the 2016 referendum has made me a little more wary of this form of decision making. If a Government gets a big majority of the kind that was obtained in 1975 and 1997, I believe that a referendum can give public endorsement to politicians' proposals, but a close or disputed referendum, such as those in 1979, 2014 and 2016, clearly does not lead to widespread acceptance and might just lead to demands for a further opportunity to vote.

Patrick Harvie: I point out that in 1997 there was also a referendum in Wales, which led to an extremely close, knife-edge result. It is the form of leadership by those on the winning side that creates a sense of being able to move on beyond a knife-edge result. That should involve reaching out and attempting to implement the result in a way that brings people together, which is where there has been a failure in relation to the 2016 referendum. There has been a sense of winner takes all.

John Mason: That is a good point, because Wales has built on what was a very close result in 1997. As someone who spent their summer holiday in Wales this summer, I think that there is a lot of agreement on the fact that Welsh devolution is supported.

Neil Findlay: Will the member take an intervention?

John Mason: Not at the moment. I want to make progress.

The issue that I mentioned raises the question of who makes decisions for a country. Should it be Parliament, as representatives of the people, or the people themselves by way of a referendum? In England, the tradition is sovereignty of the crown or Parliament, whereas in Scotland we would emphasise the sovereignty of the people.

It seems that if we are to have the people making such decisions—I agree that we should

aim for that—we also have a responsibility to ensure that the public is well informed. That happened to a large extent in 2014, when the Scottish public was well informed about independence, and, almost as a by-product, about the European Union. I believe that that was one reason for the different results in 2016: the Scottish public was already well informed about the European Union, whereas it seems that in many parts of the rest of the UK, the public was not so well informed.

I move on to some of the specifics of the bill. The question whether primary or secondary legislation is required must be answered each time. Paragraph 30 of the committee report was a bit of a compromise, and I think that we would agree that, in a sense, it was a bit clumsy. Nonetheless, the result is that the committee recommends that primary legislation is always required for constitutional issues and usually required for other issues.

On political literacy, paragraphs 90 to 94 focus on young people. The suggestion seemed to be that school pupils who do modern studies generally have a good understanding of the issues, but that many other young people do not. I take the point that Jenny Gilruth made in her speech. I guess that the same might be said of the wider population, in that, clearly, some people have a better understanding of issues than others.

A linked theme appears in paragraphs 169 to 172, where we consider whether there should be public funding for either side of a campaign. I understand that such a provision has been used in Ireland, where a change to the constitution required a referendum, but there was little public interest, so the campaigns needed a funding boost. However, both the committee and I felt that that had not been the experience in Scotland, where referenda have generally been contentious and created a lot of interest. The risk is that public funding might well lead to increased public suspicion of the process.

Which expenditure needs to be reported, and the fact that staffing costs can be omitted, has always struck me as odd. One organisation that I was involved in for the 2014 campaign spent a large part of its budget on staffing, but that did not have to be reported anywhere. Another area that is not reported is that of donations and assets before an organisation is registered, which, again, strikes me as odd. Paragraphs 151 to 154 ask the Government to consider that.

Paragraphs 73 to 80 consider whether a referendum threshold should be a simple majority, a supermajority or a required percentage of the electorate or of turnout. International evidence is against requirements other than a simple majority, as they are often open to misuse and can

encourage people not to vote at all. I support the committee view that we should stick to a simple majority. Having said that, our experience of 2014 and 2016 tells us that winning by 52:48 or 55:45 comes with challenges. We may need to win by at least 60:40, and possibly by 70:30, in any referendum, if the decision is to be widely accepted. For example, in 1997, the decision to have this Parliament was won by 74:26. My personal feeling is that, if possible, it is better to wait a bit longer before holding a referendum, so that we are more likely to get a strong endorsement one way or the other.

Finally, on the issue of the actual question, the committee came up with wording that asks the Scottish Government and the Electoral Commission to come to an agreement, presumably with a bit of compromise on both sides. That is not how it was portrayed in much of the media, but that is why it was a unanimous report. We did not say that it should or should not be tested again; we just called for an agreement. I welcome the Electoral Commission's latest briefing, which says that it would welcome any constructive discussions. Personally, I do not care too much exactly what the wording of the question is.

The Deputy Presiding Officer (Linda Fabiani): You must come to a close, please.

John Mason: Nor do I care too much about the timing. I just want us to win the next independence referendum, I want us to win it well, and I want Scotland to be free again.

16:03

Neil Bibby (West Scotland) (Lab): The Finance and Constitution Committee has produced a balanced and fair analysis of the bill and issued a set of reasonable recommendations. It is now for the Parliament to decide whether the bill is desirable.

I agree with Bruce Crawford that we should aim for consensus in our politics. However, as we have seen over the past few years, presenting a binary choice as the solution to complex problems can cause real difficulty in a modern parliamentary democracy. It can feed a political reductionism that polarises and drives people apart, instead of establishing consensus around a solution.

I have no hesitation in saying that I support a final say referendum on the issue of Brexit. However, I only support a confirmatory EU referendum because it is a vehicle to confront the problems created by the last one.

A referendum is a relatively rare part of the democratic process, especially in this country. Referendums have a role, but as I have said, we

must learn the lessons of recent times and consider the fractious politics that referendums have created. Enhancing and reinvigorating the political process in a parliamentary democracy and giving people a real say over their future is about so much more than a single event. It can be about electoral reform of the House of Commons and replacing the unelected House of Lords to make our representative democracy more representative, or an end to the creeping centralisation that undermines and marginalises local government.

