



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Meeting of the Parliament

**Thursday 28 November 2019**

**Session 5**



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# Scottish Parliament

Thursday 28 November 2019

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

## General Question Time

### Fly-tipping

**1. Alexander Stewart (Mid Scotland and Fife) (Con):** To ask the Scottish Government what action it is taking to tackle fly-tipping. (S5O-03839)

**The Minister for Rural Affairs and the Natural Environment (Mairi Gougeon):** Fly-tipping is illegal, dangerous and unnecessary. It also creates unnecessary costs for local authorities and landowners, and often involves resources that could be recycled or reused.

To tackle that, the Government has provided the Scottish Environmental Protection Agency and local authorities with powers to fine people who are caught fly-tipping, with a minimum fixed penalty of £200 up to a maximum fine of £40,000 for those who are prosecuted. We also support reporting of fly-tipping using FlyMapper software and the dumb dumpers campaign.

However, the key to resolving the issue is education and prevention, and work on that is undertaken by Zero Waste Scotland, SEPA and the Scottish partnership against rural crime.

**Alexander Stewart:** During a recent meeting with farmers in my region of Mid Scotland and Fife, it became clear that the situation has become even more worrying, with one farmer expressing fury that he had to pay for the removal of asbestos that was fly-tipped on his land. Fly-tipping is clearly not just a scourge on the landscape, but now a danger to public health. What urgent action will the Scottish Government take to address the issue?

**Mairi Gougeon:** I completely understand Mr Stewart's concern—the problem is something that I also hear about in my own constituency. The Government is looking at measures through the proposed circular economy bill. Those measures are out for consultation at the moment and we hope they will help to prevent fly-tipping. The Government believes that prevention and education are key. I met the Scottish partnership against rural crime earlier this year, and I know that tackling fly-tipping is also one of its priorities. A number of measures are either under way or planned that we hope will have an impact on this blight on our communities.

**Ruth Maguire (Cunninghame South) (SNP):** Will the minister advise on plans for the national litter strategy?

**Mairi Gougeon:** The Scottish Government is committed to delivering the national litter strategy. Last year, we published the updated code of practice on litter and refuse, and we will bring forward legislation for a new penalty regime for littering from vehicles as part of the circular economy bill. The Government made those commitments in the national litter strategy. The strategy also contains a commitment to conduct a review in 2020, and we are considering how best to make progress.

### Young Drivers (Safety)

**2. Gillian Martin (Aberdeenshire East) (SNP):** To ask the Scottish Government what it is doing to improve the safety of young drivers. (S5O-03840)

**The Cabinet Secretary for Transport, Infrastructure and Connectivity (Michael Matheson):** Young drivers are a priority area in the Scottish Government's road safety framework to 2020. This year, we launched a substantial social marketing campaign to address issues that affect young driver safety, including speeding, the use of mobile phones, distraction, drink and drug driving and vulnerable road users.

The road safety framework fund has also supported a number of projects aimed at that priority group. Those include driVR, which is a classroom-based virtual reality experience, and drivewise, which is a multi-agency approach to improving the skills and behaviour of young drivers. In addition, we continue to press the United Kingdom Government to introduce graduated driver licensing.

**Gillian Martin:** A criticism of the current driving test is that it has no rural driving safety aspect. In most cases, young drivers learn only the skills that are required to pass the test in an urban environment. If funding were made available to schools to contract specialist driver education that was tailored to and appropriate for their areas, we might reduce the number of accidents on rural roads, which are more likely to be life threatening.

I know that the cabinet secretary has already contacted the UK Government about graduated driver licensing, but in the meantime is he open to looking at options that do not rely on its involvement, such as a young drivers safety fund to which schools could apply for the costs of delivering specialist training that is appropriate for their areas?

**Michael Matheson:** I recognise the concerns that Gillian Martin has raised regarding rural driving. She will appreciate that responsibility for the driver testing programme is reserved to the UK

Government. However, the Scottish Government is engaged with the UK Department for Transport through its driver 2020 project, which is managed by the Transport Research Laboratory. The aim is to develop new guidance on future interventions specifically for the age group to which Ms Martin refers, which should help to improve their driving behaviour.

We have funded some interventions through our road safety framework fund, which is similar in nature to the fund to which Gillian Martin referred. Some of the initiatives that I mentioned in my previous answer have been supported through that fund, including the education resource for 16 to 18-year olds, which is about promoting driver safety and demonstrating the consequences of poor driver behaviour. Various initiatives relating to distractions and speeding on rural roads still have access to that fund. If Gillian Martin believes that local initiatives could benefit from accessing the fund, I would be more than happy to hear from her and to ensure that officials look into the matter.

#### **Pupil Support Assistants (Training)**

**3. Ross Greer (West Scotland) (Green):** To ask the Scottish Government what action it takes to support the training of pupil support assistants on working with pupils with additional needs. (S5O-03841)

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** The Education (Additional Support for Learning) (Scotland) Act 2004 places duties on education authorities to identify, provide for and review the additional support needs of their pupils. It is for individual authorities to determine the training that those staff require in providing support to help pupils to reach their full potential.

In support of that, as part of a package of support for school staff, the Scottish Government has funded and co-produced specific training materials on inclusion, dyslexia and autism.

**Ross Greer:** Over a long time, there has been a worrying trend towards unqualified classroom assistants delivering one-on-one support to pupils with additional support needs. The Scottish Government's recent announcement of the recruitment of 1,000 pupil support assistants to work specifically with children with additional needs is very welcome. Will those additional staff be required to have qualifications in supporting pupils with additional needs? If not, how can they possibly be described as additional support needs assistants?

**John Swinney:** The Government is taking forward discussions with our local authority partners about the deployment of the £15 million in resources that we have allocated to recruit 1,000

pupil support assistants, who will support young people with additional support needs. Those discussions are on-going, and I hope that they can conclude shortly.

As I indicated in my first answer, staff who work with pupils with additional support needs should be appropriately and effectively trained for that purpose. Individual local authorities are obliged to ensure that their staff are properly trained and equipped for the tasks for which they are recruited.

#### **M90 Commerce Park (Waste)**

**4. Alex Rowley (Mid Scotland and Fife) (Lab):** To ask the Scottish Government, in light of public authorities not taking the necessary action to clear waste from the M90 Commerce Park at Lathalmond near Dunfermline, what action it can take to address local residents' environmental concerns. (S5O-03842)

**The Minister for Rural Affairs and the Natural Environment (Mairi Gougeon):** Responsibility for the site rests with the landowner, which is Trans-Britannia Properties Ltd. Following further correspondence from the Scottish Environment Protection Agency, the landowner has now agreed to meet SEPA and Fife Council to discuss site clearance options. That might be considered to be a small step forward, but it is a very important one.

SEPA continues to monitor the site and is content that it is not currently posing a risk to the environment or to human health. Therefore, the focus for the moment remains on working collaboratively with the landowner and other relevant parties, including Fife Council, to secure a positive outcome.

**Alex Rowley:** When I met SEPA six to eight months ago, it said then that it was due to have a meeting with representatives of the landowner, so not a lot of progress has been made. More than 7,000 tonnes of carpets and plasterboard, the majority of which came from local authorities and other public authorities across Scotland, were dumped on the site. Surely the Government cannot allow that to continue year after year. It is an environmental disaster for which nobody seems to be willing to take any responsibility. Will the minister agree to meet me on the site to look at what can be done to address the issue?

**Mairi Gougeon:** I completely understand Alex Rowley's concern and frustration. The issue has been on-going for a long time, which is why the meeting that has been secured will be a positive step forward. I am happy to meet him to discuss the matter, and to discuss how more progress can be made. It is very much the landowner's responsibility to deal with the issue, which is why we are working with the landowner to ensure that it is dealt with as soon as possible.

**Richard Lyle (Uddingston and Bellshill)**

**(SNP):** It does not seem to be fair that the local community and residents have to put up with such an eyesore. Why has the Scottish Government, or the local authority, not simply cleared the site and sorted out later who is responsible?

**Mairi Gougeon:** Again, I say that I completely understand the concern and frustration, especially because the situation has been going on for so long, and because people who live in the area are having to see and put up with the problem. We believe inherently that it should not be up to the public to pay for something that is the landowner's responsibility. That is why we are determined to pursue all possible avenues for the landowner to take appropriate action first.

**Train Fares (Split Ticketing)**

**5. John Mason (Glasgow Shettleston) (SNP):**

To ask the Scottish Government what it can do to tackle the issue of split ticketing for train fares, whereby it can be cheaper to purchase tickets for component parts of a journey than for one straight-through ticket. (S5O-03843)

**The Cabinet Secretary for Transport, Infrastructure and Connectivity (Michael Matheson):**

The ScotRail franchise prohibits the franchisee from implementing any train fare that creates an anomaly, whereby purchasing separate tickets might be cheaper than purchasing one straight-through ticket. Where anomalies are identified, ScotRail should reduce the affected fare at the next fares-setting round, thereby removing the anomaly.

The current franchise includes a price-promise scheme so that passengers do not have to pay a higher fare than is necessary.

Additionally, the Rail Delivery Group is conducting a review of ticketing systems across the UK, and aims to guarantee that the systems are focused on customer needs.

**John Mason:** I appreciate that work is being done. However, in reality, an off-peak day return from Garrowhill—my local station—to Perth, costs £29.90. An off-peak day return from Garrowhill to Glasgow Queen Street costs £3.30, and an off-peak day return from Queen Street to Perth costs £16.60, so the total cost is £19.90. That is a £10, or 50 per cent, difference in the fare. If a constituent buys a ticket at a machine, they cannot know about that, whereas if they buy a ticket at the ticket office, the ticket officer can tell them to split the ticket.

**Michael Matheson:** I recognise the concerns that John Mason has raised. Significant work has been undertaken since 2012 to eradicate anomalies. I understand that some of the anomalies date back as far as the 1990s because

of various promotions and schemes that have operated over the years, which at times can come out through the existing system. I assure the member that I will ask my officials to raise with ScotRail the anomaly that he has mentioned, to ensure that it is eradicated from the system.

**Queensferry Crossing (Traffic Flows)**

**6. Liz Smith (Mid Scotland and Fife) (Con):**

To ask the Scottish Government what discussions it has had with Fife and Lothian councils since January 2019 regarding traffic flows on the Queensferry crossing. (S5O-03844)

**The Cabinet Secretary for Transport, Infrastructure and Connectivity (Michael Matheson):**

No specific discussions have taken place with Fife or Lothian councils regarding traffic flows on the Queensferry crossing. Transport Scotland will engage with the councils over the coming weeks as part of the stakeholder engagement programme that is supporting the evaluation of the Forth replacement crossing project, in line with the Scottish trunk road infrastructure project evaluation process. The evaluation will consider pre-opening and post-opening traffic data.

**Liz Smith:** I am rather concerned to hear that no such meetings have taken place, because several Fife constituents have been in touch with me in recent months to complain bitterly about the lengthy queues and time delays on the North Queensferry approach to the crossing. They have made the point that the rush-hour traffic congestion is as bad as it was when the Queensferry crossing did not exist. Is not it time to rethink the traffic flows and to engage with the two councils?

**Michael Matheson:** I recognise that there have been issues with congestion at the Queensferry crossing, which have arisen as a result of a range of matters. I believe that there will be a meeting between Fife Council and Transport Scotland in January, at which some of those issues will be discussed.

Liz Smith is wrong to suggest that the Queensferry crossing has had no impact in terms of improving resilience and traffic flow across the Forth. Since the bridge was opened, it has maintained traffic crossing the Forth on 30 occasions on which the Forth road bridge would have been closed to traffic. That in itself represents a significant improvement in resilience for traffic across the Forth.

However, there are always areas in which further measures can be taken, which is exactly what the discussions between Transport Scotland and Fife Council that are planned for January are intended to address.

### **Abellio ScotRail (Revenue Protection)**

**7. Stuart McMillan (Greenock and Inverclyde) (SNP):** To ask the Scottish Government what discussions it has had with Abellio ScotRail regarding revenue protection. (S5O-03845)

**The Cabinet Secretary for Transport, Infrastructure and Connectivity (Michael Matheson):** Transport Scotland officials meet Abellio ScotRail on a four-weekly basis to discuss a range of items, one of which is revenue collection performance. That includes a focus on revenue protection support to on-train and booking office staff, as well as plans for revenue protection during specific events.

**Stuart McMillan:** Does the cabinet secretary agree with me that Abellio ScotRail should do more to protect its revenue, to stop customers evading ticket inspectors and to listen to the complaints from paying customers about fare evasion, and either have more staff at stations that do not have barriers or simply have more stations with barriers?

**Michael Matheson:** Stuart McMillan raises a very important issue. A range of work has been undertaken to help to improve revenue protection across the rail network. That includes ScotRail's "Buy before you board" approach, which has helped to reduce ticket-evasion levels by a significant amount, and to improve income from the franchise, which has risen by about 38 per cent as a result of the range of measures.

ScotRail's revenue protection team continues to consider other initiatives that could be undertaken on protecting revenue and on ticketless travel. Those measures will continue to be proactively introduced at appropriate times.

**Jamie Greene (West Scotland) (Con):** The cabinet secretary will be aware that many passengers board trains without a ticket because there are lengthy queues at machines or the machines are not working, so they have no choice. What conversations has the cabinet secretary had with ScotRail on improving access to machines and people's ability to purchase tickets?

**Michael Matheson:** The number of ticket vending machines has increased by about 60 per cent over the past five years, in order to improve access to ticketing across the network. That roll-out will continue in order to improve opportunities for passengers to purchase tickets timeously.

Jamie Greene will be aware that ScotRail's approach is, increasingly, to use smart cards and smart ticketing as means for people to purchase tickets prior to arriving at the train station. That helps to reduce the number of individuals who have to purchase tickets when they arrive at the station.

A combination of methods is being used to help to improve levels of purchase of tickets prior to travelling on trains.

### **Dementia Support**

**8. Bob Doris (Glasgow Maryhill and Springburn) (SNP):** To ask the Scottish Government how it supports people living with dementia. (S5O-03846)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** The Scottish Government is implementing the national dementia strategy for 2017 to 2020 and is supporting improvements including post-diagnostic support and integrated home care. Free personal care for people who are assessed as eligible, including those with dementia, has now been extended to under-65s, and we are currently considering Alzheimer Scotland's "Fair Dementia Care" report as part of our reform of adult social care support.

The programme for government for 2019-20 says that we will

"develop our fourth National Dementia Strategy"

and establish a national brain health centre to promote brain health literacy. Work is under way on both of those.

**Bob Doris:** I ask the Scottish Government for a bit more information on how it supports people who are living with end-stage dementia to access services including palliative care, specialist nurses and geriatrics consultants.

On the cabinet secretary's initial answer, how will the Government work constructively with Alzheimer Scotland, which has made a powerful and compelling case for ensuring that such support is provided without social care charges being incurred?

**Jeane Freeman:** There are a number of points to make in answer to that question.

We have two national dementia workforce programmes and we are co-funding, with Alzheimer Scotland and health boards, the dementia nurse consultants programme and our national post-diagnostic service. We are piloting new models of care and support, including in primary care, and in a major new pilot project in Inverclyde on home care for people with dementia who have intensive and palliative care needs. We are also supporting implementation of the independent expert report, which was published last year, on modernising specialist in-patient and community care.

On charges, we are working with Alzheimer Scotland, in relation to its report, as part of our national programme to support local reform. That programme is, at its core, being led by people who



use the services. I will be happy to update Bob Doris when the programme comes forward.

I very recently had a productive meeting with Sir Jackie Stewart, Professor Siddharthan Chandran—who is the director of the centre for clinical brain sciences at Edinburgh Neuroscience—and other colleagues, at which we discussed how we can continue to support the important research that is being done on a number of neural conditions, particularly motor neurone disease, multiple sclerosis and, through them, dementia.

**The Presiding Officer (Ken Macintosh):** Before we move on to First Minister's question time, I invite members to join me in welcoming the Rt Hon Roger Torrent, who is President of the Parliament of Catalonia. [Applause.]

## First Minister's Question Time

12:00

### Queen Elizabeth University Hospital (Infections)

1. **Jackson Carlaw (Eastwood) (Con):** The Cabinet Secretary for Health and Sport has now ordered Government officials to go into NHS Greater Glasgow and Clyde to find out what has gone wrong at the Queen Elizabeth university hospital. What progress has been made? Can the First Minister set out how many individual cases of infection between 2016 and 2019 Government officials have now identified? If not, can she set out whether the number is substantially more than the figures about which we already know?

**The First Minister (Nicola Sturgeon):** Since the health secretary's announcement last Friday about the escalation of the oversight of NHS Greater Glasgow and Clyde, particularly in the areas of infection prevention and control, and communication with patients and families, an oversight board has been established. That oversight board is chaired by the chief nursing officer, Professor Fiona McQueen. The board met yesterday and confirmed that it will focus on three key areas: infection prevention and control; clinical governance; and patient and family communication. The health secretary will keep Parliament updated on the progress of the board's work, as appropriate.

On the second part of Jackson Carlaw's question, work is on-going with Health Protection Scotland to ensure that we are fully aware of the number of infections. Following previous claims that were made relating to an internal, clinician-led review, NHS Greater Glasgow and Clyde confirmed to the Scottish Government that, in 2017, 26 organisms were identified and 14 children were affected. Other work is on-going on other years that have been affected. I am sure that Jackson Carlaw is aware of the Health Protection Scotland report that was published this week, which is a technical report but nevertheless provides important information.

Lastly, on what is being done to provide not just information but proper investigation into and assurance about the situation at the Queen Elizabeth, Lord Brodie has been confirmed this morning as the chair of the public inquiry. The health secretary will have discussions with him about the precise remit of the public inquiry before the Christmas break.

**Jackson Carlaw:** I welcome the appointment of Lord Brodie. The circumstances and conditions in the hospital are obviously such that urgent

questions need to be asked and action taken now. I am pleased to hear about the oversight board. At the weekend, the health secretary was asked about the clinical report into infections at the sick kids hospital in 2017, which was revealed by a whistleblower two weeks ago. As the First Minister said, that is the clinician-led report that revealed that 26 infections affected 14 sick children in that year.

On Sunday, the health secretary said that she had seen some of the report but not all of it. Do the First Minister and the health secretary now have the full report on their desks? Have they had time to read it in full, and has action followed from that?

**The First Minister:** As I understand it, the oversight board has all the information that is contained in the report that was described as clinically led. Let me be clear: the oversight board will, as part of its work, gather all data from 2015, so that it can establish confidently the number of different bugs and cases of infection, as well as the number of children who were affected. That is important work and, as I hope and am sure Jackson Carlaw will appreciate, it is important that we do it rigorously and accurately, so that we can have confidence in the information that is provided.

That work is on-going and, as I said in my earlier answer, the Parliament will be kept updated as appropriate. The wider issues will of course be for the public inquiry to consider when it gets under way.

**Jackson Carlaw:** Also in the weekend's press, we read reports that, in addition to the 26 infections in 2017, the whistleblower had identified a further 10 infection cases in the year before. As with everything else in this scandal, it seems that we have to wait for reports to emerge in the press before we find out what has been going on. What has the Scottish Government done in the four days since those claims surfaced to examine whether they are accurate? Were infection being reported as far back as 2016? If so, should that not have set alarm bells ringing?

**The First Minister:** The Health Protection Scotland report that I referred to earlier is a very technical report, but it points to the periods, including specific months, that Health Protection Scotland has identified during which there were what it calls spikes in infections. Health Protection Scotland has said that the infection rates right now are not abnormal or above what would be expected.

The detailed information that Jackson Carlaw is asking for is exactly what the oversight board, with the assistance, as appropriate, of Health Protection Scotland, is seeking to establish, so

that we are confident that there is no underreporting of numbers of infection and there is no duplication in the figures that are reported. That work is on-going and will be taken forward as quickly as possible.

Whistleblowers who come forward with such information do a service to patient safety in the national health service and they should always be treated appropriately. I know that the health secretary will meet two whistleblowers next week, and anybody who feels that they have information that should be brought to the attention of the Scottish Government or the oversight board should come forward, directly to the health secretary if necessary, so that we can be absolutely clear that all information is being treated properly, with respect and is investigated appropriately.

**Jackson Carlaw:** I hope that they do come forward.

Last week, I said that the issue is now about trust. Parents and patients are waiting for answers and need clarity from the Government on exactly what has happened at the hospital. The priority has to be to provide the truth to the families who, we have learned in recent weeks, have discovered the facts only thanks to whistleblowers and leaks to newspapers.

The First Minister and the health secretary are still asking for time to answer some of the key questions that remain unanswered. I appreciate that the oversight board has been instructed to report, but how much longer will patients and parents have to wait? When will the answers be available? The Government has now put itself in charge, so when will the First Minister and her health secretary be able to respond?

**The First Minister:** I absolutely understand that parents in particular, but the wider public as well, want to have information and answers to any reasonable, legitimate questions here—I want that, too. However, it is important that the information that is provided is robust and that it has been properly investigated. Anybody who reads the Health Protection Scotland report that was published this week will get an understanding of how complex some of the issues are. That is no comfort to parents whose children are affected but, in terms of understanding the types of infection, the number of cases and the number of children who are affected, it is important that the work is done properly.

The Government is committed to making sure that there is absolute transparency around all this. That is why Health Protection Scotland and the Healthcare Environment Inspectorate are both involved, it is why the independent review was established—which we hope will report early next

year—it is why the public inquiry has been announced, the chair of which was appointed today, and it is why the oversight board is now working.

It is extremely important that there is transparency but also that the information that is being provided is accurate and robust, and that is what we are committed to doing. The health secretary intends to make an update statement to Parliament before the Christmas recess in order that Parliament is fully apprised of the progress of the work and any timescales that flow from it.

### **Post-mortem Reports (Toxicology)**

**2. Richard Leonard (Central Scotland) (Lab):** Will the First Minister tell us when she last discussed with the Lord Advocate delays to toxicology services for post-mortem reports?

**The First Minister (Nicola Sturgeon):** I have had briefings from the Lord Advocate over recent weeks and months about such issues. I would have to go and check the exact detail of those issues, but I am happy to report back to Richard Leonard once I have had the opportunity to do so.

**Richard Leonard:** Is the First Minister aware of the backlog of delays in toxicology reports from the University of Glasgow, which has an arrangement with the Crown Office, but which is currently in a contractual dispute with the Crown Office over the provision of toxicology services?

It is a matter of public interest and public concern. Bereaved families, such as brother and sister Gary and Emma from Lanarkshire, are paying the price. Their mum, Susan, died suddenly at the end of May. They are grieving the loss of a much-loved mother and much-missed grandmother. Instead of getting answers to give them some closure and peace, they have been waiting 26 weeks for a final post-mortem report—they are still waiting. They have received a standard six-weekly letter—three times.

The Crown Office says that a contractual dispute is to blame, but that is no consolation to Gary and Emma, who have told us that their mum's life insurance will not pay out without a death certificate, so they are being chased by a mortgage lender that is threatening repossession of the family home. They could and should have been spared that deep anxiety, additional uncertainty and unnecessary pain.

Will the First Minister take the opportunity today to apologise to Gary and Emma and to all those bereaved families across Scotland who have been going through the same ordeal?

**The First Minister:** First, I take the opportunity to put on record my deepest condolences to the family whose situation has been raised by Richard

Leonard. Beyond what Richard Leonard has just told us, I am not familiar with the detail of that case. I would be very happy to look into it. I am sure that the justice secretary or the Lord Advocate, as appropriate, would be happy to correspond with or meet the family.

On the substantive matter that Richard Leonard raises, there has been an issue with the Glasgow contract and there is now an agreement to extend that contract to resolve that in the short term. In the longer term, the Crown Office is considering the future of the service and what the appropriate arrangements would be if it cannot continue to be performed by Glasgow university.

That is the issue that, as I said in my first answer, the Lord Advocate has been keeping me briefed on. If there are more details that I can usefully make available to Richard Leonard about the general issue as well as in relation to the individual case, I would be happy to do so.

**Richard Leonard:** The facility at Glasgow university that deals with sudden and unexpected deaths also handles 90 per cent of suspected drug-related deaths in Scotland. The First Minister is well aware that Scotland is in the grip of a drug deaths emergency, so she must also be aware of the key role that that unit plays in informing the allocation of resources to prevent future drug deaths.

It is a public service for which the First Minister is responsible and the dispute is one that she can resolve. The damage done is not just financial, but human. Will the First Minister step up, step in and find a resolution to the long-running contractual dispute, for the sake of our public health, to prevent future drug deaths and for the sake of the grieving families?

**The First Minister:** Those are important issues and I do not demur from that for a second—the services are vital. There has been a contractual dispute. I do not think that it would be possible, appropriate or helpful right now for me to get into the reasons underlying that, but, to be clear, the Crown Office and Glasgow university have been working together to manage the transition to a new provider for those services. That is obviously a priority for the Crown Office, but it is also a priority for the Scottish Government, because we understand the importance of having such services in place. Toxicology services play a vital role in the justice system and also in investigating drug-related deaths, so we know that the issues are important.

On my involvement, as I said, the Lord Advocate is keeping me updated. The issues have priority attention from the Lord Advocate and the Crown Office. If there is more information that it would be helpful for me to provide to Richard

Leonard—or other members with an interest in the matter—I would be happy to do that, and I would be happy to keep him updated as the discussions proceed.

**The Presiding Officer (Ken Macintosh):** There are several constituency supplementary questions.

#### **Aberdeen Royal Infirmary (Dermatology Waiting Times)**

**Peter Chapman (North East Scotland) (Con):** One of my constituents, Mr Watson, has raised a serious issue around waiting times for the dermatology department at Aberdeen royal infirmary. Mr Watson attended his general practitioner two years ago, and was diagnosed with a basal cell carcinoma near his eye. After diagnosis, he had to wait a full year to see a specialist in the department, who informed him that he would need surgery on the surrounding area. He has been waiting a further 10 months, and no treatment has been received. As such, nearly two years later, nothing has been done. A second lesion has now appeared on his ear.

The situation breaches numerous waiting time targets on cancer treatment and referral, and is totally unacceptable. Does the First Minister agree, and will she say what is being done to address this scandalous situation?

**The First Minister (Nicola Sturgeon):** Firstly, from what Peter Chapman has recounted to the chamber, I agree that that is not an acceptable wait for Mr Watson; through Peter Chapman, I convey my best wishes to him. The Cabinet Secretary for Health and Sport will be very happy to look into the individual case, if Peter Chapman provides the details of his constituent.

More generally, as Peter Chapman will be aware, the £850 million waiting times improvement programme is under way to make sure that, as demand for healthcare services rises—in Scotland as elsewhere—the health service is building the capacity to meet that demand. We would be very happy to look into Mr Watson's case.

#### **Queen Elizabeth University Hospital**

**Anas Sarwar (Glasgow) (Lab):** Two weeks ago, I revealed details of a child's death at the Queen Elizabeth university hospital due to contaminated water. More damning evidence has now been shared with me. The evidence shows that the health board knew that the water was contaminated when the hospital was transferred from the contractor to the health board. A report that was done the week that the hospital was opened revealed that the water supply was not safe, and that there was a high risk of infections.

Months before Milly died, infection control doctors raised concerns about line infections in the

children's cancer ward. Three weeks before Milly died, infection control doctors alerted management of further concerns about infections, escalated them to Health Protection Scotland and the Scottish Government, and requested testing of the water. A month after Milly's death, another assessment of the water supply was done. It found—again—that the water supply was not safe, and that there was still a high risk of infections.

At each of those stages, the warnings were ignored and the appropriate action was not taken. It led to the death of at least one child. If that had happened in the private sector, there would not be a public inquiry—there would be a criminal investigation.

What did the First Minister, her ministers and her officials know, and when? Who will take responsibility and be held accountable for this? Be in no doubt—I and many others will not rest until we get justice and answers for Milly's parents, and for all the parents of the children who are affected.

**The First Minister (Nicola Sturgeon):** I thank Anas Sarwar for raising this issue again. I give him an assurance that the Scottish Government is determined to get the answers that Milly's parents, and the parents of any children who have been treated at the Queen Elizabeth, want and deserve.

I am not aware of the evidence that Anas Sarwar cited in the chamber today—[*Interruption.*] When I say that I am not aware of it, I mean that I have not seen the specific evidence that he cited. I would encourage him to share it with us. If I could see that evidence, I and the Cabinet Secretary for Health and Sport will be able to see whether it is information that the Scottish Government already has, or whether it is information that the Scottish Government is not aware of. The reason that we have ordered the public inquiry is to make sure that, in addition to all the work that is being done, there is complete transparency and, if necessary, complete accountability around those issues.

Anas Sarwar referred to criminal investigations. Clearly, it is not for me to direct criminal investigations. That is not my job, but it is my job to make sure that the Scottish Government takes all appropriate action to get to the bottom of all those issues. That is what I and the health secretary are determined to do.

#### **Deaths Abroad**

**Angela Constance (Almond Valley) (SNP):** The First Minister has taken a keen interest in my constituents who have been affected by a death abroad. I warmly welcome the commitment in the Scottish National Party manifesto to press the next United Kingdom Government to implement all the recommendations in the recent report by the all-

party parliamentary group on deaths abroad and consular services.

However, some of the recommendations in that report are Scotland specific, so will the First Minister commit to implementing those recommendations where she has the power to do so?

**The First Minister (Nicola Sturgeon):** Where the Scottish Government has the power to act, we will certainly do everything that we can to take forward the recommendations. I welcome the work of the all-party parliamentary group on deaths abroad, which has been helpful and productive in allowing us to ensure that progress has been made on the issues. The Scottish Government will do what we can within our powers, and we will continue to press relevant United Kingdom Government departments, agencies and services, and in some cases third-party organisations, to recognise the issues and ensure that they take the required action. In summary, we will press for all the recommendations in the all-party parliamentary group report to be implemented.

#### **Meat Production (BBC Documentary)**

**Liam McArthur (Orkney Islands) (LD):** The First Minister will be aware of the recent BBC programme highlighting the environmental impacts of meat production in the US and South America. Does she share the concern of many farmers in Orkney and in farming communities across the country that the programme made little or no attempt to explain the vast differences between massively intensive American livestock production and practices here in the United Kingdom, which generally adhere to much higher environmental and animal welfare standards? Does she agree with the leaders of the four main UK farming unions that such one-sided and partial portrayals of the agriculture sector do

“nothing to help people make informed choices about food which can be grown and reared in ways that offer benefits for the environment”?

**The First Minister (Nicola Sturgeon):** Yes, I agree strongly with those comments. I have not yet had the opportunity to see the programme, but I have heard the concerns that have been raised about its inability to draw distinctions and to point out the differences that Liam McArthur referred to. Clearly, there are environmental challenges for our sector, but it is important that we recognise its quality and the work that is being done, and that we do not allow lazy reporting to impugn the integrity of the sector here in referring to practices elsewhere that we all deplore. I thank Liam McArthur for raising that important issue.

#### **Short-term Lets (Scottish Government Consultation)**

**John Finnie (Highlands and Islands) (Green):** In response to a Scottish Government consultation on short-term lets, Highland Council reported 8,000 people needing a home. Scottish Government research showed that nearly 20 per cent of the houses on the island of Skye are now Airbnb lets. A month ago, the First Minister promised my colleague Alison Johnstone that the Scottish Government would publish its response to the consultation before the end of the year. Given that there are nine sitting days left until then, can the First Minister advise me about what measures the Scottish Government is considering and when members are likely to see proposals for much-needed regulation in the short-term letting sector?

**The First Minister (Nicola Sturgeon):** We are committed to better regulation in that sector, because we understand the pressures in particular areas of the country, such as here in Edinburgh and the areas that John Finnie mentioned in his region. I do not have the specific date on which we will publish the response, but I will provide it to Mr Finnie. More generally, the Scottish Government is investing heavily in homes supply in order to increase the availability of good-quality homes. We are determined to take forward that work at pace.

#### **Police Scotland (Officers' Health and Wellbeing)**

**3. Willie Rennie (North East Fife) (LD):** Two weeks ago, the Cabinet Secretary for Justice, Humza Yousaf, said that he was “very satisfied” with the support provided to police officers. New research published this week has found that just 3 per cent of police officers believe that Police Scotland really cares about their health and wellbeing. Does Humza Yousaf know what is going on?

**The First Minister (Nicola Sturgeon):** I hope that Willie Rennie will accept that we all care deeply about the health and wellbeing of our police officers. I certainly do, Humza Yousaf does and I absolutely believe that Willie Rennie does. We all do, because we know that police officers do an exceptional job, day in and day out. By coincidence, the police bravery awards will take place later today, so I take this opportunity to place on record my gratitude to and appreciation of our police officers the length and breadth of the country.

Mental health support and support for wellbeing are extremely important in Police Scotland. Police officers and police staff can access a range of services to care for their physical and mental health, including through Police Scotland's your wellbeing matters programme.

Police Scotland is one of the first police services in the United Kingdom to implement mental health and suicide intervention training for all officers. The Scottish Government is providing funding to extend the lifelines Scotland wellbeing programme to blue-light responders, including the police. In 2017, Police Scotland launched its wellbeing programme, which included the introduction of wellbeing champions. A force-wide wellbeing and engagement survey will be launched early next year.

I am not saying at all that we should not always be looking to do more to support public sector workers, such as police officers, who are on the front line. We all care about their health and wellbeing, and that is reflected in the action that has been taken and the support that is available.

**Willie Rennie:** The question that I asked was whether the justice secretary knows what is going on, and the First Minister has refused to answer that question. How can anybody be satisfied when just 3 per cent of officers feel that Police Scotland really cares? How can we be satisfied with that woeful position?

The justice secretary is out of touch, while our police officers are struggling. Let us look at the research. New research has found that one in 10 police officers turns to alcohol or prescription drugs to cope. Almost half suffer from exhaustion. Most devastating of all, one third of officers are turning up to work mentally unwell. How can anybody be satisfied with that position? The men and women of our police force are sacrificing their mental health to keep us all safe. Calum Steele, the general secretary of the Scottish Police Federation, told me that those findings are “frightening”.

Why has the welfare of our police in Scotland gone so horribly wrong? Will the First Minister answer that question?

**The First Minister:** Nobody—not me, not Humza Yousaf and, I imagine, not anybody in the chamber—is satisfied if police officers, nurses or any public sector workers report that they do not feel as supported in their jobs as they want to be. The Government has a duty to respond to that. Much of what I said in my earlier answer to Willie Rennie set out the action that the Scottish Government is taking and will continue to take to ensure that we do everything that we can to support our front-line police officers.

One of the things that we have done to support them is to ensure that there are 1,000 more police officers working in Scotland than there were when this Government took office. We did that and sustained that during the very period when the Liberal Democrats were helping the Tories to impose austerity on our budget. Of course,

austerity led to a situation in England in which 20,000 police officers were cut from service.

It is because of the actions of this Government that there continue to be 1,000 more police officers in Scotland than there were, which demonstrates that we will always work to support the police officers of Scotland, who do such a fantastic job day in, day out.

**The Presiding Officer:** There are quite a few supplementary questions.

### Whole-life Sentences

**Liam Kerr (North East Scotland) (Con):** This week, a significant case review on the Dundee Law killer was published. Among a number of damning conclusions, it exposed terrifying flaws, such as that officials believed that he was playing the system and that he had psychopathic tendencies that increased the likelihood of future violent reoffending.

Linda McDonald, who was the victim of a brutal attack by that violent criminal when he was on home leave, said that that cannot be allowed to happen again. She is right. Does the First Minister agree with Linda McDonald that the time has come to look at giving judges the option to put the worst criminals in prison for the rest of their lives?

**The First Minister:** I acknowledge Mrs McDonald’s bravery, and I again extend my deepest sympathy to her and to the family of Robbie McIntosh’s first victim.

The significant case review was an important exercise. It found that the attack on Mrs McDonald could not have been predicted and that Robbie McIntosh alone was responsible for that. Nevertheless, the Scottish Government and the Scottish Prison Service are committed to learning from all the findings of the review, and will build on actions that have already been taken. For example, the SPS has already implemented improvements to its risk assessment and progression processes, and it has delivered new training. We will take forward all the recommendations, which we take seriously.

Mrs McDonald has written to me on the subject of whole-life sentences and I pay tribute to her for doing so. I have said to her that I will never close my mind to any suggestions that are about keeping the people of Scotland safe. However, as I have said to Liam Kerr and to others in this chamber, it is possible, if a judge thinks it appropriate, to impose a punishment part of a sentence that extends beyond the natural life of a prisoner, as happened in the World’s End case. It is also the case that when the punishment part of a sentence expires, it is for the Parole Board for Scotland to decide whether it is safe to release somebody from prison. Those are the

arrangements in place, but in the interests of victims of crime, such as Mrs McDonald, who has shown exceptional bravery in this, the Scottish Government will always consider what more can be done to make sure that we are keeping people across Scotland safe.

### **Estranged Students Solidarity Week**

**Gillian Martin (Aberdeenshire East) (SNP):** This week is estranged students solidarity week. What is being done in Scottish colleges and universities to support estranged students with no parental support?

**The First Minister (Nicola Sturgeon):** We are very committed to ensuring that all students, including estranged students, have the same opportunities. In response to the student support review, we have increased and expanded access to higher and further education bursaries. Estranged students in higher education have access to a minimum income of £7,750 through a combination of bursaries and loans, and students in further education can access a maximum bursary of £4,500.

I am conscious of the excellent campaign by the charity Stand Alone, working with Gillian Martin, to extend the care-experienced bursary to estranged students. We are looking at that issue and once we have had the opportunity to consider it fully we will report back as quickly as possible.

### **Abellio Trains (Service Levels)**

**Jackie Baillie (Dumbarton) (Lab):** I know that the First Minister does not travel on my local train service from Dumbarton to Helensburgh or Balloch, because if she did she would know that trains are regularly cancelled or delayed; they arrive in rush hour with three carriages instead of six; and it is standing room only for passengers who are crammed in like sardines. Stop skipping is back and passengers are being left stranded at stations far from home. To add insult to injury, prices continue to rise while the service continues to get worse. When will the First Minister come down on the side of passengers, rather than protecting the really poor service from Abellio?

**The First Minister (Nicola Sturgeon):** The Scottish Government always acts to seek the improvements to services that passengers deserve. Abellio has an obligation to make sure that it is tackling the issues that Jackie Baillie described, and it is doing so, as is right and proper. Consideration of the future of that franchise will continue, in line with the requirements that we work within, but I make no bones about expecting Abellio to deliver the improvements that passengers deserve and which Scottish taxpayers pay handsomely for.

### **Treatment Time Guarantee**

**Graham Simpson (Central Scotland) (Con):** I have been contacted by a 72-year-old constituent in East Kilbride, Matthew Rodgers, who worked for 50 years as a nurse in the national health service, retiring at the age of 67. He has osteoarthritis and has been in pain for 15 years. Mr Rodgers has been told that he needs a new hip. He has also received a letter saying that the treatment time guarantee has been missed and he has no idea when he will be treated.

I visited Mr Rodgers on Sunday and asked to see any correspondence he has had, so he crawled upstairs and crawled back down backwards. He told me:

“I am at the stage where my life is totally on hold. I suffer daily. We are considering using the money we have set aside for our funerals to pay for treatment. That is difficult to bear.”

What can the First Minister say to Mr Rodgers and thousands like him for whom the treatment time guarantee has proved worthless?

**The First Minister (Nicola Sturgeon):** In respect of Mr Rodgers, whenever an individual case is raised in this chamber, the health secretary is happy to look into it if details are provided. I thank Mr Rodgers for his service to the NHS.

Of course, this is about not just individual cases that are raised in the chamber but patients across Scotland. We have embarked upon the waiting times improvement plan, backed by substantial resources—£850 million—because we recognise the increasing demand on our health service and are determined to support health boards to build capacity to meet that demand. That work is under way; the health secretary and I monitor it closely and carefully, and we will continue to do so.