As others have said, committee witnesses recognised that there is a place for a generic framework governing referendums. However, in key areas—particularly question testing—the committee found no support for the Government whatsoever. The testing of referendum questions by the independent Electoral Commission should be automatic in every case as a matter of principle. If that does not happen, it will undermine public confidence and the legitimacy of any potential referendum process. The Electoral Commission provides objectivity and impartiality. It should be the safeguard that gives the public reassurance that elections and referendums are fair and properly conducted and that the results can be trusted.

Professor Fisher, Professor Chris Carman, Dr Renwick, Dr Andrew Mycock and Dr Toby James all supported the testing of any question. The cabinet secretary argued that because the Electoral Commission once approved the wording of a particular question in a particular referendum, the same question should be used for evermore, and that the Electoral Commission's testing is somehow irrelevant in that case. I am pleased that the cabinet secretary is moving away from that position today.

Dr Alan Renwick said that lack of testing would be “a retrograde step”. Dr Andrew Mycock said that testing is

“appropriate for every referendum—if it is repeating an issue or if the material circumstances have changed—to go through that process”.—[*Official Report, Finance and Constitution Committee*, 11 September 2019; c 30.]

The Scottish Government tells us that it supports a second independence referendum now precisely because material circumstances have changed. The Government cannot have it both ways.

The Scottish Government tells us that the bill is about any referendum that the Parliament wants to put to the people. Let us not kid ourselves. There is only one referendum that the SNP wants us to agree to and it is the second independence referendum, which the bill in its current form does not cover and cannot cover without a section 30 agreement. In the same way that David Cameron

called a Brexit referendum to deal with divisions in the Tory party, Nicola Sturgeon is using the bill to keep the nationalist grass roots happy.

For the record, I do not support a second independence referendum. The Labour Party voted against a second independence referendum in the Parliament and, as Richard Leonard has made clear, we will do so again, if necessary. However, whether the bill is about independence or not, it is flawed.

Throughout the committee scrutiny, witnesses raised concerns about how any future referendum would be scrutinised. The use of regulations would minimise public participation and weaken the ability of the Parliament to interrogate issues and hold ministers to account. In his evidence, Dr Renwick said:

“A decision to hold a referendum is a major decision, so it should be subject to the greatest level of scrutiny in the representative system.”—[*Official Report, Finance and Constitution Committee*, 4 September 2019; c 11.]

Using regulations instead of primary legislation, as proposed, weakens scrutiny. The committee heard from no one outside the Scottish Government who was prepared to justify that use of regulations. The nearest that anyone came to offering support was the Law Society of Scotland, which said that scrutiny should

“take the form of an act or, at the very least, a Scottish statutory instrument that is subject to the super-affirmative procedure, but that would be a very sub-optimal position.”—[*Official Report, Finance and Constitution Committee*, 4 September 2019; c 32.]

When it comes to a referendum, I believe that primary legislation should be used in all cases.

There are other areas that need to be addressed, such as imprints on digital campaign material, the Electoral Commission’s powers to obtain information and better reporting of campaign spending and assets. Patrick Harvie made a number of good points on that.

As Alex Rowley said, the people of Scotland and the people of the UK have not been well served by years of constant constitutional wrangling. They are fed up with it. They are tired of the UK Parliament being consumed with debates about nothing but Brexit. They are tired of the Scottish Parliament’s—and specifically the SNP Government’s—obsession with independence.

Today is a perfect example of why we should be debating other issues. As Neil Findlay said, the bill does nothing to improve people’s lives. Education standards are falling, the national health service faces a workforce crisis and local services are suffering from chronic underfunding. It is time for the Government to get back to what really matters.

Brexit is a big mistake. It is a warning about the profound challenges, costs and complexities of breaking up institutions that are so fundamental to how we are governed. Scotland should avoid making the same mistake by leaving the UK. Independence is not an alternative to Brexit—it is an equivalent and one that would be even worse for the Scottish economy.

The concept of a generic framework for referendums may be sound, but what this is really about is one referendum and one referendum only. There are fundamental flaws in the bill. We will not support another independence referendum, we will not support a rigged process and we do not believe that the Referendums (Scotland) Bill should proceed.

16:09

Colin Beattie (Midlothian North and Musselburgh) (SNP): I am pleased to have the opportunity to speak in this debate on the Referendums (Scotland) Bill. First, I emphasise that the bill is not focused simply on holding another independence referendum, although I am well aware that some members may focus solely on that aspect. The bill would allow for a strong framework for future referendums of any nature in Scotland. While it would provide us with the power to allow referendums to be held, it would also give us a chance to format rules, questions and legislation that are strong and well intentioned and which would hold our Parliament to account.

We have an opportunity to put in place a robust structure that would provide the people of Scotland with a high standard for future referenda. We could avoid the catastrophic shambles of having a distorted and divisive referendum of a similar nature to the Brexit referendum, which has done little except to leave voters disengaged and disillusioned by the misinformation that was fed to them as a means to an end. The provisions in the bill for campaign rules, which are particularly prominent, would ensure that campaigns were both fair and transparent. We do not want any more campaigns in which incorrect information about the NHS is plastered on the side of buses by self-seeking politicians.

Neil Findlay: The member is absolutely right about mistruths being told about the NHS. Does he remember what was said in the independence referendum? It was said that if we did not vote yes, Scotland’s NHS would be privatised.

Colin Beattie: To be honest, that has no relevance to what I am talking about in relation to the bill.

We need to re-engage the public with truthful, honest and fair politics, and enacting a bill that ensures that we will have comprehensive

processes and open debate is a positive first step in making politics once more accessible and open.

The Brexit advisory referendum—yes, it was only advisory—clearly sets a precedent that we need to consider seriously when we set our own framework for referenda. Serious consideration has to be given to how an advisory referendum became the “settled will” of the people of all of the United Kingdom. In fact, of course, it did not reflect the views or wishes of the people of Scotland, and that has created a new impetus for the need to hold within the Scottish Parliament the appropriate powers for any future referenda.

The residents of Scotland have a fundamentally different opinion on Brexit, but they are being forced to submit to an alternative reality, although it is against their values and democratically expressed wishes. All that has come about as a result of an advisory referendum, not a legally binding one. Surely the fact that the clear majority view of the Scottish people can so easily be disregarded is a cause for grave concern. Throughout the entire Brexit process, Scotland has been treated with contempt by Westminster. We voted overwhelmingly to stay in the EU, and we have been ignored. Not only that, but our Parliament has been prevented from protecting the interests of the Scottish people. We must not disempower our people by denying them the ability to make their own decisions on such life-changing matters; that is why it is so important that we support the bill.

As we are all aware, the franchise was extended to include 16 and 17-year-olds for the independence referendum in 2014, and then for all following Scottish elections. The fact that those young people were denied a vote in the EU referendum in 2016 has left their voices unheard and has denied them access to democracy. In Scotland, various studies have concluded that 16 and 17-year-olds are perfectly capable of engagement and making informed decisions. Through the referendum bill, they would have a guarantee that they will not be excluded from the decision making that is vital to their futures, as they were in 2016.

Similarly, we need to secure the right for EU citizens to have the ability to exercise their democratic right. During the 2016 EU referendum, many of their experiences were very unsatisfactory. We need to ensure that their rights are protected and we need to make them feel welcome. We need to have provisions in place to guarantee that the mess that took place in 2016 is not replicated, and I do not think that we can trust Westminster to protect the rights of EU citizens.

A hallmark of the Scottish Parliament is that the structure of this establishment promotes and encourages cross-party collaboration. Rather than

having a Parliament that is divided and paralysed by our differences in opinion, we can generally find areas on which we can agree or find common ground. It is difficult to deny that we are operating with fundamentally different values from those that Westminster is exhibiting. The bill will give us the power to draw on our abilities to work together across parties, to scrutinise, debate and approve rules and procedures for future Scottish referenda.

When we already know that the Scottish people emphatically do not want Brexit, we cannot simply wait to see what fate the UK Government decides to impose on us. We are all aware that, even in a best-case scenario, the people of this nation will be worse off. Morally, we have a duty to our people to ensure that we have some influence over that outcome, even if the Westminster regime seeks to thwart that democratic duty. As a result, there is just cause for Scotland to have the power to ensure that our country has a say over huge constitutional and economic changes, such as Brexit, and that Scotland’s views are heard and respected, especially when people overwhelmingly tell us that they do not want something. We have an opportunity to ensure that the people of Scotland are presented with referenda that are built on a proper framework, which is well considered, carefully constructed and has legal standing.

This debate is not about whether members want a second referendum on independence or Brexit. It is about whether they believe that the people of Scotland deserve the right to something better than the desperate aftermath of Brexit, which will be brought about as a result of deceit and flimsy legislative chicanery. It is about whether members believe that the people have the right for their decision to be respected. It has been a long time since the UK comprehensively reviewed the framework governing referenda. It is more than reasonable for our Parliament to seek higher standards on such an important issue. The bill has been welcomed by the Electoral Commission, the Electoral Management Board, the Faculty of Advocates and the Institute for Government. It is common sense that all of us in this Parliament should welcome it, too. The people of Scotland, whom we serve, deserve no less.

16:16

Donald Cameron (Highlands and Islands) (Con): Usually, I welcome the opportunity to speak in this chamber, especially on legislation and matters that will have a meaningful impact on the lives of the people whom we serve, as Colin Beattie said. Unfortunately, I cannot do that today, because the bill does not address those concerns. Yet again, as I have done so often in this chamber since 2016, I find myself talking about the

constitution. These issues are not unimportant, but when it comes to the Parliament's priorities we do a huge disservice to the people whom we represent by debating bills such as this at the current time.

Neil Findlay was right. How many of us have had constituents who have come to surgeries, or people with casework, who have demanded a referendum bill forthwith? Precious few, if any. We should, of course, be debating health, justice or the environment. Yesterday, we heard how few debates there have been on education in Government time. When the First Minister states, in this chamber and in her recent party conference speech, that her top priorities are the education system and the NHS, but we spend valuable parliamentary time talking—yet again—about the constitution, how can we believe her?

Michael Russell: I respect Donald Cameron's point of view, but I disagree with it. If what he says is true, how much truer would it be for an entire election campaign to be predicated on the Prime Minister's "get Brexit done" slogan, and, because of Brexit, for no significant legislation to be passed in the previous three years at Westminster? If he believes that debating this bill is a problem, does he not see that the Brexit situation is also a major problem and that it is a Tory problem?

Donald Cameron: Coming from a Government that spent the first 18 months of this parliamentary session debating Brexit, that is a bit rich.

In principle, a bill covering referendum legislation might be appropriate. However, it is clear to us on the Conservative benches that this bill is simply a vehicle for the Government to hold a second independence referendum and, for its own purposes, to frame it in the most favourable means possible. Even Mr Russell admitted that to the Finance and Constitution Committee, when he said:

"We have never hidden the fact that I see this bill being used by the Parliament and the Government to create the referendum for independence."—[*Official Report, Finance and Constitution Committee*, 25 September 2019; c 4.]

However, putting that fact to one side, it is clear from today's debate that, if the bill is to pass, many issues will need to be addressed at stage 2.