### **Action on Climate Change**

**Ross Greer (West Scotland) (Green):** Tomorrow is the next youth strike for climate. I look forward to joining a number of my constituents at George Square in Glasgow. The First Minister has told many young climate activists that this Government and her party are leading the world in tackling the climate emergency. If that is the case, why does Greenpeace’s independent assessment of Westminster manifestos on the climate and nature emergency, which was published today, put the Scottish National Party below even the Conservatives and above only the Brexit Party?

**The First Minister (Nicola Sturgeon):** Actually, for many of the reasons that people keep saying to me—most of those issues are the responsibility of the Scottish Government, and that is why we are getting on and doing it. It is not a matter for our

Westminster manifesto; it is a matter for the Scottish Government.

We have set the most ambitious emissions reduction targets anywhere in the world; we have gone beyond the United Kingdom Government; we are taking actions that are way beyond those of not just other Governments in the UK but most other Governments across the world and we will continue to do so.

I look forward to taking part in the Channel 4 leaders' debate on climate change this evening. When I was last updated on the debate, Boris Johnson was still running scared of it. I hope that he changes his mind and joins us on the platform tonight.

### Post-Brexit Trade Deal

**George Adam (Paisley) (SNP):** The First Minister will be aware of leaked documents outlining initial trade discussions between the United Kingdom and United States Governments. What impact could a trade deal along those lines have on our national health service?

**The First Minister (Nicola Sturgeon):** A trade deal with the US potentially could open up our health service to private operators. It could lead to an increase in drug prices, if agreements were done with drug companies, for example, to extend patents, which I believe is mentioned in the paperwork that was leaked yesterday. That is the risk to our health service if Boris Johnson and the Tories get their way. I think that the priority for people in Scotland over the next couple of weeks is to make sure that Boris Johnson does not get his way, we get him out of office and we protect our national health service.

### Violence against Women and Girls

**4. Stuart McMillan (Greenock and Inverclyde) (SNP):** To ask the First Minister what actions the Scottish Government is taking to eliminate violence against women and girls. (S5F-03755)

**The First Minister (Nicola Sturgeon):** Today is the fourth day of the international 16 days of activism to highlight that violence against women and girls is still too prevalent globally. It serves as a reminder to all of us that each and every part of Government, the public sector and wider society has an important role to play in tackling that violence. I am sure that the chamber is united in agreeing that violence against women and girls must become a thing of the past.

On Monday, the Scottish Government published "Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls". The strategy sets out recent actions, including the implementation of our domestic abuse legislation, support for front-line services and improvement

work across a range of settings. In addition, yesterday we introduced new legislation on improving forensic medical services for victims of rape and sexual assault.

**Stuart McMillan:** The First Minister will be aware that Zero Tolerance has referenced a survey that was carried out by Women's Support Project, which indicated that disabled women are twice as likely as non-disabled women to experience violence by men. The statistics also show that black and minority ethnic women and trans women have a higher risk of experiencing gender-based violence. Will the First Minister provide assurances that groups of women and girls who are thought to be at greater risk of male violence will receive the targeted support that they require?

**The First Minister:** I thank Stuart McMillan for raising the issue in general and for raising that particular aspect of it. We should never stop being shocked at the violence that is perpetrated against women. All of us should be aware that women and girls, in addition to their gender, have other protected characteristics that can increase their level of risk of experiencing violence and abuse. Our equally safe strategy recognises that. We are also funding initiatives to target support at particular groups.

We must continue ensuring that our efforts are targeted at tackling men's violence against women. We must also be very clear that all forms of violence are a fundamental violation of human rights, which will not and must not be tolerated.

**Claire Baker (Mid Scotland and Fife) (Lab):** The First Minister may be aware of BBC research, published today, which shows that violence during consensual sex is becoming normalised. We need to challenge that attitude in Scotland. To do that, we need to invest properly in preventative work.

Rape Crisis Scotland estimates that, by 2020, it will deliver a programme in 48 per cent of secondary schools. I understand that the mentors in violence prevention programme is being delivered by 25 local authorities. Those figures are encouraging, but when will all young people receive proper preventative programmes?

**The First Minister:** I thank Claire Baker for raising the issue, which is of acute concern. She rightly described it as the normalisation of violence within consensual sex and sexual relationships. I do not want to tread into matters of criminal justice or decisions of independent courts, but I have also been alarmed, as I am sure many people have been, at some of the use of defences in criminal court cases about violence being part of consensual sex.

There is a real danger that younger women are encouraged to see that as something that they



have to accept as part of a consensual sexual relationship. It is a really big issue and we need to make sure that young women, in particular, have information, awareness and education. Claire Baker is right to talk about the importance of education on this in schools, and that has to be part of the routine education around relationships and sexual health. We will continue to consider what more we can do to focus on that particular issue, in addition to the programmes that are already being taken forward in schools.

### **Road Maintenance and Repairs (Backlog)**

**5. Jamie Greene (West Scotland) (Con):** To ask the First Minister what action the Scottish Government is taking to address the reported £3 billion backlog in road maintenance repairs. (S5F-03754)

**The First Minister (Nicola Sturgeon):** Responsibility for local roads maintenance lies with local authorities. The majority of funding to local authorities from the Scottish Government is via block grant. We do not stipulate how they should utilise their allocations, but in 2019-20 we are delivering a funding package of £11.2 billion for local authorities, which is a real-terms increase of £310 million.

The Scottish Government is investing £470 million in managing, maintaining and operating the Scottish trunk road network in 2019-20, which is an increase of £33 million on the year before. We have also invested significantly in the motorway network, as is evidenced through the recent completion of the Aberdeen western peripheral route and the M8, M73 and M74 projects.

**Jamie Greene:** Last week, the Rural Economy and Connectivity Committee wrote to the Cabinet Secretary for Transport, Infrastructure and Connectivity expressing concern about the state of Scotland's roads. It is clear that on current funding levels the problem will only get worse. The First Minister talked about local road maintenance, but the reality is that there is a £1.2 billion backlog of trunk road maintenance—roads that are the direct responsibility of the Scottish Government. Poor road conditions are not just an inconvenience to drivers, but are a serious safety issue for cyclists, motorcyclists and other road users.

The First Minister will be pleased to know that the United Kingdom Government has committed to investing an additional £2 billion for dealing with pot holes, of which £176 million will come to Scotland. Will the First Minister confirm that that money will be directly invested in road maintenance and—more important—will she tell us when we can expect the huge backlog of repairs to be dealt with so that Scotland's roads are finally fit for purpose.

**The First Minister:** Those are serious issues that are raised with me by my constituents—as, I am sure, they are raised by the constituents of every member, which is exactly why the Scottish Government has delivered the increases in funding that I mentioned in my first answer. I point out that the Conservatives voted against those increases in funding in our budget and urged us to give—instead of investing in road maintenance and public services such as health and education—a tax cut to the wealthiest people in our country, which would have taken even more money out of our budget.

On the so-called additional money that has been promised by the Conservative Party, Jamie Greene said that we are, apparently, going to get £176 million. I welcome any extra money that comes from the UK Government, but it has to be set against the real-terms £1.5 billion that our budget will lose next year, compared with what it was at the start of this decade. The Tories have taken money out of Scotland's budget, and want to take even more out with their tax cuts for the richest people, which makes it a bit galling that they come here week after week asking for more money to be spent on all sorts of things. Perhaps the Tories should focus on stopping robbing from Scotland's budget before they come and raise such issues.

### **Queen Elizabeth University Hospital and Royal Hospital for Children (Safety)**

**6. Monica Lennon (Central Scotland) (Lab):** To ask the First Minister what action the Scottish Government is taking to reassure patients and families of the safety of the Queen Elizabeth university hospital and Royal hospital for children. (S5F-03756)

**The First Minister (Nicola Sturgeon):** I again express my sympathy to the patients and families who have been affected by the infection incidents at the Queen Elizabeth and the Royal hospital for children. The Cabinet Secretary for Health and Sport has met a number of affected families and patients and is in correspondence with others. On 4 October, she appointed Professor Craig White to be the single point of contact for families, and to lead work to ensure that issues that they raise are considered and that they receive responses, information and support as necessary.

In addition, as I covered earlier, on 22 November NHS Greater Glasgow and Clyde was escalated to stage 4 of the Government's performance escalation framework so that we can be more closely involved in oversight of infection prevention and control, clinical governance and patient and family communication.

**Monica Lennon:** Today, the First Minister encouraged whistleblowers to speak out. Anas

Sarwar has just informed her of more new and extremely serious information that has been passed to him. It is no wonder that parents and the public fear a cover-up. We still do not even know whether all the families whose children have been affected have been notified. It is obvious that parents lost trust in NHS Greater Glasgow and Clyde long ago, but the Government was slow to act and has allowed the board's leadership to remain in post. Surely the First Minister must see that that situation is no longer tenable.

**The First Minister:** I have made it very clear, not just today but in previous sessions when we have discussed these serious issues, that the Government treats them with the utmost seriousness. There is absolute determination to ensure that we understand and get to the bottom of all the issues, and that parents have the information and the answers to questions that they want. That is why we have taken the action that we have taken. The escalation of NHS Greater Glasgow and Clyde is the right and appropriate action to take, and the oversight board will be able to ensure that the particular issues on which we consider greater oversight is required are properly monitored.

Over and above that, and as I have already mentioned on more than one occasion today, the independent review and the public inquiry are crucial parts of the process of making sure that parents get answers to their questions. In the meantime, as I said in my initial answer to Monica Lennon, Professor Craig White is the single point of contact for parents who feel that there are answers that they could get but are not getting, in order to make sure that that information is provided.

## Point of Order

12:47

**Neil Findlay (Lothian) (Lab):** On a point of order, Presiding Officer.

Have you had a request from the Government to make a statement on the appointment of the chair of the new Scottish national investment bank? I am sure that you will agree that it is a very important appointment. There are reports in the media that the chair who has been appointed by the First Minister and the Cabinet Secretary for Finance, Economy and Fair Work moved his company from Edinburgh to Bermuda for tax purposes, and was then fined £8.6 million—a record, at the time—by regulators after a conflict of interests case. That very important appointment should be the subject of scrutiny by Parliament. Has the Government asked you for time for a statement to be made on that very important appointment?

**The Presiding Officer (Ken Macintosh):** I thank Mr Findlay for the point of order. No such request has been made, as far as I am aware. Certainly, no request has been made through the Parliamentary Bureau. I suggest to Mr Findlay that the option is open to him, through his business manager, to raise the matter with the Parliamentary Bureau, where such a request would be considered, as would any other proposed parliamentary business.

Before we move on to the members' business debate on Tom Arthur's motion on St Andrew's day, I suspend the meeting for a few moments to allow new people to come into the gallery and for ministers to change seats.

12:48

*Meeting suspended.*

12:51

*On resuming—*

## St Andrew's Day

**The Deputy Presiding Officer (Linda Fabiani):** The next item of business is a members' business debate on motion S5M-19741, in the name of Tom Arthur, on St Andrew's day. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament welcomes the celebration of St Andrew's Day on 30 November 2019; notes that this will also mark the start of Scotland's winter festivals; recognises that the national day is an opportunity to celebrate Scotland's culture, heritage and national identity both at home and worldwide in an inclusive, compassionate and outward-looking manner; celebrates St Andrew's Fair Saturday, which this year falls on the national day itself; notes that this is a global movement that encourages communities to follow the consumerism of "Black Friday" with a response through cultural activity in support of social causes in a spirit of social empathy; understands that the All About Barrhead Business Improvement District is hosting an event, the Awfy Scottish Winter Wonderland, as part of the initiative; notes that this will be a festive fair featuring Scottish entertainment in aid of Barrhead Christmas Dinner packs; acknowledges that the Johnstone's Christmas Lights Switch On, which is being organised by Renfrewshire Council and is also part of the Fair Saturday initiative, will support St Vincent's Hospice and Active Communities; believes that a diverse programme of events will be taking place across the country, and commends the efforts of all communities the length and breadth of Scotland in getting involved in the Fair Saturday movement on St Andrew's Day.

12:51

**Tom Arthur (Renfrewshire South) (SNP):** I thank all members who signed my motion to enable the debate to take place, and I thank everyone who will contribute to it.

I have brought the debate to the chamber in recognition of St Andrew's day on 30 November, which is Saturday. As the convener of the cross-party group on St Andrew's day, I think that it is very important that we take time as politicians to reflect on what St Andrew's day means and, more widely, what "being Scottish" means to us in all senses of the term.

It is my normal practice in debates to speak from a few notes or bullet points and, if I speak later in a debate, I often reflect on comments that other members have made. However, I will take a slightly different approach in this speech. I have the privilege of having a young man named Kyle from the United States interning for me as part of a university programme—I know that many other members have interns, too. I was keen to get his reflections—as someone visiting Scotland from the United States—on St Andrew's day, so much of

what I will say has been prepared in conjunction with him and informed by his reflections and understanding of St Andrew's day.

As many people know, St Andrew's day is a day to celebrate the patron saint of Scotland, from whom the holiday derives its name. According to Catholic teachings, or Christian teachings more generally, St Andrew was born in Bethsaida on the Sea of Galilee and served as one of Jesus's 12 disciples along with his brother Simon Peter. Little is known about the life of St Andrew, but it is believed that he died while bound to an X-shaped cross in Patras, Greece. That was the inspiration behind our beloved flag.

It is unclear how St Andrew became our patron saint, as he never stepped foot in Scotland. There are, of course, many different stories and traditions. Some sources say that, in the ninth century, King Angus had a dream about the aforementioned X-shaped cross before a battle with England. He vowed that, if he won against the English in that battle, he would anoint St Andrew as Scotland's patron saint. As fortune had it, King Angus won, and the rest is history.

Beyond the distinctly scriptural definition of the holiday, St Andrew's day is a celebration of what it means to be Scottish. It has been suggested to me that, to many around the world, Scotland is symbolised by magnificent bens covered in powdery snow, Highland cows with majestic manes, expansive lochs that may or may not contain certain mythical creatures, whisky that warms the soul, and, as Kyle put it, kilted men on street corners playing bagpipes with varying levels of success. In recent years, Scotland has also been associated with a certain wizard who has a lightning bolt-shaped scar on his forehead and learns his craft at a school set in the Scottish Highlands.

Kyle's reflections on Scottishness are interesting. He feels that to be truly Scottish, one must embrace the country's unique spirit. He tells me that he thinks that anyone who visits Scotland will quickly be struck by the compassion of the Scottish people and the kindness that is just built into Scottish society, in that we help others when they are in need even if we ourselves are down on our luck.

To be Scottish also means to be inclusive of others. Kyle says that if the make-up of this Parliament is not sufficient proof of that—with five party leaders who represent the different viewpoints of the Scottish people—he does not know what is. Further, he notes that it was not long ago that nearly all the parties in the chamber were led by women and that half of the party leaders were members of the lesbian, gay, bisexual and transgender community—a situation

that is unheard of anywhere else and of which we can be very proud.

It is in that spirit that St Andrew's day fittingly coincides with fair Saturday. For those who are not aware of it, St Andrew's fair Saturday is, to some extent, the polar opposite of black Friday, which takes place tomorrow. Each year, black Friday marks the peak of consumerism as people around the world capitalise on sharp discounts to mark the start of the Christmas season. To counteract that rush of consumerism, fair Saturday is a worldwide movement that encourages people to give to charity by participating in a variety of community and cultural activities. I am delighted to see that, this year, 32 communities around Scotland and across all our local authority areas are participating in fair Saturday. The many events planned include plays, arts and crafts, film screenings, live music and, of course, local St Andrew's day festivals.

In support of fair Saturday, I would like to highlight some events that will be happening in my Renfrewshire South constituency. The first is an awfy Scottish winter wonderland, which is an annual event that takes place in Barrhead. It features live Christmas music, pony rides, a Santa express train, a fireworks display and opportunities to take photos with Santa himself. Entrance to the event is free of charge, but a small donation is requested in return for having such photos taken. All the proceeds will go towards making Christmas dinner packs for less fortunate families in East Renfrewshire. Secondly, I would like to mention Johnstone's Christmas lights switch-on. During the event, a host of local bands will play on a centre stage. At 5 pm the music will stop for the lighting of the Christmas tree, which will be followed by more Christmas-related events. All the proceeds will go to St Vincent's Hospice and to Active Communities, which is an organisation that promotes physical activity and wellbeing across Renfrewshire. Those are all excellent examples of people coming together in celebration of St Andrew's day and fair Saturday and to benefit local communities.

The last point that I wish to make is about the genuinely international spirit of St Andrew's day, which, of course, is not limited to Scotland. As Kyle notes, organisations around the world are preserving and celebrating their Scottish heritage. One such place that displays exceptional Scottish spirit is in the United States, in Kyle's home state of Maine. I have been trained in how to pronounce the name of his home town correctly, but I will probably still get it wrong. It is Bangor, which is pronounced "Bang-ore" and not "Banger". The town is home to the Anah Highlanders—a pipe band that plays to raise money for the Anah Shriners hospitals for children, which treat children who need specialised care, such as those with

cleft palates, cerebral palsy and spina bifida. Maine also has its own St Andrew's Society, which hosts events such as an annual Highland games and a Robert Burns dinner to raise money for a fund that awards scholarships to students who are studying subjects related to Scottish culture and heritage.

I thank Kyle for his help in preparing my remarks. It is illustrative of the international aspect of St Andrew's day that two individuals from such different parts of the world can meet and, after just a few hours of discussion, discover all those connections through St Andrew's day. That symbolises the way in which the day binds not just the Scottish diaspora but people from across the world through their shared values.

I very much look forward to hearing other members' contributions to the debate. I also encourage all members to engage with their local communities over the weekend and to celebrate fair Saturday and St Andrew's day.

13:00

**Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP):** There are many strong arguments for countries celebrating their national days: community cohesion, the celebration of diversity, the promotion of cultural heritage and the chance to turn a friendly face to the wider world.

I congratulate Tom Arthur on lodging his motion. I also thank the number of dedicated people—not least, Dennis Canavan—who have campaigned tirelessly for St Andrew's day being celebrated more and more.

It is only fair to say that we have some way to go in Scotland to catch up with the way in which many other countries celebrate their national days. Ireland celebrates St Patrick's day on a scale that rivals the celebrations of any other country's national day, in terms of its sheer international reach. Each year, Norway celebrates constitution day on a huge scale, which involves probably every child in Norway taking part in enormous parades—not least in Oslo, where the streets outside the royal palace become a huge sea of Norwegian flags and national costumes.

Of course, the many countries around the world that have declared their independence from the United Kingdom all—very understandably—celebrate that fact in some style, taking their lead from the USA, which marks each 4th of July with fireworks, barbecues, parades and picnics. Interestingly, India celebrates both an independence day and a republic day with, among other things, public kite battles.

Although there have been many improvements, which I am sure other members will mention, why

does comparatively little of that stuff happen in Scotland on our national day? The historical answer to that question is that, at the time of the reformation, all saints days, as well as Christmas and Easter, were disestablished by the state—in fact, by this Parliament. That led to Scots preferring to celebrate other festivals such as hogmanay. Christmas became a public holiday again in Scotland only in 1958. Since then, however, it has slightly overshadowed most of the winter, including St Andrew's day.

All that said, interest in St Andrew's day continues to grow. The lack of any obvious traditions around the day is perhaps an obstacle, but it is also an opportunity. It gives us the chance to do new things to celebrate the day. For instance, the Scottish Government has promoted a social media campaign entitled #onekindact, which has a presence on Instagram and Twitter. The campaign encourages people to post pictures of acts of kindness.

As we have heard, in a similar vein, the Government is partnering with the Fair Saturday Foundation, which is a non-profit-making organisation that focuses on supporting artists and cultural organisations to mark St Andrew's weekend in ways that provide an interesting contrast with black Friday and the ethos that it has perhaps come to represent, as Tom Arthur said. Much now happens to mark St Andrew's night in Scotland, as well as the St Andrew's night dinners that take place in other parts of the world.

It must be said that there are still obstacles to overcome, not least the fact that we need to agree both a single day each year when there will be a public holiday for celebrations, and what form those will take. When I was the relevant minister, I remember running up against the "Yes Minister"-like reality that declaring a public holiday would probably require primary legislation, possibly from Westminster. Perhaps the current minister can offer his take on that and say whether I am wrong. Meanwhile, there must be things that we can do to ensure that we celebrate St Andrew's day more.