We see the bill for what it is and we will not vote for it today. However, if it passes stage 1, we will work where we can to make sure that the bill puts power in the hands of Parliament and not ministers.

The Law Society of Scotland said that

"we were concerned that the Bill will have the effect of reducing the time for Parliamentary or public scrutiny of a future proposal for a referendum"

and that

"as currently drafted there is no requirement for Parliamentary or public consultation and draft regulations would not be amendable or be subject to the level of scrutiny and accountability which should be applied to important or constitutional questions."

That is an understated but breathtaking criticism of the bill from a respected organisation, which further reinforces the impression that the Government is attempting to bypass Parliament.

I looked in vain for a provision in the bill that states that the Government will respect the result of referendums. There was no sign of that in the bill. I wonder why? The ultimate irony is that the Government is putting through legislation on referendums, when it has ignored the results of two referendums held in this country in the past five years.

There are other concerns with the bill, about which I will go into detail; they have also been touched on by other members. I commend the Finance and Constitution Committee and its convener, Bruce Crawford, for the committee report and for his typically measured speech. As members have noted, the bill is faulty. The Institute for Government said that, as it stands, the bill would

"undermine the legitimacy of any referendum."

That is a damning indictment. Specifically, the institute noted that the lack of a requirement for the Electoral Commission to test a previously used referendum question is one of many reasons why the bill could have that effect. The bill diverges from precedent on that, because in every UK referendum since the creation of the Electoral Commission, it has tested the proposed question to ensure that it is comprehensible to voters and will not bias the outcome.

The Finance and Constitution Committee report states that

"the International Institute for Democracy and Electoral Assistance use the Electoral Commission's process for question testing as an example of good practice"

and that

"the Independent Commission on Referendums, through the role of the Electoral Commission, has one of the most rigorous processes for assessing referendum questions."

My question to the cabinet secretary, in all sincerity, is this: what is he so fearful of? The Electoral Commission is an independent organisation that will test the question. It gives me and my Conservative colleagues significant cause for concern over why that provision exists in the bill in the first place. We feel that the bill must be rectified to ensure that there is no partisan bias in setting such a question.

Like others, I am also concerned about the extensive powers that the bill affords to ministers

and its attempt to reduce Parliament's role in scrutinising future referenda. The point has been made forcibly by others, but the question of primary legislation is incredibly important. The bill states that actions to set referendums should be carried out by secondary legislation. The Finance and Constitution Committee report quotes the cabinet secretary attempting to justify that by arguing that

"we should not see all referenda as the same".

How can that be accepted? I do not accept it and nor, it appears, did the Finance and Constitution Committee, which states that, in terms of constitutional issues, referendums must require primary legislation and that all other referendums will ordinarily require primary legislation.

It is clear to Conservative members that the bill is simply an attempt by the Government to initiate a referendum on independence. It is a clear attempt to ram that through with no oversight or scrutiny and to give ministers the means to mould the question in the way that best suits their desired outcome. We will play no part in that today and I urge others to do likewise.

16:23

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I will pick up on what were almost the last words that we heard from Donald Cameron about there being no oversight or scrutiny of secondary legislation. That is unmitigated tosh, if such a word is allowed to be used in the chamber. That can be illustrated by the current activities of the Environment, Climate Change and Land Reform Committee in looking at the deposit return scheme, which is being introduced by secondary legislation. The committee and Parliament have decided that there will be an extended period of consideration and the committee will produce a report. There will therefore be evidence. That is exactly the process that we would have in scrutiny terms—

Mike Rumbles: What tosh!

Stewart Stevenson: I say to Mr Rumbles that that is exactly the process that we would have for scrutiny of primary legislation.

Adam Tomkins: Will the member take an intervention?

Stewart Stevenson: Adam Tomkins refused me three times. I ask him to please sit down.

I readily acknowledge that there is a difference between primary and secondary legislation in terms of accepting and rejecting it, but that is a decision-making difference, not a scrutiny difference. Members should take account of that. In that regard, I was very surprised by Adam

Tomkins's opening remarks when he said that Parliament could not debate secondary legislation. Someone of his experience and educational background should know better. Of course, I have been involved in politics a lot longer than him. In fact, I participated in three parliamentary elections before he was born.

I will now draw on some of that experience to consider the detail of what is before us, as this debate is about the detail of the bill.

On the functions of chief counting officer and other counting officers under section 9(4), I suggest to Mr Russell and the Government that it would be useful if we also gave the number of ballot papers that were issued. That is something that political parties know, but the public do not. We might have a wee think about that.

Turning to section 10(3)(d), which identifies

"a person providing goods or services to the counting officer,"

I think that we might also consider whether we should include a person providing services to someone who wishes to vote. If public transport failure means that someone cannot get to the polling station, that would be of a similar character. We should look at those provisions.

Section 13, on campaign rules, is about

"the conduct of campaigning"

and

"restricting the publication of certain material".

We need to be careful to consider what rules might apply to those who are not directly involved in a referendum but who might be seeking to influence its outcome. I am thinking about newspapers and newspaper articles.

Section 16 is about the destruction, concealment or alteration of documents. I relate that to paragraph 38(1) of schedule 2, under which the ballot papers must be retained for a year. However, there is no such provision in relation to the materials that a campaigner might have, saying how long those materials should be retained for. One of the problems with previous referendums has been that the campaigns fold up and disappear quite rapidly after the result is declared. There is a case for saying that the materials that they produce should be retained for a specified time. I will not say how long but, if it is a year for the ballot papers, that gives us an insight.

On section 20, on the attendance of the Electoral Commission at proceedings, and sections 21 and 22, there is no direct provision for the attendance of international observers at referendums. We would generally accept that that is part of good practice. I am not saying that the

bill as introduced prohibits that from being provided for; there are ways in which that can be done, at section 20(4)(c), which specifies

“a person appointed by the Electoral Commission for the purposes of this section.”

However, that kind of conflicts with paragraph 15(2) of schedule 2, under which the presiding officers also have power—and they are the people in the polling stations. Indeed, I turn now to some of the powers that they have under the bill—some of which are slightly odd. The presiding officers may decide who is admitted to a polling station, without restriction. That seems a very broad thing, and different decisions could be made in different polling stations. That is unhelpful for the integrity of any vote, whether on a referendum or on another subject.

On the casting of votes, proposed legislation of this kind might sensibly at least make provision for the future bringing forward, by secondary legislation—being a subject that we could debate—of electronic voting as an additional means of voting. The bill as introduced is silent on that.

According to schedule 2:

“The hours of polling are between 7am and 10pm.”

I think that, for major events such as these, it is time to think about whether polling should take place over three days—a Thursday, Friday and Saturday. If we make big decisions, they should be made by the maximum number of people.

There is also an issue about ballot boxes. We should ensure that a minimum number of votes should go in a ballot box. I know of a ballot box that gets only four votes in it so, when it is tipped out, the secrecy of the ballot is compromised.

I will now conclude—as you are indicating that I should, Presiding Officer—by saying that there have been local authority referendums before, of which Strathclyde water and Edinburgh road charging are examples. Those are referenda—oh dear; I mean referendums—that would have benefited from a structure such as that proposed in the bill, as indeed would the 1934-35 peace referendum, which was on whether the UK should stay in the League of Nations. Even I was not around then, although some might suggest so.

Finally, I counsel my colleagues that “referenda” is not the plural of “referendum”, which is a fourth-declension noun. “Referenda” means something altogether different, and is a plural gerundive.

The Deputy Presiding Officer: Every day is a learning day.

We move to the last contributor in the open debate, who is Gil Paterson.

16:30

Gil Paterson (Clydebank and Milngavie) (SNP): I am pleased to speak in the debate despite the fact that I am not a member of the Finance and Constitution Committee.

It is very timely that we are now debating the principles of the Referendums (Scotland) Bill, which was introduced recently. When I talk to ordinary people, it is quite clear to me that their trust in the concept of the referendum has been somewhat shaken by the Brexit controversy. I am not here to knock Brexit, which members might be in favour of or against; I want to talk about the referendum process and how that might have happened a bit differently.

Although I fear that referendums themselves have now been discredited, the EU referendum process could have been somewhat different. The fact that a non-binding question was utilised, which then became binding, led to the first breach of people’s confidence. There should not have been one question. If it was intended that matters such as whether to remain in the customs union or the single market were to be decided by vote, I feel that there should have been at least three questions for people to consider. In my view, if those had been put in place in the first instance, a wholly different picture would have emerged compared with what has happened at Westminster in the more than three years that it has taken for us to arrive at the bad place in which we now find ourselves. I also believe that the Brexit process would have been finished by this time, because the rancour and argument have not been based on whether we should leave—I think that people understood that question and made their decision—but came into play in the time after that. That has upset me.

I have looked at referendums that have been held in other places. As John Mason indicated, the referendum is a major tool in many European democracies, such as Ireland. It is used in a very positive manner to consult on a range of issues and to engage with the public—and the public do engage. At the same time, such countries give the public ownership of very difficult issues. If the political classes like us give ownership when we make important decisions, we can implement those decisions much better. That is a much more tried and trusted way to go about business and it provides one of the biggest benefits of the referendum process.

The bill illustrates another benefit—long-term planning—which we in this country do not do very well. For instance, all the parties that are represented in the Parliament agree that the national health service is very special, but we fight over it like cat and dog almost daily. We attack it, score points and talk about waiting times and

ambulance shortages. I put my hand up to having done that in the past. The Opposition does it at the moment. If my party were in Opposition, guess what—we would be doing the same thing.

However, another way to deal with such matters would be to use a bill such as the one that we are debating. We could all come together over an issue such as the health service and come up with a 10-year plan to which we would all sign up. We could put that plan to the people, and ask the basic question first, which I am sure that everybody would agree with, such as, “Do you agree with a publicly funded national health service?” That would be point one. Under point two we might go on to ask, “Do you agree to pay a penny in the pound in tax, if we give a guarantee that we will spend every penny of that on the national health service?”

Therefore, it would not be a one-question approach but maybe a two or three-question approach—if we first agreed to sign up to a 10-year plan. That is what happens in most European countries; the political classes get together and fundamentally agree on something that should happen, although difficult issues might arise.

The bill is a way to implement such an approach and for us to look at doing things somewhat differently in the future. It provides a way for us to get together and take ownership of something such as the health service—which is so precious to us all and to the public—talk to the people, come up with a resolution and work to the 10-year plan. That way we would take the matter right out of politics. The health service should not be a political football that we kick all the time, because that is to the detriment of the service and the people in it.

I understand that my colleagues in the Conservative Party and elsewhere are looking at the independence referendum. I am looking well beyond that and at where we can make good use of a proper process within the bill in order to make change for the better.

The Deputy Presiding Officer: We move to the closing speeches.

16:36

Alex Rowley: In closing for Labour, I would like to reiterate why we will vote against the bill. Our reasons are twofold. First, the bill is not fit for purpose. As members across the chamber have pointed out, evidence to the committee was highly critical of a number of provisions in the bill, namely the granting of ministerial powers to hold referendums by secondary legislation, and testing of questions by the Electoral Commission. I almost used the word “referenda”, but I stand corrected by my colleague Stewart Stevenson.