I conclude as I began by saying that many arguments can be made for national days. Ultimately, a national festival should be about having fun and celebrating Scotland. For everyone who wants to do that, St Andrew's day is a very good idea.

Là Naomh Anndrais sona dhuibh, nuair a thig e.

13:04

**Bill Bowman (North East Scotland) (Con):** I thank Tom Arthur for bringing the debate to the Parliament—with Kyle's help.

St Andrew's day is the feast day of St Andrew. It is Scotland's official national day and is celebrated on 30 November. In 2006, the Parliament passed what became the St Andrew's Day Bank Holiday (Scotland) Act 2007, which designated the day as an official bank holiday.

I believe that relics of St Andrew were on display in the Parliament a year ago, in an event sponsored by Elaine Smith MSP.

Although St Andrew was generally revered in Scotland from around 1000 AD, he did not become the official patron saint until the signing of the declaration of Arbroath in 1320, and popular celebration of his day did not become commonplace until the 18th century.

Since then, St Andrew has become involved in so much of Scotland's culture. For example, the flag of Scotland, the St Andrew's cross, was chosen in honour of him; today I am wearing a tie with the saltire on it.

Despite all the history surrounding St Andrew, St Andrew's day is not as well known as festivals such as St Patrick's day in Ireland—as we have already heard—even though it is believed that the celebration of St Andrew as a national festival stretches back to some point in the 11th century, during the reign of Malcolm III. However, despite it not being as famous as other festivals, it is a national holiday not only in Scotland, as St Andrew is also the patron saint of Cyprus, Greece, Romania, Russia, Ukraine, Tenerife and Barbados—and maybe of other places, too.

Having lived and worked in Romania for 10 years, I will touch on how St Andrew's day is celebrated not only here at home but worldwide, with a particular focus on some celebrations and customs in Romania.

The story of St Andrew in Romania tells us that Romania was Christianised by St Andrew in the first century AD, as is accepted by both the Romanian Orthodox church and the Romanian state, with St Andrew being named the patron saint of Romania.

There are various activities that people engage in as a way of celebrating old Romanian beliefs associated with the feast of St Andrew. They include bringing out garlic to ward off ghosts, and eating salty bread in the hope of dreaming of the person they will marry—there is a tip.

Interestingly, given that some people wish to see wolves reintroduced into Scotland, in Romania St Andrew is invoked to ward off wolves on St Andrew's day. On that day, wolves are thought to be able to eat any animal they want to eat and to speak to humans; the belief is that a human hearing a wolf speak to him will die, so people

invoke St Andrew to protect themselves. Members have been warned.

St Andrew's fair Saturday is Scotland's contribution to the global celebration of fair Saturday, which is a global mobilisation that aims to create a positive social impact following the great expression of consumerism that is black Friday. Artists and cultural organisations from across Scotland and around the world will get together in a global festival that has just one requirement: to support a social cause of their choice that is close to their heart and to contribute to the wider celebration of St Andrew's day through their show. Events are being held across my North East Scotland region, including in, among other places, Aberdeen and Dundee, which include ceilidhs and cathedral services, as well as a concert in Dundee at which the decks of HMS Unicorn will be filled with lively traditional tunes from Shetland, mainland Scotland and Ireland.

St Andrew's day is a very important day in Scotland and globally. Although many people might not be aware of St Andrew's wider connections outwith Scotland, it is clear that he was and continues to be an important figure, especially at this time of year. It is encouraging to see that other celebrations and events are emerging as a result of the St Andrew's day holiday, and it is particularly encouraging for me, as a member for the North East Scotland region, to see places such as Dundee and Aberdeen getting involved.

13:08

**Emma Harper (South Scotland) (SNP):** Congratulations must go to Tom Arthur for securing the debate and to his intern, Kyle, for his research and contribution. It is great to see that St Andrew's day—30 November—marks the start of the winter festivals programme in Scotland, and the links that have been created with the fair Saturday movement.

I will focus on two issues: the purpose of fair Saturday and St Andrew's fair Saturday; and the Big Burns Supper festival in Dumfries. In preparing for today's debate, after reading Mr Arthur's motion, I followed up on the information that it provides on the fair Saturday movement. Fair Saturday is a positive initiative that is independent, apolitical and respectful of human rights, and aims to create a global cultural movement that will have a positive impact on society. It provides an opportunity for artists, cultural organisations and communities to come together in a unique festival and support social causes.

South Ayrshire Council, in my South Scotland region, has a St Andrew's fair Saturday event at

the Citadel leisure centre, where the fun swimming pool will be opened, and community engagement events are being organised across South Ayrshire to tackle isolation and loneliness. I am encouraging Dumfries and Galloway Council to promote the St Andrew's fair Saturday events next year, having written to it to raise awareness of the Scottish Government's St Andrew's fair Saturday initiative. I am aware that other local activities are planned by the Dumfries & Galloway Multicultural Association and the Massive Outpouring of Love charity. I wish them both well this Saturday.

I will also briefly mention the lamb for St Andrew's day campaign, promoted by Quality Meat Scotland. I encourage everybody to eat lamb on Saturday, because it is good fir ye. Quality Meat Scotland should be commended for that campaign.

Mr Arthur's motion describes the events and festivals in his constituency, and I am intrigued by the awfy Scottish winter wonderland. I am sure that Tom Arthur will be able to regale me with more detail later.

The Big Burns Supper festival in Dumfries is held in January as part of the celebrations of 25 January, the birth date of Scotland's national bard, Robert Burns. The Big Burns Supper winter festival is now known as Scotland's biggest Burns night party and the warmest winter festival set in the historic, vibrant south of Scotland capital. Held every year, the family-friendly event is now in its ninth year, and it will welcome 150 shows with 300 artists over 11 performance days. The various venues include bars, cafes, art galleries, museums and the oldest working theatre in Scotland, which was refurbished last year with Scottish Government support, the Theatre Royal.

The Famous Spiegeltent is another wonderful place. It has become the host venue for many live acts, and it is where the international burlesque cabaret show "Le Haggis" will be performed.

Ellisland farm, located just outside Dumfries, is the farm where Robert Burns lived before moving to Dumfries. It is the farm where he wrote his most famous poem, "Tam o' Shanter". I am glad to say that the farm has now joined the Big Burns Supper as a host venue site.

The funding for the fair Saturday programme has come from the Scottish Government through EventScotland and the Holywood Trust. The Big Burns Supper festival gets support from Carlisle City Council and Dumfries and Galloway Council. I thank all the supporters for enabling the festival to be held. Next year is its 10th year, and that will be an exciting event to attend. Perhaps the minister could come and join me at "Le Haggis" next year.

I again welcome the debate, I thank Tom Arthur and Kyle, and I encourage everyone to take part in St Andrew's fair Saturday.

13:12

**Claire Baker (Mid Scotland and Fife) (Lab):** I thank Tom Arthur for securing the debate. I have appreciated listening to members describing the history of St Andrew's day, as well as talking about Robert Burns, but today St Andrew's day more typically marks the start of Scotland's winter festivals and all the related seasonal celebrations.

The day also provides an opportunity to step back from the festival preparations, to take a break from the buying and planning and to think more about celebration of our culture. A modern part of St Andrew's day is fair Saturday, which seeks to create a positive social aspect by bringing people together in a way that can contrast with much of the commerciality that is part of the festive season.

Black Friday, which was once little known outside the US, has quickly become an event here in the UK that lasts for days, if not weeks. It can provide an opportunity to pick up a pre-Christmas bargain, although Which? is publishing evidence this week that exposes some false bargains for what they really are. As others have, I have been inundated with emails and adverts encouraging me to spend even more at this time of year.

When we get black Friday deals, we should remember how they work and their potential impacts on workers and smaller businesses. Many small businesses and producers are unable to compete with the large-brand offers, perhaps because they are struggling to keep prices low while maintaining fair wages, or because high-quality production methods have higher costs. I encourage members to think tomorrow about smaller producers, ethical businesses, fair traders and local enterprises, and about what they have to offer by way of high-quality produce at fair prices.

This weekend, thousands of artists and cultural organisations across the world will celebrate fair Saturday. I am pleased that a number of events are taking place across my region—many of them at libraries in Fife—including art exhibitions, family fun days and creative mindfulness colouring. At each library, food donation areas will be set up for local food bank charities. In St Andrews, there will be particular celebrations that will include storytelling and craft sessions, an international ceilidh and the big torch parade, with music and fireworks, as part of the St Andrews big hoolie.

As it did in previous years, Historic Environment Scotland will provide thousands of free tickets to abbeys, palaces, castles and cathedrals over the weekend, in order to let people across the country visit historic buildings and learn about our history

and culture. It is a great opportunity to get inside some of Scotland's great attractions, including Stirling castle, Doune castle, Dunfermline abbey and palace, Aberdour castle and Castle Campbell, which are all in my region.

On St Andrew's fair Saturday, events and activities all over Scotland will bring people together to celebrate sharing, fairness and social inclusion. The day is an opportunity for us to celebrate the culture of Scotland and to promote inclusivity and compassion. It is a day to show Scotland as a welcoming and open place in which to live and work.

The briefing from BEMIS for the debate is a welcome reminder of how St Andrew's day reflects—as it should—the increasing ethnic and cultural diversity of our communities. Local multicultural celebrations are taking place across Scotland and present an important opportunity to celebrate community cohesion and collaboration in an atmosphere of respect and solidarity.

St Andrew's day is a day on which we can reaffirm our opposition to racism in all its forms, and celebrate the racial and ethnic diversity of Scotland. The annual Scottish Trades Union Congress St Andrew's day march and rally against racism will take place on Saturday at Glasgow Green. It is an important event that demonstrates the diversity and inclusivity that are vital to Scotland.

St Andrew's day is a day of national celebration. It provides a chance for us to enjoy our cultural heritage and to encourage the diversity of Scotland and the positive relationships that exist across our communities. It is a reminder of the importance of promoting tolerance, dispelling ignorance, bringing people together and appreciating all the aspects that make Scotland the vibrant and welcoming country that it is.

13:16

**The Minister for Europe, Migration and International Development (Ben Macpherson):** I am delighted that my Europe, migration and international development portfolio includes celebration of Scotland's winter festivals, including St Andrew's day.

It is great to have this opportunity in Parliament, thanks to Tom Arthur and all the members who supported his motion, to debate the importance of St Andrew's day. I also thank members of the cross-party group on St Andrew's day, and members who have spoken today for their positive and enlightening contributions to the debate.

The winter festivals programme is boosted by a funding contribution of £400,000 from the Scottish Government, and its most obvious aim is to boost

Scotland's dynamic tourism and events sectors. What is more important is that it is not all about finance. Quite the opposite is true: the winter festivals are about so much more. They are positively and purposefully entangled and entwined with boosting Scotland's international profile, enhancing our collective confidence and affirming and promoting our shared values of fairness, kindness, inclusivity and internationalism.

That is what St Andrew's fair Saturday is all about. It is about galvanising the people of Scotland, and people all around the world who have an affinity with Scotland, to celebrate and affirm together the diverse, compassionate and outward-looking society that we have here, and that we always seek to build and strengthen.

The common thread that again connects all our St Andrew's day celebrations this year, reflecting the progressive and compassionate spirit of the fair Saturday movement, is a focus on encouraging Scots from far and wide to support others by engaging in small acts of kindness, as Alasdair Allan said. The Scottish Government is encouraging everyone in Scotland to engage in St Andrew's fair Saturday on 30 November, through doing one kind act, whether that is helping a relative, friend, neighbour or stranger, showing compassion where it is needed, contributing to a local cause or international charity, or inviting friends and partners to mark the occasion together, as we do this afternoon.

The aim is not only to make a difference, but to make Scotland's celebration of St Andrew's day something unique by keeping local communities at the very heart of the activities, by reflecting our core values and global reputation for championing social justice, by expressing the importance that we place on the vital and integral role of young people in our society, and by working together to strengthen the inclusive nature of the modern Scottish identity.

Supported by funding from the Scottish Government and reflecting those shared values, there are a number of strands to our activities on St Andrew's day and those of our partners in support of the wider celebration. The events programme for St Andrew's fair Saturday showcases 115 events, led by 65 organisations and supporting 90 different charities, in 33 cities, towns and other places right across the country—from Fife, which Claire Baker mentioned, to Dundee and the north-east, which Bill Bowman mentioned, to Barrhead, which Tom Arthur mentioned. All across Scotland, there are excellent events going on and I encourage everyone to get involved.

I am delighted that the multicultural celebration of St Andrew's day, which is delivered by BEMIS Scotland, is also going from strength to strength.

This year, we welcome 22 events that will mark St Andrew's day across the country with our multicultural communities. On Saturday, the St Andrew's day debating tournament is being led by the English-Speaking Union Scotland and will take place in Parliament, where many young people will debate the future of Scotland together.

What makes those events so special is that they are designed and delivered by local communities that are celebrating their own unique and valued cultures and traditions, and what Scotland means for them as their home. From torchlight processions to multicultural events, from music concerts to theatre, from crafts to cinema screenings, this year's St Andrew's day celebration offers something for everyone. It will bring people and communities together and demonstrate the positive plurality of modern Scotland.

In these times of flux and challenge, it is important to emphasise that Scotland's national identity is set in our internationalist ethos and traditions. Our sense of ourselves as Scots and of the nation of Scotland are, and long have been, bound up in and intertwined with a long-held wider identity as a progressive European partner and good global citizen.

On our national day—Saturday 30 November—let us celebrate and come together, look outward to the world, and never inwards. Let us celebrate as part of the international fair Saturday movement, and be ready to warmly welcome the people from around the world who will come to celebrate St Andrew's day and the wider winter festivals, including hogmanay and Burns night. To answer Emma Harper, I say that I very much hope to attend the Big Burns Supper next year. I look forward to being there with her.

On 30 November, we will see the biggest celebration of St Andrew's day in recent times. It is going to be a great day and, for members of Parliament and their activists, perhaps a welcome break from general election campaigning. It will be a day to celebrate Scotland and our unique evolving cultural diversity, and a day to think of others and to be kind through doing one kind act. I hope that it will be a day on which members will support me in warmly inviting the people of Scotland and our friends across the UK, Europe and the world to join in the celebration.

In this challenging political climate, on Saturday let us focus on building bridges through culture, art and communities coming together. Let us join together, let us make a positive difference together and let us enjoy the celebrations of St Andrew's day together.

13:24

*Meeting suspended.*



14:00

*On resuming—*

## Portfolio Question Time

### Finance, Economy and Fair Work

#### Scottish Stock Exchange

**1. Murdo Fraser (Mid Scotland and Fife) (Con):** To ask the Scottish Government what its position is on the establishment of a Scottish stock exchange. (S5O-03831)

**The Minister for Business, Fair Work and Skills (Jamie Hepburn):** The Scottish Government recognises that stock exchanges can be an alternative platform for some companies seeking to raise capital for growth investment, while offering investors the opportunity to contribute to the development of listed companies. The establishment of any stock exchange in Scotland is a commercial matter for those seeking to do so.

**Murdo Fraser:** Scottish ministers, including Mr Hepburn, were enthusiastic in their support for the project heather scheme to create a new Scottish stock exchange, and Scottish Enterprise pledged £750,000 of public money. We now learn from press reports that project heather's offices lie empty, staff have gone unpaid and debts totalling nearly £1 million have been run up. What support will the Scottish Government give to those who face losing their jobs as a result of the project failing? Given that there is widespread—

**The Deputy Presiding Officer (Christine Grahame):** That is fine, thank you.

**Jamie Hepburn:** It was not only me who was supportive of the establishment of a stock exchange; Dean Lockhart, who is in Mr Fraser's party, also expressed his support, and Tavish Scott hosted a reception on the issue at the Parliament when he was a member. I do not criticise him for doing so. I am sure that Mr Fraser would expect us to embrace such opportunities when we have them.

It is important to place on record that none of the money that Scottish Enterprise offered has been drawn down. However, Mr Fraser is right that, if the project does not succeed and people end up out of work, it is incumbent on us to do all that we can to support those individuals. Mr Fraser and other members can be reassured that we will of course do that.

**Neil Findlay (Lothian) (Lab):** Businesses in Scotland must have confidence in any stock exchange, whether it be a Scottish or United Kingdom one, and due diligence is an important factor in the financial sector. Can the minister

advise us what due diligence was done in the appointment of the new chair of the Scottish national investment bank?

**The Deputy Presiding Officer:** That is somewhat wide of the mark. I was at First Minister's question time when that issue was raised. It is a matter for the minister whether to answer that, but my ruling is that the supplementary is wide of the original question.

**Jamie Hepburn:** Mr Findlay can be assured that due diligence is always undertaken and that he will get a response in due course.

#### Brexit Preparations (Kilmarnock and Irvine Valley)

**2. Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** To ask the Scottish Government how it is supporting small businesses in the Kilmarnock and Irvine Valley constituency to prepare for a potentially damaging Brexit and develop economic links with Ireland and the rest of the European Union. (S5O-03832)

**The Minister for Public Finance and Digital Economy (Kate Forbes):** We are supporting small business through the prepare for Brexit campaign, which offers advice for companies that are concerned about the impact on their business of exiting the EU.

On 13 November, the Republic of Ireland Tánaiste, Simon Coveney, visited Edinburgh to participate in a bilateral meeting with the First Minister, Ms Hyslop and Mr Russell. That successful visit marks the start of the bilateral review process and an opportunity to continue building a positive relationship with our strong European ally, which is a priority market for our export growth plan.

**Willie Coffey:** A local business forum that I attended in Kilmarnock last week was well attended, with many small businesses keen to hear what support arrangements might be in place to assist them not only to continue trading with European Union partners but to enhance the relationships where possible. Can the minister assure me and my local business constituents that the Scottish Government will take every opportunity to further develop closer economic and social links with Ireland and the rest of the EU post any Brexit situation, should that occur?

**Kate Forbes:** We are absolutely committed to that relationship in order to provide opportunities for Mr Coffey's constituents, and we will build on the good work that we are already doing. In 2018-19, our team in Dublin helped to land six inward investment projects from Ireland and hosted six trade missions from Scotland, which supported more than 60 Scottish companies into the Irish market. Our relationship with Ireland is a priority

and we will continue to build on it to ensure that small and medium-sized businesses have opportunities in the Irish market.

### **Youth Employment (Labour Force Survey Data)**

**3. Liam Kerr (North East Scotland) (Con):** To ask the Scottish Government whether it will retract its statements on youth employment, in light of the United Kingdom Statistics Authority's recent comments on its use of the labour force survey. (S5O-03833)

**The Minister for Business, Fair Work and Skills (Jamie Hepburn):** No. The Scottish Government's statements on youth unemployment are based on official statistics that are routinely published by the Office for National Statistics, which means that they are the latest available official estimate of youth unemployment in Scotland.

Both the Scottish and United Kingdom Governments regularly refer to results from the ONS labour force survey, as it is the most frequently available source of labour market data. Scottish Government statisticians will continue to work with the ONS to discuss its handling of future publications on youth unemployment statistics and the use of the labour force survey. It is crucial that decisions on the use of statistics are taken by professional statisticians. Therefore, it is a decision for Scotland's chief statistician, who will reflect on the comments that have been made.

**Liam Kerr:** As the minister well knows, no one is criticising the national statistics—they are not the issue. The issue is that the Scottish Government selectively cherry picked a misleading number that was based on a sample size that was far too low to be reliable. A number of journalists have said that. The Fraser of Allander institute has said that. The Statistics Authority has said that. Is the Scottish National Party Government so arrogant that it cannot even hold up its hands and admit that it made a mistake?

**Jamie Hepburn:** I go back to the point that I just made—what is sauce for the goose is sauce for the gander. Those are not statistics that we alone use; the UK Government comments on them on a monthly basis, and they are utilised by not only the Scottish Government and the UK Government.

If Mr Kerr does not want the Scottish Government to utilise those statistics, I look forward to the same standard being upheld by his party, which routinely uses labour force statistics selectively as well, to do down the labour market. I have seen Murdo Fraser, Alister Jack and David Mundell do that frequently. If Mr Kerr does not

want us to use the statistics, I hope that, in future, he will not use them either.