Given how fundamental those flaws are, they alone would be enough for us not to support the bill, but on top of that, the entire bill has been phrased in the context of an independence referendum.

I note that when Donald Cameron talked about the First Minister’s priorities being education and health, the cabinet secretary intervened and said that three years have gone by that at Westminster have been completely wasted because the UK Government has not been able to focus on the big issues. The cabinet secretary attacked the Tories for that—rightly so—but that point, which he made, is the very point that many members are making today. Where is the demand in Scotland right now to create a referendum bill that will give us more referendums and more of the same type of problems?

A fair point that Neil Findlay tried to get across was that in parts of his constituency where there are no general practices and public services are in decline, the issue is not “Let’s have a referendum bill.” It is “Let’s fix our health service, and let’s address why our education service is going backwards and children are being denied the opportunities they should have in education.”

I also want to pick up on the point that Alexander Burnett made about a pretence that the legislation is not about independence. As I said earlier, in fairness, the SNP has been very up-front and clear; the introduction of the bill is to pave the way for an independence referendum, not at some time in the distant future, but next year.

The reality is that even the people who say that they would support independence if there was a referendum are not demanding that we have a referendum right in the middle of the absolute chaos that we are in as a result of a failed Tory—

Michael Russell: I do not think that Alex Rowley understands the central point. In order to escape from Brexit, Scotland has to be able to choose its own constitutional future. That is the key. We cannot just sit and wait for it to be done for us. That might be good enough for Labour, but it is not good enough for Scotland.

Alex Rowley: Michael Russell says that an independence referendum is a way out of Brexit, but it is not. It would create more and greater chaos. Would we be in Europe or out of Europe? Would there be a hard border between Scotland and England, or not? Would we lose the biggest trading partner that we have in a free market, in the United Kingdom? It would be a recipe for even more chaos, which is why Labour cannot possibly support the bill.

I urge the SNP to take the bill back and think again. It is not in Scotland’s interests. Ultimately, it is about one referendum—Nicola Sturgeon has

made it clear that it is being put in place to pave the way for an independence referendum in this session of Parliament.

Richard Lyle (Uddingston and Bellshill) (SNP): Hear, hear!

Alex Rowley: Richard Lyle says, “Hear, hear!” but what would the proposition be? Would we have independence in Europe, with the countries of the European Union telling us what the rules will be and whether we will have a hard border with England? If so, it would not be £12 million of trade that would be at risk, but £50 million. That is the reality of the bill and that is why the SNP must think again, reject the bill and take it back. Let us start fighting for the issues that will change the lives of people in Scotland.

The Deputy Presiding Officer: The chamber has very quickly gone silent.

16:42

Murdo Fraser (Mid Scotland and Fife) (Con): The first question to ask is what exactly the debate is about. We have heard lots of different interpretations from around the chamber. We cannot, until we answer that question, really take a view on the bill that we will be asked to vote on in a few moments.

The bill sets out the framework for holding future referendums. At the start of the debate, Adam Tomkins set out why we are right to be cynical about what exactly it seeks to achieve. Unlike in other jurisdictions, such as Switzerland, there is no particular tradition of holding referendums in this country, although I thought that Gil Paterson made a very decent case for why we should perhaps rethink that approach. In our tradition, we have tended to hold referendums when major constitutional questions have had to be put, such as on devolution in 1979, Scottish independence in 2014, or membership of the EU in 2016.

When the bill team came to the Finance and Constitution Committee and they were asked whether they had in mind any topics to put to a referendum, other than the question of Scottish independence, they were unable to come up with any suggestions.

Mike Rumbles: Does Murdo Fraser agree that the bill is clearly a partisan bill because, at decision time tonight, only members from the two nationalist parties will be voting for it?

Murdo Fraser: I think that my friend Mike Rumbles might well be right. We will see the two nationalist parties in the chamber combining, because they know what the bill is really about. It is all about independence.

As Adam Tomkins reminded us, Michael Russell told the committee:

“We have never hidden the fact that I see this bill being used by the Parliament and the Government to create the referendum for independence.”—[*Official Report, Finance and Constitution Committee*, 25 September; c 4.]

That has been clear in the debate. We have heard from people on different sides—Angela Constance and Alex Rowley, for example—arguing the substance of the cases for and against independence. Having that basic knowledge of what we are actually taking about with regard to the bill has to influence our approach to the legislation.

Beyond that, there are serious flaws in what is proposed. We are being asked to vote on what is simply bad law. The bill is flawed in two key areas. The first relates to the power that would be given to Scottish ministers to call referendums by means of secondary legislation, which is an approach that was slammed by witnesses. In its submission, the Institute for Government said that the bill would “undermine the legitimacy” of any referendum and that

“it is imperative that the Scottish government avoid the perception that it is seeking to avoid full scrutiny of any ... referendum proposal by intention, or as a consequence of a desire to fast-track the process.”

That view was echoed by Alan Renwick, whose views have already been quoted in the debate. He said:

“I have found no well-functioning parliamentary democracy that gives Ministers blanket authority to call a referendum by secondary legislation.”

The Faculty of Advocates and the Law Society of Scotland took similar views.

Graham Simpson, who is the convener of the Parliament’s Delegated Powers and Law Reform Committee, reminded us that his committee said that constitutional referendums should require primary legislation. That view was echoed by the Finance and Constitution Committee.

I was pleased to hear the cabinet secretary accept that a constitutional referendum would, indeed, need primary legislation. In his words, “a short bill” would be needed, but I hope that, should we ever get to that stage, there would not be an attempt to avoid detailed parliamentary scrutiny, because it sounds to me that the use of the words “a short bill” means that that would happen.