### **Scottish Budget Delay (Impact on Dumfries and Galloway Council)**

**4. Emma Harper (South Scotland) (SNP):** To ask the Scottish Government what the impact will be on Dumfries and Galloway Council of the delay to the Scottish budget because of the general election. (S5O-03834)

**The Cabinet Secretary for Finance, Economy and Fair Work (Derek Mackay):** The lack of any certainty on the timing of the United Kingdom budget for 2020-21 means that we continue to manage an uncertain and challenging situation, which has imposed delays on our plans for the Scottish budget. That impacts on all local authorities along with other public bodies—I understand that.

We continue to work with the Finance and Constitution Committee and the Scottish Fiscal Commission to determine the best approach in the circumstances and ensure that we are in a position to introduce a Scottish budget for 2020-21 at the earliest practical opportunity. I will keep our local government and other partners up to date as that work develops.

**Emma Harper:** The delay to the budget is causing much frustration and concern in Government, local authorities and the third sector. Will the cabinet secretary outline whether any shortfalls are expected in Government funding of Scottish public services, including third sector organisations?

**Derek Mackay:** Again, that highlights that the UK Government, once elected, should move to a budget-setting process as quickly as possible so that we have political understanding about how it will impact on the devolved Administrations, not least that of Scotland.

We are concerned about that and we are engaging with local government; I have just come from a meeting with the Convention of Scottish Local Authorities on this and other matters. I want to be able to give as much certainty as I can as quickly as I can.

Emma Harper's question was specifically about support for local government and third sector organisations. I know that my colleague Aileen Campbell, the Cabinet Secretary for Communities and Local Government, is engaging with the third sector to give further reassurance about that.

However, fundamentally, it is for the UK Government to proceed swiftly with its budget process, so I have written to both the current chancellor and the prospective chancellor to

impress on them the need to move to a budget as quickly as possible.

**Murdo Fraser (Mid Scotland and Fife) (Con):** I am sure that the cabinet secretary will be happy to acknowledge that we do not have a UK Government budget because we have an upcoming general election, which is what his party called for.

**Derek Mackay:** We are where we are. Clearly, I am not calling for a UK budget before 12 December; I am calling for one as quickly as possible after 12 December. The sooner that that happens the better, because that will give more time for me to present the Scottish budget, for Murdo Fraser to look at the numbers and for us to have an argument about the numbers. It is important that the timescale allows as much time as possible for scrutiny by the Scottish Parliament.

As I said, we are where we are. We are waiting for the UK Government to be elected. We all have our preferences for what we want that to look like and how Scotland will feature in it. However, any UK Government that respects devolution and wants to ensure the orderly delivery of public services and tax setting in Scotland should proceed with its budget and share information as quickly and sensibly as possible.

#### Assaults on Retail Workers

**5. Daniel Johnson (Edinburgh Southern) (Lab):** To ask the Scottish Government what action it is taking to prevent assaults on retail workers. (S5O-03835)

**The Minister for Business, Fair Work and Skills (Jamie Hepburn):** Retail workers play an important role in our communities and it is right that they have legal protection as they go about their work. In 2019-20, the Scottish Government provided financial support to the Scottish Business Resilience Centre, which, among other matters, provides support to businesses to keep their staff safe while at work. Anyone assaulting a retail worker can be dealt with under existing criminal offences, with penalties all the way up to life imprisonment available to the courts.

**Daniel Johnson:** I remind the chamber that I am a member of the Union of Shop, Distributive and Allied Workers. In November, USDAW held its annual freedom from fear week and released its latest survey results of more than 1,000 retail staff, which showed a 25 per cent increase in assaults on retail workers compared to the previous year. Shockingly, it also revealed that 15 assaults on shop workers occur every day in Scotland. Given that and the fact that specific protections exist for workers such as border staff, emergency workers and police, is it not time to consider whether the law needs to change to protect shop workers

also? Does the minister agree that people who are concerned about these issues should take part in the consultation exercise that the Economy, Energy and Fair Work Committee has just launched on my Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Bill?

**Jamie Hepburn:** Of course, when any prospective legislation is before this Parliament, it is incumbent on people to take part in a consultation. Just like Dan Johnson, I encourage people to take part in that process. As for his bill, we will consider any proposition for legislation that is advanced in good faith. I believe that Mr Johnson is advancing his bill on that basis, but we will of course need to consider its specific provisions. I know that the Cabinet Secretary for Justice, who will lead on the bill, is considering it now, and the Scottish Government will respond in due course.

#### Consumer Protection (Vulnerable People)

**6. Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP):** To ask the Scottish Government what measures it can take to better enhance the consumer protection for vulnerable people facing aggressive sales at the doorstep. (S5O-03836)

**The Minister for Business, Fair Work and Skills (Jamie Hepburn):** Consumer protection remains reserved to the United Kingdom Government, but through advice and advocacy we are doing what we can to support consumers. The Scottish Government is working with a number of partners to produce a scams prevention strategy that will help all consumers with practical steps to reduce the harm and detriment that aggressive sales techniques can cause.

**Dr Allan:** I have had several instances brought to me in my constituency of elderly people being told by a company that they must sign up for insulation under the UK Government's energy company obligation scheme. In one instance, a householder was actually told that they would be breaking the law if they did not. I have also seen numerous houses left in a terrible and, in some cases, highly dangerous condition. I appreciate that that is not a Scottish Government scheme, but what can be done to reign in that cynical behaviour towards elderly and often vulnerable people?

**Jamie Hepburn:** We are all aware from our constituency case loads of too many instances where rogue traders have been operating under that and previous schemes. Of course, some of the activity can constitute a criminal matter and be subject to investigation and potential prosecution, but I believe that there is a clear need for the UK Government to improve consumer protection as part of its energy efficiency schemes. We have

raised that with it, and from January it intends to require all businesses participating in the ECO scheme to be registered with TrustMark, the UK Government-sponsored trusted trader scheme. I welcome that response but, in common with Citizens Advice Scotland and others, we have told UK ministers that those changes come a little too late and do not do quite enough to protect vulnerable consumers.

We continue to work with stakeholders to direct householders to our home energy Scotland service, which provides free, expert and impartial advice to anyone who wants to understand how they can heat their home more effectively and efficiently.

### **Scottish Growth Scheme (Investment in North East Scotland)**

**7. Peter Chapman (North East Scotland) (Con):** To ask the Scottish Government what the level of investment in the north-east has been as part of the Scottish growth scheme. (S5O-03837)

**The Cabinet Secretary for Finance, Economy and Fair Work (Derek Mackay):** The information requested is not available for the designated area. Scottish growth scheme support is available to companies throughout Scotland. Up to 31 October 2019, £165 million of investment has been unlocked for 277 businesses.

**Peter Chapman:** I remind the cabinet secretary that the growth scheme was supposed to be a £500 million fund over three years but, with just months to go, the Government's own figures show that, as of the end of September, £160 million—that is the figure that I have—has been invested and less than £30 million of that has come from the Scottish Government itself. What plans does the Government have to give the north-east the investment it needs and deserves before the scheme ends?

**Derek Mackay:** The Scottish Government has invested and will continue to invest massively in the north-east of Scotland, whether in infrastructure, business support or support for our public services generally. With regard to co-investment, one of the issues relating to the investment propositions for the Scottish growth scheme was investors' willingness and desire to invest at the time. I have gone through that forensically at the Economy, Energy and Fair Work Committee. One of the reasons that we heard for some investment being pulled, or not being seen through to the end, was Brexit uncertainty, and whose fault is that? It is the Tories who have put us in the position of Brexit uncertainty. A no-deal Brexit would be calamitous for Scotland's economy.

What part of Scotland would be worst affected by Brexit? It is the north-east and, in particular, the city of Aberdeen. The member talks about business support, but we are carrying out many actions, and I will announce further actions through the economic action plan. The biggest threat right now to business and prosperity in Scotland and, in particular, the north-east of Scotland, is Brexit, which has been brought upon us by the Conservative Party, which is reckless, incompetent and financially incapable.

**The Deputy Presiding Officer:** Question 8 has not been lodged, so that concludes portfolio questions on finance, economy and fair work. There will be a short suspension before we move on to the next item of business.

14:16

*Meeting suspended.*

14:18

*On resuming—*

## **Women in Agriculture Task Force (Final Report)**

**The Deputy Presiding Officer (Christine Grahame):** I remind members that business is follow-on—it is not like a train timetable. You have to be ready for business being shortened or elongated, and you should always pay attention to what is happening. That is advice for all members.

The next item of business is a statement by Fergus Ewing on the final report of the women in agriculture task force.

14:19

**The Cabinet Secretary for the Rural Economy (Fergus Ewing):** I am delighted to lay before Parliament the final report of the women in agriculture task force, which was established by the First Minister in June 2017. I will set out some of its key findings, but before I do that, a few observations and thanks are in order.

It has been my absolute privilege to co-chair the women in agriculture task force, although I cannot claim to have been its driving force. That role has been undertaken with characteristic enthusiasm and skill by Joyce Campbell. I thank her and all the members of the task force for giving so generously of their time, skills, knowledge and experience.

It would be fair to say that some members of the task force have been on their own journeys of discovery. They arrived with ideas and views that have been challenged and changed along the way. That is, for me, a sure sign that the task force has achieved its objectives. The debate has been robust at times, and the work has been rigorous in testing ideas and assessing their merits and practical application. I thank Government officials who have applied themselves fully to supporting the task force and its work, and I thank all the businesses, organisations and individuals who were involved, including the women in agriculture group, for their work and input.

There is no doubt that women are absolutely key to Scottish agriculture, undertaking, as they do, a range of roles as owners, tenants and workers on farms and crofts. They are increasingly involved in the supply chain that provides goods and services that surround agriculture and food production, and they are employed in key stakeholder organisations. However, there is still a breakthrough to be made in terms of women occupying visible leadership roles in equal numbers to men across the industry.

As the research report, “Women in Farming and the Agricultural Sector”, which was published in June 2017 states, a range of barriers are at work—not the least of which are the fundamental and deep-rooted conscious bias and unconscious bias in how organisations operate, are structured and act. That is why the Government is funding pilot activity with a range of organisations to effect change to that.

The task force also debated and considered quotas for women in positions of leadership in the industry. We concluded that the starting point for change should be to create a suite of practical measures that the industry can engage with voluntarily. That does not mean that the Government will not act in the future if change continues to be slow, but that the status quo is no longer acceptable. The need for everyone to embrace and facilitate change is a core conclusion that runs throughout the task force’s report.

There is certainly more for the Government to do, which is why we will take the lead in piloting the equality charter for Scottish agriculture. That will set out key ways that businesses and organisations of any size can work towards greater equality, and support positive change that benefits their business. We will test it and review it by 2022, and we expect every organisation that participates in Government-led groups to evidence compliance with the charter by the end of that year.

As well as creating the right environment to enable women to participate equitably, we need to ensure that more women in agriculture get the support that they need to build their capacity and skills in order to succeed. The Government has already agreed to create a women in agriculture development programme that is accessible and delivers training and mentoring to support women to build their confidence, enhance their business skills and develop their leadership abilities. We have also committed funding for the pilots of three specific independent courses, in the programme.

I advise Parliament that we have appointed Sheila Campbell-Lloyd of Inner Works Coaching to deliver the “Be your best self” training pilot. It will be open to all women in agriculture to help them to build more confidence, explore new possibilities and opportunities, and make new connections. I hope very much that the development programme will provide one of the quick wins that will make a real difference for women in agriculture.

There is no doubt that some of the other recommendations will take longer to effect. In the coming months, the Government will engage with key bodies including the Law Society of Scotland, Scotland’s Rural College, the Agriculture Industries Confederation and the Health and Safety Executive to develop shared approaches to

implementing the recommendations on succession and on health and safety. As part of our work on future policy on farming and food production, we will explore and consider how to deliver the recommendations on new entrants. It is clear that the Scottish land-matching service can play a role in that.

There is no doubt that cultural change on such a scale requires time; the report recognises that. However, we are already starting to see an impact from the range of activity that is being driven by women in agriculture, which is encouraging many organisations and businesses to change. Let me be absolutely clear: change must come. Doing nothing is not an option.

Scottish agriculture is the beating heart of rural Scotland. It is the food engine for both Scotland and the global export market. However, it is also the last male stronghold in the country. Make no mistake—Scottish agriculture is full of women and girls who are skilled and able, but not all of them have the opportunities that they deserve and are capable of taking up. Inequality is entrenched and embedded. That simply cannot be allowed to continue.

This Government wants a fairer rural Scotland, not just because that is the right thing, but in order to allow the rural economy and communities to thrive. Scotland needs an agricultural industry that is sustainable, profitable and able to make the most of its resources to be competitive. It also needs to be resilient and inclusive. It is neither acceptable nor business-savvy for agencies, organisations and businesses that operate in Scottish agriculture today to be effectively male only. If we can help them to be better and more equitable, we should do so. Those agencies, organisations and businesses also need to hear clearly that men-only boards and governance structures must be consigned to the past.

Scottish agriculture simply cannot afford to leave women behind, but changing a centuries-old culture will involve significant work. Crucially, it will require that everyone who has a stake and an interest in the future of agriculture in Scotland work together.

Together, we can do it, but alone, we will fail. I hope that Parliament will lend its support to that work, and that it will play its part in making change and equality happen for women in agriculture.

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

I thank the cabinet secretary for prior sight of his statement. The report is a very welcome and important piece of work. I thank the members of the task force for their efforts in getting this far.

I was pleased to be at the launch of the strategy document last night at Ingliston—in particular to listen to co-chair Joyce Campbell's excellent speech—and to be able to speak to many of the women who did the hard work of making that task force a success. Many of them have already made their mark in the industry: we need more of them.

There is a great and pressing need to change the culture in farming circles and to recognise better, and harness, the huge benefits that women can bring to our industry. However, we all know that changing cultures takes a long time.

I am pleased that the task force has rejected the idea of quotas for women in leadership positions in our industry. I think that assisting women with their training needs is a better way forward, and I believe that the suite of training that is proposed under the women in agriculture development programme is an excellent initiative.

It is proposed that much of the work will be funded by the Scottish Government in partnership with the applicants and the industry. Will the cabinet secretary give us some indication of the levels of funding that the Government is considering for delivery of that important programme?

**Fergus Ewing:** I thank Mr Chapman for his welcome for the women in agriculture task force report. As he said, he was at the launch yesterday evening and heard co-chair Joyce Campbell make an excellent speech. It was terrific that we and other MSPs were able to thank personally the many members of the task force who were there.

I am also pleased that Mr Chapman recognises that the training element of the recommendations is important. In summary, the training will look to enhance and develop people's skills as individuals, to assist with their leadership roles and to help to develop necessary business skills that can directly play a part in enhancing their contributions to farms as businesses. The training will be useful in all those respects.

The commitment that we made in the programme for government is £200,000 for 2019-20 and £300,000 per annum for 2020 to 2024. In Government terms, the funding is relatively modest, but I think that we will get a substantial result from it. We will closely monitor how the programmes work and the response, and we will get feedback from the people who participate in the courses in order that we can ensure that the courses are delivering the goods. I appreciate Mr Chapman's general approach to the subject.

**Colin Smyth (South Scotland) (Lab):** I thank the cabinet secretary for advance sight of his statement, and I place on record my appreciation of all the members of the women in agriculture

task force for their work and their very welcome and comprehensive report.

There are many practical recommendations in the report, but it ultimately points to the need for fundamental cultural change. We too often hear the excuse that women cannot be found to take leadership positions in the sector, although little is done to break down the barriers that they face or to tackle the conscious or unconscious bias that prevents the best person from taking those roles. That is not only blatant discrimination; it means that the industry foregoes an enormous talent pool and is poorer for it.

On the report's specific recommendations, I note that it highlights that

"Supporting new entrants is an important way to bring more women and a greater gender balance"

into the sector. However, the cabinet secretary will be aware that three new entrants schemes have been closed since 2018. Are there any plans to reopen them?

The cabinet secretary will also be aware that there remains in the sector a pay gap of around 12.5 per cent. What is the Government doing to close that?

**Fergus Ewing:** I agree with Mr Smyth that cultural change is necessary. There are recommendations that are designed specifically to assist women to achieve their enormous potential, but culture change will require men to think differently. I think that that is recognised. As a bloke who made the statement, I am highly conscious of that.

To answer Mr Smyth's question, we recently launched the matching and mentoring scheme at a farm in central Scotland. A farmer who wished to withdraw from being a full-time farmer was able to meet a young couple who are new entrants. We have the assistance of Ian Davidson, who will guide the mentoring aspect. That is not an easy thing to do, of course, but that is a very practical approach.

The report's recommendations on new entrants are in paragraph 7. It recommends that we

"promote and encourage innovative routes to access land and capital, to overcome recognised barriers for women new entrants"

and that we

"address the skills gap facing some women new entrants to agriculture in the areas of business skills and confidence."

It is plain that Mr Smyth's questions really relate to the wider question of support for new entrants. The schemes that we had in Scotland were the only ones in the United Kingdom, and they had some success. However, moving on from that, we recognise that we have to tackle the problem of

succession and encourage new entrants to come into the system with their skills. We will certainly do that in the years to come.

**Maureen Watt (Aberdeen South and North Kincardine) (SNP):** After decision time yesterday, we debated a motion on 16 days of activism against gender-based violence. In the evening at Ingliston, we learned from a co-chair of the task force, Joyce Campbell, about the threats, intimidation and bullying that have been directed at her and other members of the task force from members of the agricultural community—both male and female. Is it not time that some people joined the 21st century and recognised that things have to change for the benefit of the future of agriculture in Scotland? What can the Government do to assist in that?

**The Deputy Presiding Officer:** You are talking about wider things, but I think that the issue is connected.

**Fergus Ewing:** I believe that it is. Maureen Watt was present at the reception at Ingliston house last night, at which Joyce Campbell said that she had experienced such behaviour. It is completely unacceptable that women in agriculture face harassment, intimidation and bullying. One of the things that we are doing to tackle that is funding a training pilot for up to 10 businesses and organisations to address unconscious bias. The first training session has already taken place with Tayforth Machinery Ring. Other organisations that have already signed up are Dingwall & Highland Marts, United Auctions, Scottish Land & Estates, HBS Ring and W&A Geddes. I am pleased that, before the publication of the report today, there has already been interest and an agreement that training will be delivered.

It will take some time to effect societal change. It will not happen overnight, but the task force is determined that it will happen and we are taking positive, practical steps there anent.

**Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con):** I pay tribute to all women working in agriculture, including my mother, who has kept my father, a farmer, on the straight and narrow. I do not think he would be here today without her; nor would my brother, his successor. She makes sure that my father has the cattle passports and that he has enough money to buy the cows. We should pay tribute to all women in agriculture, which we are doing today.

As a former agronomist, and a working mother, I sympathise greatly with some of the task force report's sentiments and recommendations. Page 17 highlights that the picture is "unclear" when it comes to rural childcare provision, with 54 per cent of respondents identifying a lack of childcare as limiting their potential in agriculture. Although I

appreciate that this cuts across cabinet secretaries' portfolios, as do recommendations in other parts of the report, does the cabinet secretary agree that delays to the roll-out of 1,140 hours of free childcare will have a pronounced effect on the ambitions of women hoping to secure a career in agriculture?

**The Deputy Presiding Officer:** Once again, I think that there is a connection with encouraging women into agriculture.

**Fergus Ewing:** Rachael Hamilton is right that adequate childcare is a key facet, as is support for those who look after others such as elderly parents who may require care, or people with a disability. That is part of the overall picture, and that is why section 5 of the report includes the recommendation that we must

"increase the availability and access to formal and informal childcare in rural areas, to better enable women in the Scottish agricultural industry to engage in training, networking and to develop business opportunities".

It also states:

"The Scottish Government and Local Authorities must consider how childcare services can be more closely tailored to suit demand in rural areas and costed accordingly."

Agricultural households need childcare outwith standard working hours, in the evenings and early mornings, and that is a further challenge that is not necessarily present in an urban environment. Many farms are also remotely located and so accessing childcare is a practical issue. I do not underestimate the scale of such challenges, but the report recognises that we need to improve in this key area. I know that my colleagues who have direct responsibility for childcare are sighted on the contents of the report, and we will work together to ensure that they are implemented properly.

**Emma Harper (South Scotland) (SNP):** I attended the report's launch last night. I, too, thank Joyce Campbell and all the members of the task force for their fabulous work. I also thank the cabinet secretary, of course.

As is outlined on page 20 of the report, one of the key opportunities and challenges for the future is to encourage more young women into the industry as new entrants. Will the cabinet secretary therefore outline how, apart from the mentoring scheme, the Government proposes to enable that to happen?

**Fergus Ewing:** I have already touched on that in my answer to Mr Smyth's question. There is an urgent need to take such steps. The report recognises that the succession process itself is sometimes a challenge to enabling new entrants, partly because of the need to take legal advice. However, it is for each farmer to address the issue

of succession at a reasonable early date and to plan ahead, which was very much a theme in the report.

It is also recommended that we address the skills gap that some women who are new entrants to agriculture face. That means enabling them to have practical access to training courses and programmes—both those set out in the report and the wider programmes that are available through Scotland's Rural College, Lantra Scotland and other providers.

There is a whole series of ways in which we need to encourage new entrants—especially female entrants—into agriculture, and the Government fully intends to work on them all.

**Claire Baker (Mid Scotland and Fife) (Lab):** How do we challenge a system in which the best person for the job always seems to be a man? Although the training opportunities that are being introduced for women are welcome, I am concerned that the timescale for reviewing the impact of the charter goes up to 2027, which is eight years away. If participation in formal Scottish Government agricultural stakeholder groups is the lever for delivering compliance with the equality charter, what percentage of the Scottish farming sector will be involved? What is the level of engagement with formal stakeholder groups?

**Fergus Ewing:** This autumn, the Scottish Government will start to pilot the equality charter for Scottish agriculture. The pilot will run until the end of 2021, which will enable the charter to be fully tested and will ensure that it works for all types and sizes of agricultural businesses and organisations. The charter will support businesses and organisations to become more supportive and inclusive, and we believe that that will benefit farms and farming enormously. Further increasing the role that women are playing will lead to greater efficiencies and greater business success.

Although we have set out 2027 as a long-stop date, we will not wait until then to ensure that the work is successful. I believe that it will be successful long before then. We will ensure that the charter is fully explained to all stakeholders, as Claire Baker said, and we will work with them to deliver it. I am immensely optimistic and positive about the equality charter for Scottish agriculture.

**Mark Ruskell (Mid Scotland and Fife) (Green):** The Government's report "Women in Farming and the Agriculture Sector", which was published in 2017, said that the

"passing on"

of

"large farms intact to one son is the single biggest barrier to women's entry into agriculture."



Will the Government act on the long-standing recommendation to update the law of succession to give all children, including daughters, an equal right to inherit? Will it remove that top barrier to women's participation in agriculture?

**Fergus Ewing:** The task force had lively discussions about that topic. It was recognised that family discussions about succession are often avoided simply because they might involve conflict. These can be inherently sensitive issues. The task force's report says that, although it is

"perceived that drawing up a will is expensive ... this need not be the case."

The practicality of preparing a will is often the most basic and sensible thing that can be done, so that the intentions in relation to succession are absolutely clear.

The task force took the view that we need to bring about cultural change. That underlies the fundamental issue that Mr Ruskell identified, as stated in the research from 2017. The culture must change. That is the primary area that we will seek to address in order to bring about change.

**Mike Rumbles (North East Scotland) (LD):** On page 13, the report says that any industry training provider

"in receipt of public funding should be required ... to make their training accessible and inclusive"

in order to tackle unconscious bias. That is absolutely right. However, in the very next paragraph, the report says that a

"Scottish Government programme should be put in place to financially incentivise the provision of women-only ... courses".

Will the compartmentalisation of women be the best way of changing the undoubtedly male-oriented culture in the industry?

**Fergus Ewing:** The task force's view was that, in some instances, women-only courses would be the most efficacious, which is why the report contains that recommendation. I respectfully disagree that that, in itself, will prevent the achievement of bringing about cultural change. Cultural change is necessary in relation to males, by and large, in order to address prejudice, chauvinism and views that belong in previous centuries. Having women-only courses would not be inimical to, and would not prevent or hinder, the achievement of the overall aim, but I understand the point that Mr Rumbles makes.

**Gillian Martin (Aberdeenshire East) (SNP):** I apologise for asking a question about succession that is similar to Mark Ruskell's. One of the key recommendations of the "Women in Farming and the Agriculture Sector" research, which the First Minister launched in June 2017, addressed issues of succession, yet the task force has not taken that

much further forward. Can the cabinet secretary further explain the thinking behind that?

**Fergus Ewing:** The task force took the view that the existing culture among some people—for example, the view that men should be the heirs to a business—is the real cultural issue that needs to change, together with the current lack of succession planning by families on crofts, smallholdings and farms. The recommendations therefore focus on asking the industry to engage in awareness raising and providing the right advice and support to farmers, crofters and smallholders. Lawyers have a role to play, and one of the actions for Government will be to engage with the Law Society of Scotland, and others, to explore how best to go about raising awareness and providing appropriate advice and information.

**Edward Mountain (Highlands and Islands)**

**(Con):** I, too, welcome the report. I declare an interest: I am a partner in a farming business, which my wife is running ably in my absence.

I welcome the acknowledgement that there is a need for a growing, vibrant, forward-thinking, representative and inclusive agricultural industry in Scotland. Does the cabinet secretary agree that one of the biggest barriers to that is lack of profitability, which is one of the many things that we also need to address?

**Fergus Ewing:** I am sure that Mr Mountain's business is now in good hands. [*Laughter.*] I think that he walked into that one. Seriously, Mr Mountain makes a fair point: of course we want businesses—whether they be farms, crofts or anything else—to be successful, and that means making a profit. We are absolutely focused on that; hardly a day goes by without my engaging with farmers about how to take up and put into practice some of the marvellous innovations that are coming forward, particularly from the younger cohort of farmers. We provide Government support for that where it is required—although it is not always required.

In the long term, I very much want to see farmers getting a fair share of the market benefits of beef and other red meat, for example. That is a very live issue at the moment; I am acutely conscious that it is one of the issues that we need to tackle.

The report should not be viewed as a challenge or a nuisance. For farms where there is a female involved—whether it be a wife, partner, sister or mother—this is an opportunity for them to make an even greater contribution and it will help them to achieve more, thereby increasing the profitability of the business in the by-going.

**Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP):** How do the task force's recommendations on childcare relate to the Scottish Government's

groundbreaking commitment to provide 1,140 hours of childcare? Will it consider how those issues impact on its policies when it comes to encouraging new entrants?

**Fergus Ewing:** Mr Allan is, of course, correct—that is the aspiration. It is there for the practical purpose of enabling women to achieve their potential across all areas of life and business in Scottish society. It is a particularly acute challenge in agriculture, for the reasons that I sought to provide in response to Rachael Hamilton's question.

I am very pleased about the welcome that the excellent work that Joyce Campbell and her team have done has received, and we will certainly be keen to take forward the recommendations on childcare as swiftly as we can.

## Scottish Elections (Franchise and Representation) Bill: Stage 1

**The Deputy Presiding Officer (Christine Grahame):** The next item of business is a debate on motion S5M-20049, in the name of Michael Russell, on the Scottish Elections (Franchise and Representation) Bill at stage 1.

14:49

**The Cabinet Secretary for Government Business and Constitutional Relations (Michael Russell):** At the outset, members might like to know that this is the first stage 1 debate on a bill that will require a supermajority to pass at its final stage. That means that two thirds of all members will have to support the bill when that moment comes next year. We are off to a good start, given that the Standards, Procedures and Public Appointments Committee has recommended support for the general principles after its scrutiny of the bill, although one party was against much of it. I am grateful to the committee for its thoughtful consideration of the bill, and I hope to persuade even that one party to back it when it comes to its final stage next year.

As members will be aware, new powers over elections and the franchise were devolved by the Scotland Act 2016. This Parliament can now take decisions about key Scottish electoral issues although, regrettably, there are still franchise matters being dealt with outside Scotland, with Westminster's continued refusal to give the vote to 16 and 17-year-olds, which will be obvious again in two weeks' time.

The bill has two main aims: to extend voting and candidacy rights to foreign nationals, and to ensure that we are compliant with the European convention on human rights in relation to prisoner voting. The bill's provisions on foreign nationals will, I hope, contribute to the building of an open, outward-looking, inclusive Scotland. The provisions on prisoner voting rectify a legal problem and are also progressive.

I start with the provisions on foreign nationals. We have got used to having European Union nationals and Commonwealth citizens in our franchise. Had our franchise been used for the whole of the United Kingdom in the EU referendum, the result might well have been different. There is a beneficial effect in ensuring that all citizens who have a stake in the future of the country are empowered to exercise their choice about that future. If people have chosen to build a life here, they should have the right to vote in our elections.

EU and Commonwealth citizens are not the only people who shape Scottish society through deciding to come here to live, to study, to work and to raise families as our friends and neighbours, so it is time that we recognised that anomaly and enfranchised all those citizens from around the world who live and work among us. Migration is central to the development of Scotland as an inclusive, prosperous and innovative country that is ready and willing to embrace the future. While control over migration policy is reserved, it is right that we use the powers that we have now not just to send a strong message about what Scotland wants to be—an open country, an inclusive community and a nation that values everyone who makes their home here—but to ensure that we benefit from the contribution that such citizens wish to make.

**Adam Tomkins (Glasgow) (Con):** I understand that the cabinet secretary wishes to equate the franchise in Scotland with residency. He will equally understand that there is a tradition that equates franchise not with everyone who is lawfully resident here but with citizenship. If he wants to break the link between franchise and citizenship, I ask him this: what does he think citizenship is for, and what value does he think citizenship should add if not the right to vote?

**Michael Russell:** I will not go into a dissertation on citizenship here. What I am talking about is whether, if someone is a member of a society and is resident in that society, they should have the chance to take part in decisions about that society. That is the principle that we are discussing today.

In addition, no franchise stands still. I know that the term “conservative” refers to those who conserve what they believe to be good and what they believe should not change, but franchises are, and should be, dynamic. The franchise in Scotland needs to continue to change, just as all franchises need to change.

Scotland actually agrees with the position that I have taken and outlined: more than three quarters of the respondents to the consultation were supportive of extending the franchise in this way. That sends a message not just about what Scotland wants to be but about what Scotland is.

Political participation is a vital part of a person's integration. We are proposing one of the most open approaches to voting rights in the world, which will include enfranchising refugees who have leave to remain, which is highly significant.

The Standards, Procedures and Public Appointments Committee has asked the Scottish Government to consider whether we could go even further. I have listened to the compelling arguments presented to the committee by several witnesses regarding asylum seekers whose

decisions are pending. I am far from unsympathetic, but I have to acknowledge a number of practical reasons why I am not yet able to take that step.

First, asylum policy is not devolved, and Home Office data suggests that about 50 per cent of asylum claims are ultimately unsuccessful. That raises questions about how the integrity of the electoral register could be maintained if individuals are registered to vote and then denied leave to remain. Secondly, the bill as drafted will add at least 55,000 foreign nationals to the electoral roll, and coping with that will be a challenge for electoral registration officers. I am sure that they are equal to the challenge, but asylum seekers will not typically have a national insurance number, and there are then questions about the documentation that they can reasonably be expected to provide to registration officers and about the time that each individual registration will take.

**Mark Ruskell (Mid Scotland and Fife) (Green):** Will the cabinet secretary take an intervention?

**Michael Russell:** I will make my point first.

As I said, I have considerable sympathy for the benefit of extending rights to people who have come to our country in the most traumatic circumstances. My concerns relate fundamentally to practicality, efficiency and good administration. I undertake to consider the issue further as the bill progresses.

I have already met Mr Ruskell to discuss the issue—perhaps he would like to make his point now?

**Mark Ruskell:** Has the cabinet secretary, or have his officials, considered whether asylum registration cards, which are a form of photo ID, could provide an adequate form of verification for electoral registration officers?

**Michael Russell:** As I have indicated to Mr Ruskell before—I do so again now—I am always open to ideas on the matter. One possibility might be to effect a change at a later date, outside the bill process. That would allow us more time to examine some of the issues and to address practical constraints. I have written to the committee this week to that effect.

The bill as introduced also extends candidacy rights to foreign nationals with indefinite leave to remain. That approach is adopted by the Welsh Government in its franchise legislation, which was approved yesterday. Again, the committee has asked us to go further and find a way to afford any foreign national who is able to vote in our elections the right to stand as a candidate. Once again, I can see the attraction in doing that, but it presents

a clear risk of persons being elected who may lose the right to reside in the country before the end of their term of office, or even before polling day itself.

Although indefinite leave to remain can be extended, it can also be refused or curtailed early. Therefore, there is a danger that we could potentially be building into our system a significant number of by-elections, which might be costly and disruptive. Moreover, immigration policy is reserved and there are a number of complex factors at work in relation to leave to remain.

**Neil Findlay (Lothian) (Lab):** Does the cabinet secretary accept that, given the very small number of people that we would expect to be involved, it is a bit of a stretch to suggest that there would be a long list of by-elections? Does he accept that there are many reasons why someone who is elected might not finish their term, and that this is no different?

**Michael Russell:** With respect, I think that it is different. In those circumstances, we would be giving the right to stand to someone who could in no sense be confident that they would be able to see out their term. Very often individuals are confident that they will see out their term but then something happens to them. It is not right to dismiss the issues, and I am not dismissing them. I am taking the issues seriously and trying to explore them, but I will not hide from the practical difficulties.

I have also reflected on the concerns that have been raised about support for local authorities in handling the proposed changes and I have given the committee an undertaking that additional funding will be provided.

On the bill's provisions in relation to prisoner voting at Scottish Parliament and local government elections, I recognise that the idea of prisoners being able to vote arouses a wide range of views. In 2017, the Parliament's Equalities and Human Rights Committee recommended allowing all prisoners the vote, whereas the United Kingdom Government limits prisoner voting to those on remand or temporary release.

Whatever a member's personal view on the matter, it is clear that the Parliament as a whole must act, because the current ban on prisoner voting is untenable under human rights law and has been for some years. Consequently, doing nothing is not an option. The Standards, Procedures and Public Appointments Committee agrees with that position, having taken evidence on the matter. The reason is that in 2005, the European Court of Human Rights found the UK blanket ban on prisoner voting to be in breach of article 3 of protocol 1 of the European convention on human rights. We received powers over our

franchise three years ago; as a result, we are obliged to take action to ensure that we are ECHR compliant. Members who are familiar with the Hirst ruling know that the court allows member states a wide margin of appreciation in relation to the exercise of the franchise by convicted prisoners. Indeed, there is no one-size-fits-all approach to ensuring compliance across Europe.

We consider that our proposal to allow prisoners who are serving sentences of 12 months or less to vote falls within that margin of appreciation. The committee has questioned the 12-month period, but it has a solid grounding. First, 12 months is the maximum sentence that a judge can pass in cases that are heard without a jury. Secondly, it is the threshold for the Government's new presumption against short sentences. Thirdly, it was the most favoured option of the periods on which we consulted earlier this year.

**Adam Tomkins:** Will the cabinet secretary give way?

**Michael Russell:** I ask the member to allow me to make some progress.

There were, of course, other views. Some people proposed a different sentence threshold or the complete lifting of the ban. The committee questioned the 12-month proposal, suggesting, for example, that the presumption against short sentences would, in effect, mean that few prisoners would be enfranchised.

However, my colleague, the Cabinet Secretary for Justice, has been clear that the presumption is not a ban. It seeks to encourage the courts to consider alternatives to custody that can be more effective in rehabilitating individuals, but there will always be crimes for which the court decides that imprisonment is the correct course.

There is a link between the two policies, as both the presumption against short sentences and the proposal to allow prisoners serving 12 months or less to vote are approaches that are rooted in inclusion and a desire for rehabilitation through active citizenship. I therefore believe that the bill as drafted contains a clear, principled and practical position and I ask members to endorse it.

**Adam Tomkins:** I do not disagree with the cabinet secretary at all when he says that the proposals in the bill are likely to fall within the margin of appreciation that is afforded by Strasbourg to member states. My question is whether the bill goes further in enfranchising prisoners than is necessary to meet the Council of Europe's requirements. Are there not smaller steps that could and should be taken, instead of enfranchising all prisoners who are subject to jail terms of less than 12 months?

**Michael Russell:** The UK Government has taken a much smaller step, but that step has not yet been challenged. As Adam Tomkins will know, as he is more experienced than I am in matters of the law, the smaller the step that is taken, the greater the likelihood of challenge—there is a relationship between the two.

I go back to this point because it is key: the approach is proportionate and there is strong reasoning behind it, as I have laid out. In the consultation, no period had a majority, but the 12-month period was the one that found most favour. There are strong arguments for taking that approach, which we believe is appropriate, and I am glad that Adam Tomkins agrees that it is likely to be so.

As no clear consensus emerged in the committee in favour of an alternative period, or even in favour of lifting the ban in its entirety, our approach is one that is founded on clear reason.

There is a practical concern, which some have articulated, regarding the difficulty of having large numbers of prisoners registering to vote at a specific prison, but that worry is not based on fact. The bill is clear that voting will occur by postal or proxy vote only and that prisoners will ordinarily, and virtually universally, be registered to vote in the area in which they lived prior to conviction.

The bill will achieve two distinct, but equally important, objectives: it will guarantee ECHR compliance with regards to prisoner voting, which we must do, and include in our franchise all who make Scotland their home, which we should do.

These are important steps forward for our franchise and our society, and I thank the committee for its engagement with the issues so far. I look forward not only to this afternoon's debate, but to the remaining stages of the bill early next year, providing that members in the chamber agree to its general principles today.

I move,

That the Parliament agrees to the general principles of the Scottish Elections (Franchise and Representation) Bill.

15:02

**Bill Kidd (Glasgow Anniesland) (SNP):** As convener of the Standards, Procedures and Public Appointments Committee, it is my pleasure to speak on behalf of the committee.

I thank all those who provided evidence on the bill, as well as my fellow committee members for the constructive way in which they approached the committee's stage 1 report. Although we did not agree on all the conclusions and recommendations, we were very civil in agreeing not to agree every important aspect of detail.

The committee recognises that the bill represents the first significant use of the increased autonomy that is provided to the Scottish Parliament and the Scottish ministers in relation to the operation of Scottish Parliament and local government elections by the Scotland Act 2016.

In my speech, I will cover the committee's main conclusions and recommendations in relation to the two main areas of the bill: first, the right of foreign nationals to vote and stand in elections; and secondly, the right of prisoners who are serving sentences of 12 months or less to vote.

Those who provided evidence to the committee welcomed the proposal to extend the franchise to foreign nationals. The International Institute for Democracy and Electoral Assistance told us that, although citizenship has historically and often constitutionally been a requirement to exercise the right to vote,

"an increasingly mobile global population has prompted many countries to reconsider the link between citizenship and voting rights to address democratic deficits and to support the social and political integration of non-citizens."

It further stated that:

"introducing voting rights for non-citizens would be both symbolically and practically a step towards removing barriers for inclusion and strengthening overall political participation."

That view was echoed in an informal meeting with representatives of refugee communities, organised by the Scottish Refugee Council. They told us very clearly that having the right to vote would support their social and political integration into Scottish society. I will quote two participants in that meeting. First, Alham Al Bashiri told us how important gaining the right to vote would be for her in order that she could feel that she belonged in Scotland and had equal rights to other people. She said:

"I need this right, I need to feel that this place is my place as much as anyone in here. I should have equal rights the same as anyone in Scotland."

Secondly, Serge Kasongo emphasised that refugees contributed to Scotland by working but did not have the right to vote. He said:

"We contribute to this country by working, but we can't contribute our voice. There should be more equality."

Under current arrangements, EU citizens and qualifying Commonwealth citizens resident in Scotland have the right to vote in Scottish Parliament and local government elections, but other foreign nationals, such as Japanese or United States citizens, do not. The bill proposes to provide a uniform right to vote in Scottish elections to all foreign nationals who are legally resident in Scotland.