The second area in which the bill was found wanting relates to the testing of the referendum question. The Finance and Constitution Committee heard a great deal of evidence on that. The Electoral Commission was very clear in its view that it would need to test properly any question that was to be asked, even if it had been asked previously. That is because, in its view,

“contexts can change”. The Scottish ministers’ ambition that a question that has been asked previously should not be retested is simply not supported by the evidence.

That is important in the context of a potential future independence referendum. In the light of experience, we now know that, in any referendum in which a yes or no question is asked, those on the yes side have an inbuilt advantage from day 1, because “yes” is a positive and affirming word, and it is easier to get people to agree to a proposition than to disagree with one. It is precisely for that reason that the 2016 referendum did not ask a yes or no question. Instead, the question was framed around “leave” or “remain”. Views on the issue have changed since 2014, and it is for that reason that the role of the Electoral Commission in determining any question that is asked is vital.

Bruce Crawford: I am speaking as the convener of the Finance and Constitution Committee, so I will make this a question about fact. Does Murdo Fraser think that the Electoral Commission got it wrong for the 2014 referendum?

Murdo Fraser: Time has moved on. We are five years on from 2014, and we have more experience of referendums and the testing of questions. In 2016, the Electoral Commission did not agree to a yes or no question.

The bill is an attempt by the SNP Government to gerrymander any future independence referendum and to rig its terms so that it is as favourable to the SNP’s cause as possible. That is simply not acceptable. It should not be acceptable to Parliament, and it is not acceptable to anyone who takes an objective view on how referendums should be run.

I will deal briefly with one other matter—the question of thresholds. I listened with great interest to John Mason’s case for referendum thresholds being higher than 50 per cent plus one, which has been the historical trend. I have often heard the case being made that it is bizarre that, when people want to change the constitution of a voluntary society or a golf club, a two-thirds majority is required, but we can change a country’s constitution simply on a majority of 50 per cent plus one. I can see the attractions of that argument, but there is no precedent for a threshold of more than 50 per cent plus one being used. I do not think that we should rule out creating a different threshold, but that might simply create more problems than it solves.

Stewart Stevenson: Will the member take an intervention?

The Deputy Presiding Officer: Mr Fraser is just closing.

Murdo Fraser: Although the bill might appear to be about referendums in general, we know that, in practice, it is about just one issue: independence. Even in that respect, the bill is fundamentally flawed. It seeks to give substantial powers to Scottish ministers to bypass Parliament and to grab power for themselves. In particular, it would give them the power to set the question in any referendum without proper scrutiny. That is unacceptable to the Scottish Conservatives, and should be unacceptable to Parliament.

We do not want another independence referendum and we do not believe that the public want another referendum. However, even if we did want one, the bill is not a suitable vehicle to take a referendum forward. For the reasons that I have given, Parliament should reject it at decision time.

16:50

Michael Russell: What an unusual debate this has been! Let us stand back for a moment and consider what has been taking place this afternoon. Parliament has been debating a Finance and Constitution Committee report, which I have already strongly welcomed, along with the work of the Delegated Powers and Law Reform Committee, which also contributed to it. The report unanimously approved the policy objectives of the bill, but in the debate two of the four parties that are represented on the Finance and Constitution Committee have denounced the bill and said that they can have nothing to do with it. It was, indeed, denounced in ringing terms by the Tory spokesperson who is the deputy convener of that committee.

Moreover, that has happened in circumstances in which I made it clear in my opening statement that I accepted virtually all the recommendations that the committee made, including the most contentious one. I have said that I will do exactly what the committee has asked me to, which is to seek agreement with the Electoral Commission.

What an extraordinary afternoon! What it proves is that the issue is not about the bill—that is absolutely clear. [*Interruption.*] I was about to quote Professor Tomkins on that point, but I think that his laughter does it. Mr Tomkins said that it was not about the bill and he was absolutely correct. It is about the fact that some parties in this Parliament have contempt for the democratic views of the Scottish people and will never allow them to be heard. Let me prove that.

Mike Rumbles: Will the member take an intervention?

Michael Russell: No, I will not; I have a lot to get through and I took an intervention from Mr Rumbles earlier. A lot of good that did me, so I am not bothering again.

Let me prove my point by reference to two Tory speeches this afternoon. Mr Burnett made a speech that was an absolute tear jerker. It was an extraordinary defence of the Electoral Commission, which needed to be protected and respected in everything that it did, although I had indicated in my opening speech that I accepted all its recommendations. While Mr Burnett said that the Electoral Commission had to be protected and respected from even minor disagreement, there was sage nodding of heads on the Tory benches, indicating that that was absolutely correct and that Mr Burnett was, of course, speaking sense on behalf of every Tory—except that that is not true about the Tory party.

The following are the words of Alan Mabbutt. You may ask: who is Alan Mabbutt? He is the director general of the Conservative Party. He gave evidence to the House of Commons Public Administration and Constitutional Affairs Committee in June and—I am paraphrasing from a news report—he said that he did not support strengthening the Electoral Commission. He went on to heavily criticise its performance, he attacked it for handing out unfair fines and he said that it had taken the wrong tone with the parties and given “deficient” advice on electoral law.

Therefore, I am afraid that Mr Burnett’s view is not shared by the Conservative Party. I doubt whether it is even shared by Mr Burnett. It is an excuse to attack the SNP. It was nothing to do with the Electoral Commission. It was crocodile tears from Mr Burnett.