The Scottish Government estimates that 55,000 people would gain the right to vote as a result of the proposal. Given the numbers of people who would be added to the electoral register, the committee questioned witnesses about how quickly that could be achieved. We were told by the Scottish Assessors Association that it would be “manageable” to get that number of people on the register before the 2021 Scottish election.

I mentioned that the committee did not agree on all the provisions in the bill. However, the majority of the committee welcomed the extension of the vote to foreign nationals on the basis that we believe that people who live in and contribute to our country should also have the right to vote in elections to local government and the Scottish Parliament, as both those bodies will develop and agree policies that affect those individuals.

We also welcomed the cabinet secretary’s commitment to promote engagement with the Scottish Refugee Council and other organisations working at a local level across Scotland to provide support and information on the electoral system and voter registration to those who would be enfranchised by the bill if it is enacted.

The bill also proposes to allow all foreign nationals with an indefinite right to live in Scotland to stand as candidates in Scottish elections and to hold office if elected. Again, that addresses the current anomaly in relation to those who can stand as candidates in Scottish elections by providing more uniform rights. However, the requirement to have the indefinite right to live in Scotland means that refugees and asylum seekers cannot stand as they do not have indefinite leave to remain. The majority of the committee therefore called on the Scottish Government to look to bring the candidacy provisions for foreign nationals in line with the franchise provisions. The committee also called on the Scottish Government to address the anomaly whereby there will be no requirement for EU and European economic area nationals to have an indefinite right to remain in order to stand for elections, unlike other foreign nationals.

I will now turn to prisoner voting. Members may be interested to note that we are informed by Her Majesty’s Inspectorate of Prisons that there was no ban on prisoner voting between 1949 and 1969, and that prior to 1949, only prisoners convicted of the most serious crimes were banned from voting.

The European convention on human rights requires states

“to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people”

including in relation to prisoner voting in those elections. The bill seeks to comply with the ECHR

by proposing that those serving sentences of 12 months or less should have the right to vote.

**Liam Kerr (North East Scotland) (Con):** Would the member concede that the ECHR does not contain a specific right to vote?

**Bill Kidd:** I thank the member for that question. The bill seeks to comply with the ECHR by proposing that those serving sentences of 12 months or less should have the right to vote. In that respect, the committee believes that we are complying with the ECHR.

The committee agreed that a blanket ban on prisoner voting is unsustainable as it would be at odds with the ECHR, but concluded that the Scottish Government had settled on an approach that fails to address the central question of what disenfranchisement achieves.

In particular, the committee felt that there was a need for further evidence as to why the Scottish Government had settled on the approach of enfranchising those sentenced to 12 months or less. In addition, the committee noted that very few people would be enfranchised by this proposal, given the presumption against sentences of 12 months or less. During its call for evidence, the committee heard a number of arguments for setting the cut-off point at four years, which marks the delineation between short-term and long-term sentences. The Law Society of Scotland and the Faculty of Advocates both indicated a preference for a four-year cut-off point.

The committee also heard arguments in favour of enfranchising all prisoners. The case was made that gaining the right to vote could contribute to the rehabilitation of prisoners, by reducing their sense of alienation and marginalisation. It would also recognise prisoners as citizens in wider society. The weakness of losing the right to vote as a deterrent was also stressed. In the committee, no clear consensus emerged in favour of any specific alternative.

The bill provides for prisoners to be registered by reference to their previous home address or by a declaration of local connection, which allows them to be allocated to an electoral community. That addresses the practicalities of registering prisoners and them exercising their right to vote. Prisoners would be allowed to vote only by proxy or postal vote. The committee received evidence from the Scottish Prison Service and Her Majesty’s Inspectorate of Prisons, and it was broadly content with the arrangements in relation to proxy or postal voting. It was also satisfied that there would be sufficient means for prisoners to access information on candidates and political parties.

I turn briefly to the financial memorandum. The committee raised concerns about the cost to local

authorities, and about the cost of adapting electoral management systems and software to respond to the changes to the franchise. The estimated costs that would be incurred by local authorities are estimated to be around £200,000. Although the financial memorandum envisaged that those costs would fall on local authorities, the cabinet secretary has since written to the committee to indicate that he is

“persuaded to accommodate further funding to cover costs which will be incurred by Returning Officers arising from an increase in the number of people who are able to vote once the franchise has been extended to foreign nationals”.

The majority of the committee members supported the general principles of the bill, although there are a number of conclusions and recommendations on which we will either call for further clarification or ask the Scottish Government to reconsider some of its proposals at stage 2.

15:12

**Jamie Halcro Johnston (Highlands and Islands) (Con):** I echo the convener’s comments—although we did not always agree, we had a very constructive discussion.

First, as a member of the Standards, Procedures and Public Appointments Committee, I thank our ever-diligent clerking team for their work on the stage 1 report.

There are two main areas in the bill and I will take them in turn. The first part deals with voting by foreign nationals. The Scottish Government broadly seeks to extend the right to vote in local authority and Scottish Parliament elections, regardless of a person’s nationality or citizenship status. Few countries around the world allow for such a wide franchise.

In most other nations, quite reasonably, voting is tied to citizenship in one form or another. In others, foreign nationals are able to vote, but with the requirement that a minimum period of residence in the country has been fulfilled. Unlike in the case of European citizens, there is no reciprocal agreement, and none has been sought from other countries. Equally, evidence that was received by the committee shows that increasing the voter rolls will not necessarily increase participation in elections, and that other barriers may well be more important.

Another issue is that of residence and permanency. Although the current system is, perhaps, not perfect, the bill will extend voting rights to relatively temporary residents. Indeed, it will be extended to residents in Scotland who do not have a long-term right to remain here. Conversely, a lifelong resident of Scotland who is living away from home for a period of work or education is, by the arguments that are deployed

by the Scottish Government, no longer considered to have a stake in our society.

If the franchise is to be used in the same way for referendums, the issue can become even more pointed. If we look to Ireland, for example, we see that a distinction has been drawn between general elections and referendums. In a referendum, further restrictions are applied, acknowledging that Irish citizens have a closer tie to the Irish state.

Those issues are in part addressed by the additional limitation that the bill proposes for residency in relation to election candidates, but there is a wider point—

**Michael Russell:** Will the member give way?

**Jamie Halcro Johnston:** I would like to make a bit of progress.

The wider point is that citizenship is a legal relationship that binds an individual with the state. It is not about origins or ethnicity; it is about participation in a shared common endeavour. That relationship has a value that is based on more than simply the technical aspects of the right to reside within a country’s borders.

Part 2 of the bill concerns the Scottish Government’s proposals on prisoner voting. The legal questions around the ban on prisoner voting have existed since the 2005 decision of the European Court of Human Rights in the *Hirst v United Kingdom (no 2)* case. We know that a wide margin of appreciation exists in how domestic law implements the requirements of protocol 1 of the European convention on human rights, which is concerned with free and fair elections. The Scottish Government has previously suggested that it has a moral opposition to prisoner voting. However, there is a strong case that the bill goes beyond the legal requirements of the European convention and the decision of the European court.

The Conservatives have been consistent in our opposition to prisoner voting. Scottish Conservative members of the Equalities and Human Rights Committee opposed broadening the franchise in such a way when that was considered previously. The issues have arisen in the United Kingdom Parliament, and the UK Government’s approach has been to outline a solution in which a relatively small number of people—those who have been sentenced to prison but who have been released on temporary licence—will be able to vote. Temporary licence is a different state from imprisonment. Those are people who, despite their offences, are being prepared for full resettlement into the community and who are beginning a clear process of rebuilding their lives outside prison. That phase of their sentence is entirely focused on rehabilitation.

The UK Government's proposals have been welcomed and accepted by the Council of Europe as an acceptable solution to the issues that are raised by the Hirst case. However, the Scottish Government's approach in the bill is to provide voting rights to those serving sentences of 12 months or less, which goes far further and brings elections directly into our prisons. Of course, there are those who suggest that we should go even further, that the requirements of the convention rights are a minimal standard in this area and perhaps even that restrictions on prisoner voting should be lifted entirely. In response to that, I echo the sentiment of the former Prime Minister David Cameron, who said that the idea of the consequences that flow from it made him "physically sick".

**Neil Findlay:** I have to say that, given the policy agenda of Mr Cameron, he makes many people physically sick.

**The Presiding Officer (Ken Macintosh):** Can we have a bit more respect for members?

**Jamie Halcro Johnston:** I thank the member for that extraordinarily helpful, positive and productive comment, which I will gloss over.

Admittedly, a lifting of all restrictions is not the situation that we face today. The presumption with the figure of 12 months seems to be that those who are convicted in such a way will be the least serious offenders. The bill's policy memorandum sets out the distinction between the sentencing powers of courts acting under the summary and solemn procedures. However, we know that sentencing decisions are far from clear cut in that way. Given the range of options that are available to the courts, all custodial sentences are serious penalties that are handed down for serious reasons. There is already a high bar for offenders to reach before they find themselves in prison. That in itself is enough to make me doubt the logic of opposing a ban on prisoner voting on the ground of proportionality.

**Michael Russell:** If the member wishes to talk about inconsistency, will he look at the decision in the rest of the UK, which means that any prisoner who is on temporary release is entitled to vote, and in that regard there is no indication of the seriousness of the crime at all? It is perfectly possible that someone who has been convicted of a serious crime south of the border will be on temporary release and eligible to vote. If the member is looking for consistency, perhaps he should look to Scotland rather than the rest of the UK.

**Jamie Halcro Johnston:** The point is that those people are not in prison, whereas the people who are to be given the vote under the bill are in prison.

On the nature of offences, the Scottish Government's proposals to open up prisoner voting have taken a blanket approach. For example, there has been no separate consideration of the case of people who are imprisoned for electoral offences. That issue arose in committee and received a response from the cabinet secretary. In his reply, he attempted to draw a false distinction by arguing that, if crimes such as murder were to be treated in a certain way, so should acts of electoral fraud. However, that is to make a distinction of levels of seriousness and not one of type, and electoral offences are clearly relevant in this situation.

We should also consider some of the consequences of politicians being obliged to consider the votes of offenders who are currently imprisoned. To what level would candidates be expected to engage with prisoners? What about those candidates and campaigners who are themselves victims of crime?

I expect that ministers might hide behind the defence that voting will form part of a prisoner's rehabilitation and reintegration into society. However, we know from the Scottish Prison Service's own figures that the numbers of hours of work and education that have been undertaken by prisoners has slumped in the past decade. Without real effort being put into rehabilitation, that defence would be—at best—warm words.

These are issues of unusual—and effectively constitutional—significance. When prisoner voting was foisted upon us in the Shetland by-election by ministerial diktat, bypassing the scrutiny of this Parliament until after the event, it should rightly have been seen as an area of real concern. Now, the Scottish Government's bill creates a framework for a fundamental change in the franchise. It is right that it receives tough scrutiny in this chamber.

The committee's report raises a number of important questions about the bill going forward. Along with my colleagues in the Conservative Party, I have questions that go further than the report's. I believe that there are very basic questions about the policies that are being pursued in the bill.

We can improve how our elections are run, and do much more to make them a better representation of the views of the electorate. We must work hard to make sure that votes are counted effectively and that efforts to combat electoral fraud are prioritised. We also must ensure that everyone who is legally entitled to vote not only can, but is encouraged to, use their ballot. The bill does little to achieve those objectives.



15:21

**Alex Rowley (Mid Scotland and Fife) (Lab):** I am pleased to open the debate on behalf of the Labour Party. We commend the committee for its stage 1 report on the Scottish Elections (Franchise and Representation) Bill. We welcome the committee's conclusions and recommendations, and we believe that the direction that is being taken will strengthen and improve the administration of devolved elections here in Scotland.

We welcome the intention of the bill to ensure that citizens of all countries who are legally resident in Scotland are able to vote and stand in elections that affect them. Foreign nationals who make their homes in Scotland contribute greatly to our society, and it is only right that those who are legally resident in Scotland should have a say on decisions that affect their daily lives.

It is heartening that the Scottish Government consultation on the extension of the franchise was supported by 79 per cent of respondents, as well as by those who provided evidence to the Standards, Procedures and Public Appointments Committee as it scrutinised the bill. In its evidence, the Scottish Refugee Council noted:

"the proposed legislation ... addresses a long-standing democratic deficit, whereby long-term residents in Scotland do not have a say on the areas that matter to them."—*[Official Report, Standards, Procedures and Public Appointments Committee, 12 September 2019; c 4.]*

I welcome the fact that that is being addressed by the bill.

Increasing participation in elections by encouraging people to vote and stand for election should be a key priority for any well-functioning democracy. It is welcome to see Scotland take measures that will give the right to vote to more people who live, work and make their home here.

**Adam Tomkins:** I will ask Alex Rowley the same question that I asked the cabinet secretary. I completely understand the argument that the franchise should be connected to residency, but what is lost in that argument is the sense that the franchise should be connected not simply to residence but to citizenship. My question is this: what work is left for citizenship to do? If it does not give us the right to vote, what is its value in the modern world? Are we giving up on the idea of citizenship? It is premature to move as quickly as the Government wants us to move in equating the franchise to residency, because there is something of value in citizenship that I want to preserve. Does Mr Rowley have any reflections on that?

**Alex Rowley:** Neil Findlay has just said to me, "No taxation without representation." People are paying their taxes and contributing while living in

this country. The cabinet secretary said that he did not want to enter into a discussion about citizenship, but it is a valid one to have, and I am happy to continue it with Professor Tomkins as we move through the bill process.

It is vital that we ensure that the rights that are currently held by EU nationals living in Scotland are protected in the event of the UK leaving the EU. I welcome the safeguard that is being put in place to ensure that voting rights are guaranteed based on residency status. It means that the current voting rights of EU citizens will be reaffirmed in all scenarios at this uncertain time.

The committee raised concerns over the high number of people who are eligible to vote but who are not on the electoral register, as well as the number of people who are not correctly registered. The integrity of the register must be looked at and kept to the highest standard. I ask the Scottish Government to consider what moves can be taken to ensure that the register of local government electors is as complete and accurate as possible, especially given that the bill takes steps to extend the franchise. Although the moves to extend voting rights are welcome, it is clear from witnesses to the committee that voter education must go alongside them. We cannot simply enfranchise voters without making sure that they have the information to make an informed decision and have a good understanding of voting processes. That includes making information accessible.

I note that the cabinet secretary has committed to promoting engagement with the Scottish Refugee Council and other organisations working at a local level and across Scotland, with the finance and resources required, but it would be helpful to have a clearer picture of how much support is required and whether the necessary levels of financing will be provided so that it is not just a token gesture. If we are to follow through on the aims of the bill, proper resourcing is required to ensure that those aims are met.

I concur with the view of the committee that it is essential that

"policy on prisoner voting is driven by principle and evidence."

The Scottish Government has full control over legislating on prisoner voting in devolved elections. It is clear that the current blanket ban on prisoner voting is unsustainable, particularly given that it puts our country at odds with the European convention on human rights. The Scottish Centre for Crime and Justice Research points out that Denmark, Sweden, Norway, Finland, Switzerland and Ireland have no electoral ban on prisoners being able to vote. We should look at the evidence from those countries see what lessons can be

learned here in Scotland. The committee's stage 1 report notes that

"the Scottish Government has settled on an approach which fails to address the central question of what disfranchisement seeks to achieve."

It is vital that we look at that and find an approach that is, as the committee says,

"driven by principle and evidence."

Reform in this area is badly needed, so we need to move it forward.

**Liam Kerr:** Is there any evidence from the countries that the member mentioned as having no such ban that there is an improvement in rehabilitation outcomes?

**Alex Rowley:** I do not know—that is the point that I am making. Those countries have that policy in place and we need to look at the evidence. I have not yet looked at that evidence, but I will do so as we progress with the bill. I hear members say that there is evidence; it is vital that we look at it, as reform is needed.

The central elements of the bill aside, voter registration and participation are still too low in Scotland. It is clear that we must do more to address that and I call on the Scottish Government to provide more details on how, aside from the positive elements of the bill, it will promote greater participation in elections across Scotland. Our democratic processes have been pushed to the very limits over the past few years and it has left many across the country even questioning democracy itself.

We must reaffirm faith in our democracy by strengthening it in any way that we can, and we must bring back the trust that has been lost by showing people that their choices are in their hands.

15:30

**Mark Ruskell (Mid Scotland and Fife) (Green):** I join the convener of the Standards, Procedures and Public Appointments Committee in thanking the clerks, the Scottish Parliament information centre and all those who gave evidence on the bill at stage 1. I also thank committee colleagues because, despite our differing starting points, we managed to find consensus on many of the bill's key areas, while agreeing to amicably disagree on others.

I acknowledge and welcome the fact that basic compliance with the European convention on human rights is a legal duty that the bill delivers, although it is disappointing—it is quite chilling—to hear the Tories suggest that democracy is not a human right. It is a human right, and it is in the European convention on human rights.

**Adam Tomkins:** Will the member point me to the provision of the European convention on human rights that confers a right to vote on anybody, never mind one that confers the right to vote on prisoners? There is no provision of the convention that includes the phrase "right to vote". That is the point that was made by Liam Kerr, and it is accurate and true.

**Mark Ruskell:** We are dancing on the head of a pin here. Article 3 of protocol 1 of the convention is the "Right to free elections". Elections cannot be held unless people are freely allowed to vote and stand in those elections.

However, there are important issues around the extension of the franchise to asylum seekers and young people, and the need for more widespread prisoner voting to assist rehabilitation, which the bill does not yet fully address. I welcome the cabinet secretary's openness to working with me and other members in seeking to complete those powers in the bill.

The Scotland that we are proud of is inclusive. Someone need only pull up a chair and they are in. That is what citizenship means to me. Therefore, guaranteeing the rights of EU citizens and other foreign nationals to vote in and stand for election is a necessary and welcome step in the bill.

I recently hosted two well-attended events in Stirling and St Andrews for EU citizens who were concerned about their rights. I was struck by their commitment to Scotland and their communities. Those people are us; they are not others. The settled status scheme is, frankly, an insult to citizens who have chosen to spend their lives here. I was in particular moved by those pensioners who have been in Scotland longer than some of us have been alive. They were confused and hurt by the settled status scheme. They deserve better—they deserve representation and, to be honest, they deserve the right to represent all of us, should they choose to stand for election.

However, what most moved me in considering the bill was the informal session that the committee hosted with the Scottish Refugee Council. The convener has already articulated many of the powerful points that those attending made. We met a wonderful group of asylum seekers—individuals who have made their legal application for leave to remain and who, in most cases, have been here for many years. They were eloquent and passionate about democracy. They were passionate about local services. We had an in-depth debate about potholes. It is people such as those that I would like to be able to vote for to be my councillors. Perhaps many of them should be sitting here as MSPs, too.

There are, of course, considerations to do with whether an asylum seeker's status may change, should they be elected to office. As we see by the number of council by-elections that are triggered each year, it is already the case that personal circumstances can change, especially for councillors, when health or wider employment issues arise. When individuals decide to put themselves forward for nomination, they and their parties consider those circumstances.

I know that the cabinet secretary is concerned about the complexities surrounding electoral registration of asylum seekers, and there are issues with the bill basing qualification on the Immigration Act 1971. Where there is a will, there is a way, and I believe that the cabinet secretary wants to find a way forward. With the clock now ticking on stage 2, I want us to find a way to bring those people into the franchise, because they are citizens in everything but name.

Asylum seekers are not tourists. They have a lawful presence under immigration bail and they are issued with a photo ID asylum registration card. In many ways, they are able to prove habitual residence in a more detailed way than the rest of us, who simply self-declare on a registration form. It is not enough to say that asylum seekers can already make representation to elected members on issues that concern them. That is not enough. They live here, we walk together on the same streets and they deserve democratic participation, not just representation.

On prisoner voting, the Government needs to be clear about what it is trying to achieve beyond mere legal compliance and a compromise to minimise public controversy. An important principle is about rehabilitation rather than punishment. It is no punishment to deny a prisoner the opportunity to vote for me or any other MSP in this chamber but, as offenders work through their sentences, the work to rehabilitate them must meaningfully progress. To reintegrate offenders into society, they have to be educated to understand the needs of others, build empathy and feel part of wider society rather than a narrow peer group of fellow prisoners. Voting in an election is just one strand of an approach that will build that sense of social responsibility.