There was an even more dramatic moment with Mr Tomkins earlier. I heard Mr Tomkins telling the chamber in passionate tones that he is a strong defender of democracy—that he is the democrat here and that it is the SNP that is outrageously defeating democracy. At the same time, Libby Brooks, the correspondent for *The Guardian* who was covering Boris Johnson’s visit, was tweeting this:

“Boris Johnson tells reporters in Moray that he will not grant the powers for a second independence ref regardless of whether the SNP wins majority of seats in this election OR wins a pro-independence Holyrood majority in 2021”.

How is that for democracy? It does not matter how the people of Scotland vote; we will just ignore them.

Both things illustrate the truth of the Tory contribution to this debate. It is entirely, completely and utterly bogus, as is the attack on the question of the question. The question in the 2014 referendum is in current use. It has been used in more than 50 opinion polls, and it is clearly supported. In an opinion poll, 77 per cent of people said that they believed that it should be used again. Only 10 per cent take the Burnett and

Tomkins view. That attack is therefore completely bogus.

Let me give the last bit of evidence that proves that. The person who summed up for the Tories tweeted:

“Leave/Remain and a Two-thirds majority required. Bring it on”.

That was his view of the question. That was what he wanted the question to be. I am afraid that the Tory position is threadbare and bogus; it is full of sound and fury and it signifies absolutely nothing at all. The Tories are against the Scottish people having their say, and they will use any excuse to push that issue.

The other speech that I want to mention is Neil Findlay’s. I find it astonishing that Neil Findlay cannot make the clear, direct and inevitable connection between a political system that allows a Tory Government to destroy the interests of Scotland and the poorest people of Scotland and to impose poverty and austerity, and the matter of the constitution. Why cannot he make that connection? If he made it, he would have to accept that the constitutional choice that the Labour Party has made has caused rather than alleviated the poverty of Scotland.

Neil Findlay rose—

Michael Russell: No, I am not taking an intervention from Mr Findlay. I have heard quite enough of him this afternoon. Unlike my view of the Tories, I do not believe that Mr Findlay’s point is bogus, but I believe that he is blinkered.

Let me now deal with one or two of the substantive points on the bill. On the issue of the primary and secondary legislation split, I carefully explained to both committees to which I gave evidence what the bill is. It was constructed in a way that put all the detailed arrangements for a referendum into one bill and ensured that the small number of things that would change in individual referenda would be dealt with in a separate process. That was entirely clear. If the committee does not want to have the process as it is, I am happy to say that we will have primary legislation. I said that at the opening of my speech. If that is really one of the key reasons why Labour could not give its support, it can give its support now. I have made that clear.

Daniel Johnson (Edinburgh Southern) (Lab): Will the cabinet secretary give way?

Michael Russell: No. I am sorry, but I am not taking interventions, as I have a lot to get through. There has been a long debate, and Mr Johnson has not been here for it.

Throughout the whole process, I have been agreeable to change. If Labour was genuine about those changes, it should support the bill.

On section 37, which has been objected to, it has been recommended that electoral legislation be dynamic. That means that we can continue to change as circumstances change. Electoral administrators will tell us that that is required, and we should support that.

I started by saying that this is an unusual debate. This is also an unusual Parliament. That has been shown this afternoon. In a normal national Parliament, we would expect enthusiasm for enabling our voters to have their say. *[Interruption.]* I do not think that any Liberal Democrat should talk about trust. In a normal national Parliament, we would expect keenness to have a debate about how we enhance democracy, and there would be an acceptance that each and every member of that Parliament would vote for a democratic choice on the nation's future. This debate has proved to me yet again that, because this is not yet a normal national Parliament, we should continue with the process of ensuring that we have a normal nation—and that is an independent nation.

I commend the bill.

Referendums (Scotland) Bill: Financial Resolution

16:59

The Presiding Officer (Ken Macintosh): The next item of business is consideration of motion S5M-195399, in the name of Derek Mackay, on a financial resolution for the Referendums (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Referendums (Scotland) Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act.—*[Derek Mackay]*

Decision Time

17:00

The Presiding Officer (Ken Macintosh): There are two questions to be put as a result of today's business.

The first question is, that motion S5M-19743, in the name of Michael Russell, on stage 1 of the Referendums (Scotland) Bill, 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, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 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)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 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)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 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)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)

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)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Bowman, Bill (North East Scotland) (Con)
 Boyack, Sarah (Lothian) (Lab)
 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)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Griffin, Mark (Central Scotland) (Lab)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lamont, Johann (Glasgow) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Mason, Tom (North East Scotland) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 McNeill, Pauline (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)

Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

The Presiding Officer: The result of the division is: For 65, Against 55, Abstentions 0.

Motion agreed to,

That the Parliament agrees to the general principles of the Referendums (Scotland) Bill.

The Presiding Officer: The second question is, that motion S5M-19539, in the name of Derek Mackay, on a financial resolution for the Referendums (Scotland) Bill, 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, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 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)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 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)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 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)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)

McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 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)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Bowman, Bill (North East Scotland) (Con)
 Boyack, Sarah (Lothian) (Lab)
 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)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Griffin, Mark (Central Scotland) (Lab)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lamont, Johann (Glasgow) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Mason, Tom (North East Scotland) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 McNeill, Pauline (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

Smyth, Colin (South Scotland) (Lab)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Stewart, David (Highlands and Islands) (Lab)
Tomkins, Adam (Glasgow) (Con)
Wells, Annie (Glasgow) (Con)
Whittle, Brian (South Scotland) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

The Presiding Officer: The result of the division is: For 65, Against 55, Abstentions 0.

Motion agreed to,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Referendums (Scotland) Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act.

Meeting closed at 17:02.

This is the final edition of the *Official Report* for this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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