Drawing the line at sentences of more than one year for the termination of voting rights appears to be an arbitrary aspect of the bill. I am sure that at stage 2 a range of options will be presented for increasing the franchise further and I urge the cabinet secretary to be bold. The principle of prisoner voting has been agreed, the Government has already taken a hit from the right wing, to an extent, and it should now make the extension of the franchise meaningful and purposeful, as well as legal.

The recent extension of the electoral franchise to young people has been a great acknowledgment of their rights and contribution to society, and the climate strikes have underlined that even further. The sight of classloads of young people in their school uniforms going out to vote is, to me, a wonderful thing, but it begs the question as to whether voting and candidacy rights should be equalised at some point. I realise that that idea requires careful consideration, particularly around safeguarding issues, but I see no fundamental reasons why young people cannot and should not take their place as decision makers. If political parties feel that a young person is mature enough to hold office, it should be possible to select that person to stand. I invite the cabinet secretary to consider how that could be explored further before what I expect to be a busy stage 2 and stage 3 process for the bill.

15:37

**Alex Cole-Hamilton (Edinburgh Western) (LD):** It gives me great pleasure to speak on behalf of my party in this stage 1 debate, and to offer the support of the Liberal Democrats for the principles of the bill. The bill includes a variety of improvements to the way in which people in Scotland can vote and be represented. Scottish Liberal Democrats have been calling for many of the changes for a long time, so I pay tribute to my colleagues and predecessors who have worked hard to make the arguments, even when they were not easy arguments to make and were, sometimes, met with hostility.

Rousseau said in "The Social Contract" that people are truly  
"free only during the election of members of parliament."

The ability to cast a ballot is an opportunity for change. It should always be about letting people make a meaningful choice and letting them have their voices heard. At a time when more and more people see politics as a frustration rather than an opportunity, it is more important than ever that we engage with the people.

We have to make it easier, not harder, for people to influence the way in which our country is run. That is part of how we build an inclusive, compassionate and liberal society. One way in which we can build that liberal society is in how we treat offenders, so I very much welcome the provisions in the bill that recognise the need to extend the franchise to people who are incarcerated. The blanket ban on prisoner voting that currently applies means that we have knowingly been in breach of the European Convention on Human Rights since 2005. The Conservatives have asked throughout the debate where it is written in the ECHR, but it is in legal

precedent as set out in the judgment in *Hirst v United Kingdom*. That means that there is a legal imperative for us, as a country, to extend the franchise to the people who are in our prisons.

There is no corollary between a crime and the sentence and removal of the right to vote. A person who had been sentenced to prison in 2011 for three years would have missed two electoral tests. If that person had committed the same crime and been sentenced to three years in 2014 would have missed nine electoral tests. The situation is entirely arbitrary and bears no relation to either the crime or the intention of the punishment.

When the Equalities and Human Rights Committee, of which I am deputy convener, looked at the matter last year, the evidence for change was direct and compelling, so we welcome the change of heart that the bill represents. I recognise that it is a step forward, but I agree with Mark Ruskell that extending the franchise only to short-term one-year sentences does not answer the legal imperative and continues the arbitrary nature of the decision about who is allowed to vote and who is not. The arguments stand on their own.

I hope that Parliament will recognise the hard work that preceded the bill to ensure that change; it has been a long and hard-won battle, since even before the days of the judgment in *Hirst v United Kingdom*.

The Liberal Democrats lodged two amendments to bills that would have given some prisoners the right to vote in both the independence referendum and the previous election for the Scottish Parliament, on the basis of their sentence length. Both were voted down by the Government. We lodged those amendments because preventing prisoners from voting is neither legal nor fair, nor is it progressive. Allowing people on short-term sentences to have their say—as the bill will—will mean that their imminent rehabilitation could be done with a greater sense of their inclusion in our society.

Ensuring that prisoners are prepared to rejoin our communities and making them more aware of the responsibilities of citizenship means that there is a higher chance of their re-integration and a reduced chance of recidivism. The evidence says that prisoners are among the most disengaged people; why not help them to realise their rights? That will also benefit the communities to which they return.

I welcome the bill's provision on EU citizens. Fifty years ago, 18-year-olds were given the right to vote in the UK. Before then, only people over the age of 21 had that right. It is almost unbelievable that it took that long: 18-year-olds had gone to war for the country, had paid taxes that contributed to the establishment of the

national health service and had been marrying and having families. However, it took until the 1960s for them to be given the right to vote. In 2019, that same disenfranchisement exists for EU citizens.

We are heavily indebted to people who choose to make Scotland their home; they deserve the warmest of welcomes. Immigration is as good for Scotland as it is for the rest of the UK. Despite that, those people are denied the ability to participate fully in civic life because they cannot vote. The least that we can do in exchange for their caring for older people, teaching our children and saving lives in our hospitals, is allow them the franchise.

Scottish Liberal Democrats are internationalists. That is not a secret. We welcome the enormous contributions that EU citizens bring to our communities, our culture and our economy. Those who choose to come to the UK to work, study or join our families should be welcomed for the skills and contributions that they bring.

I am glad that the bill seeks also to extend the franchise for Scottish elections to people who have sought refugee protection. That point was put very succinctly in a contribution to the Scottish Youth Parliament, at which a member said:

“If you live here, you contribute and should have a say.”

It should be that simple. People in Scotland should have every right to a say in the decisions that affect them. I hope that, through the bill, we will make changes that will seem just as common sense in the next 50 or 100 years, as when we extended the right to vote to women and to 18-year-olds.

On young people, I fundamentally agree with the Green Party position. If we trust young people to have a say in the governance of this country, we should also trust them to put themselves forward as candidates for elected office, and we should support them to do so. They are our future and they deserve to have a voice in that future.

I am happy to confirm that the Liberal Democrats will support the bill at decision time.

**The Presiding Officer:** We move on to the open debate. I call Maureen Watt, to be followed by Liam Kerr.

15:43

**Maureen Watt (Aberdeen South and North Kincardine) (SNP):** I am pleased to take part in the stage 1 debate on the Scottish Elections (Franchise and Representation) Bill. The Standards, Procedures and Public Appointments Committee does not often consider bills but, as with buses, two have come along in quick

succession, as we are also taking evidence on the Scottish Elections (Reform) Bill.

As others have said, nothing is more important in a democracy than ensuring that as many people as possible who live in work in the country have the right to vote and participate in elections. The old maxim, “No taxation without representation”, which Alex Rowley and Neil Findlay mentioned, should never be forgotten, so it is really important that one of the key tenets of the bill is that it seeks to ensure that we have an electoral system that supports and empowers engagement in elections by all those who choose to make Scotland their home. We should create conditions that encourage people not only to vote but to consider standing for election.

We live in a world with an increasingly mobile global population. As the International Institute for Democracy and Electoral Assistance has observed, that has prompted many countries to reconsider the link between citizenship and voting rights, to address democratic deficits and to support the social and political integration of citizens.

In many debates in committee, we have acknowledged the Scottish economy’s need for people from other countries to come to work and make their homes in Scotland. As valued contributors to our society, they should have a say in the laws that govern us all. JustRight Scotland, the Scottish Refugee Council, the church and society council of the Church of Scotland and Maryhill Integration Network have recognised the valuable and valued contribution of new Scots. Their participation in the electoral process is important to integration.

Currently, some people qualify to vote and stand in elections because of their nationality—for example, EU citizens and qualifying Commonwealth citizens. However, the proposals in the bill will allow all persons of all nationalities who are legally resident in Scotland to vote in Scottish Parliament and local government elections. It has been estimated that that will allow about 55,000 new citizens to vote and stand for election.

It will be important to inform those citizens of their new enfranchisement. Concern has been voiced about whether the resources that are being allocated to new voter education are sufficient. We have to recognise that many people will come from countries in which there is great distrust of the political system, and that some reassurance will be necessary. I would like the cabinet secretary to assure me and others that the resources to be allocated for that work will be proportionate, and that they will be shared appropriately among various organisations across Scotland. For example, I would like the people

who run our colourful and vibrant melas in Aberdeen and elsewhere to be able to access money so that they can increase voter registration and encourage participation through peer support and at the melas.

As has already been said, some new Scots are fearful of authority, but others celebrate their new lives and new freedoms and are very engaged in civic society. That applies more to no one more than it does to the young asylum seekers who came to the meet the Standards, Procedures and Public Appointments Committee informally, through the auspices of the Scottish Refugee Council. They are desperate to play a full part in Scottish life.

The committee welcomes the bill’s intention to extend the franchise to people who have been granted leave to remain, which is normally for a period of five years. Unfortunately, under the current UK Government system, far too many asylum seekers still wait far too long for their status to be confirmed. It is with deep regret I note that we will have to wait for full control of immigration to come to the Scottish Parliament before we can meet those young people’s ambitions.

I will turn briefly to prisoner voting. I declare that, before I entered Parliament in 2006, I was a member of a prison visiting committee for 12 years and was a frequent visitor to the former Craiginches prison and other penal establishments.

It is important to recognise that the Scotland Act 1998, in setting up the Scottish Parliament, and the Human Rights Act 1998 require all public authorities in Scotland—including the Scottish Government and the Scottish Parliament—to act in accordance with the European convention on human rights. In oral and written evidence to the committee, there was an overwhelming desire to allow people with a prison sentence of four years or less to vote. I think that there is a contradiction between a presumption against short sentences of a year or less and setting the level at one year, but I am sure that that will be teased out during future stages of the bill. However, there was broad agreement that enfranchisement should not be at the discretion of the sentencing judge or relate to the types of crimes that were committed or whether the crime that was committed was electoral fraud.

I look forward to the further stages of the bill and to Parliament approving the bill at stage 1.

15:50

**Liam Kerr (North East Scotland) (Con):** I cannot vote for the principles of the bill. Jamie Halcro Johnston articulated my general concerns.

I cannot get beyond the prisoner voting aspect of the bill, which would allow a prisoner convicted of a crime severe enough to warrant a prison sentence to play a part in determining the outcome of Holyrood and council elections.

Historically, the position has been that those convicted of a crime severe enough warrant a prison sentence lose some of their rights, including the right to vote, as a function of that imprisonment. Several reasons have been advanced today to alter that position.

First, the cabinet secretary raised the idea that rehabilitation prospects are increased by giving prisoners the right to vote, on the premise that participating in elections is likely to encourage them to become responsible, law-abiding citizens through what I think he called “active citizenship”. I do not see it. Alex Rowley is right to say that policy should be driven by evidence. I do not see in the report the evidential base that links the exercise of the franchise to greater rehabilitation, not least because, as Bill Kidd conceded, the committee felt that such small numbers of prisoners would avail themselves of that right that it would have no impact whatsoever.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** The penal system that operates here and, indeed, south of the border and in the rest of the UK has led to the greatest ever number of prisoners in our prisons and their relatively ineffective rehabilitation. Does the member accept that that stands in stark contrast to the position in other countries? I could pick one at random, such as Sweden, where citizens retain almost all their rights during periods of incarceration. The outcomes there are incomparably better, and fewer discharged prisoners return to prison.

**Liam Kerr:** My point was absolutely clear. We need an evidential basis for rehabilitation, and there is no such basis in the report. Indeed, what we have is language that suggests that loss of the franchise might add to a sense of alienation, which might not help. There is an assertion that enfranchisement is potentially an opportunity for education, which, as we know, prisoners are not currently getting. I read that as a concession that education is the key, not the franchise. Neither do I see such evidence in the Audit Scotland report, “Reducing reoffending in Scotland”.

When I have visited prisons and prisoners and interrogated reports, and when committees have exhaustively pored over the evidence on rehabilitation, I have seen that what promotes its success are factors such as education, purposeful work, a job to return to, a house to live in and meaningful family contact during incarceration. Therefore, when the Parliament considers rehabilitation and how to spend relevant resources, its time would be far better spent in

addressing the fact that the number of hours of work and education that Scotland’s prisoners carried out in 2017-18 dropped by nearly 300,000.

**Neil Findlay:** If Liam Kerr thinks that prison is not about rehabilitation, he must think that it is about punishment and prevention. Does he have evidence that that approach works? Does he know of anyone who has ever said, “I was going to commit that crime, but I was really terrified that they would take my vote away from me”?

**Liam Kerr:** The report picks up Mr Findlay’s point that people are not put off committing crime because they will lose their right to vote. However, I do not think that that is relevant to the point that I am making, which is that rehabilitation is best served by the provision of work and education in prisons. Due to the Scottish Government’s actions, the SPS is unable to provide throughcare services, and I think that Mr Findlay would agree with me that resource and time should be used to end the current necessity for shared cells, for example. Such measures would have a greater impact on human rights and rehabilitation prospects than the extension of the franchise.

Many members might be with me on that point but feel constrained by the human rights argument. In that regard, it is worth noting that article 3 of protocol 1 of the ECHR was carefully worded to include a duty on Governments to hold elections; it does not specifically accord individual prisoners a right to vote. That makes sense, because when someone is punished by imprisonment for committing a crime, they have certain rights curtailed. Those are chiefly the rights to freedom and privacy, but they also lose the right to vote. The fact that a right for prisoners to vote neither features—

**Michael Russell:** Will the member give way?

**Liam Kerr:** I will not, because I am running late. I apologise.

**Michael Russell:** My intervention is on that point.

**Liam Kerr:** I will take it if it is very quick.

**Michael Russell:** Liam Kerr might disagree with article 3 of protocol 1, but does he disagree with the European Court of Human Rights, which, in the case of Hirst, said:

“the right to vote is not a privilege. In the twenty-first century, the presumption in a democratic State must be in favour of inclusion ... there is no room in the Convention for the old idea of ‘civic death’ that lies behind the ban on convicted prisoners’ voting.”

**Liam Kerr:** My colleague Adam Tomkins will address that point in his closing speech. It took 23 years from the ECHR being brought in for that right to be found in the Hirst case. Adam Tomkins will elaborate on that later.

The fact that the right for prisoners to vote does not feature in the convention, and that its architects did not intend for it to feature, suggests that what we are debating today is as much an issue of social policy. That view is supported by the wide variation in interpretation of what the right is and to whom it should be applied.

A minority of European Union countries give all prisoners the vote, and plenty of democratic countries retain full bans. The Law Society of Scotland's briefing makes it clear that

"the franchise of prisoners may be restricted, provided that the restriction is proportionate to achieving a legitimate aim",

such as enhancing civic responsibility, respect for the rule of law and avoiding sanctioning law-breaking conduct. That being the case, the Scottish Government is not mandated to enfranchise this category of prisoners at all. To be compliant, it could be that the Government must merely enfranchise people on temporary licence.

If members are not with me so far, they will surely accept that we are talking about only a qualified right, as opposed to the absolute rights that are enjoyed by all, such as the right not to be subjected to torture. If that is the case, it inexorably follows that we must consider more than just the rights of prisoners. Victims such as those who have suffered serious assault, attempted murder and sexual assault, which are crimes that, in the past few years, have attracted sentences of 12 months or less, will be watching the debate. They will be asking, "Where were my human rights? What happened to my right to freedom from discrimination, my right to security and my right not to suffer inhuman or degrading treatment?"

We must be under no illusions: people who are sentenced to 12 months' imprisonment are, by definition, serious criminals. They have committed the more serious offences—those that have defeated the presumption against short sentences and the desire to give community disposals. They are the criminals who are not suitable for electronic monitoring, and the repeat offenders.

All that means that, when I walk out of the chamber after decision time tonight, I will be able to look victims—those whose right to life or whose right to freedom from torture was offended—and their relatives in the eye. When they ask, "Why does the Scottish Parliament put a prisoner's qualified right to vote over my family's absolute right to life?", I must answer, "I did not."

For that reason, I cannot vote for the principles of the bill. I strongly encourage colleagues across the chamber to think very carefully about the message that they will send tonight if they disagree with me.

15:57

**Stuart McMillan (Greenock and Inverclyde) (SNP):** I support the general principles of the bill, and I commend colleagues on the Standards, Procedures and Public Appointments Committee for their report. I will deal with some aspects of the report first, before I tie the report into a wider issue.

The bill continues Scotland's strong record of electoral reform and demonstrates the commitment to value equally everyone who chooses to make Scotland their home. The report's conclusions and recommendations are very helpful in bringing out the key points. I will discuss some of the report's paragraphs.

On paragraph 16, I agree with extending the franchise to foreign nationals who are living in Scotland. For me, it is crystal clear: if someone chooses to live their life here, to contribute to our society and economy and to become part of their community, why should they be denied a say in how Scotland and their community are run? Why should they be considered to be an outcast in their own community? Telling people that their voice does not matter by denying them a vote is an example of narrow British nationalism at its worst.

I am appalled that the Tories do not want such people to get the vote, and I hope that they will rethink their position, because I believe it to be untenable. They might argue that the policy is not unique and that many other countries deny foreign nationals the vote. That is the case, but it ill behoves this Parliament and this country to follow in those footsteps. Sometimes in life, it is better to lead the way than to meekly follow others. The bill sets out the stall and tells all foreign nationals with indefinite leave to remain that they matter to Scotland.

Scotland has already led the way by lowering the voting age to 16, and the provisions in the bill take further strides to create an even more inclusive franchise. We are the home of the enlightenment, yet some in this chamber do not want to be enlightened when it comes to foreign nationals who live here.

I agree with what the committee said about the franchise in paragraphs 23, 34 and 42. With regard to paragraph 43, I say "Well done" to the committee and "Shame" to the Tories. People who have left Scotland to forge a life elsewhere should have no say on how Scotland is run now. Why should they? People who have chosen not to live here, for whatever reason, should forfeit the right to potentially affect the running of the country. However, there will be people who live here who have contracts to work elsewhere; Jamie Halcro Johnston mentioned that issue. For example, there will be such people who work in the oil and

gas sector, but they will not be adversely affected because their home is here. They will still have the right to vote here, and rightly so.

I welcome the recommendation on asylum seekers in paragraph 51, and I welcome what the cabinet secretary said about that. I accept that the argument on voting entitlement is a different argument, but I welcome the cabinet secretary's commitment to examine the matter further.

On candidacy rights, I welcome the recommendations in paragraphs 67 and 68. As I have said previously in the chamber, Scotland's tartan is a mix of colours and backgrounds; it is not just white with a ginger fringe. Having more candidates from different backgrounds and nationalities makes our country and our society stronger.

It was a privilege to be in the chamber when, following their election, Christian Allard and Marco Biagi took the oath in French and Italian respectively. I believe that we now have more people from different backgrounds standing for election to the Scottish Parliament and to local authorities. Our community, our society and our country will be better for it when more people from different backgrounds are elected to various chambers. Extending candidacy rights to people who have indefinite leave to remain can only make Scotland a stronger and better country. [*Interruption.*] I thank Mark Ruskell for applauding.

I also support the recommendation that those prisoners who are serving sentences of 12 months or less should have the right to vote. As Bill Kidd said, very few people would be enfranchised by that, but I believe that it represents a progressive step forward. I cannot remember exactly what he said, but Liam Kerr indicated that, because we are talking about only a small number of people, it might not make a difference. However, I am standing beside Bill Kidd, who won his seat by seven votes. Stephen Gethins won his seat by two votes. Every vote counts. I genuinely believe that extending the franchise in that way will be a progressive step forward. However, given what the committee said in its recommendation, it is clear that more discussion is required.

Jamie Halcro Johnston spoke about the barriers to political participation, of which there are many—we agree on that. However, the actions of politicians and political parties can help with political engagement. Politicians—female politicians, in particular—are quite right to highlight the trolling and abuse that they are subjected to. Today's BBC report highlights four such female politicians from across the political spectrum. We are in the midst of the 16 days of activism against gender-based violence, and all of us wholeheartedly support the campaign. With that in mind, I invite Jamie Halcro Johnston to condemn his

colleague Ruth Davidson's ill-considered tweet this week about the First Minister "getting a doing". The process of political engagement and encouraging voters should be done positively without using such language.

I support the principles of the bill, I thank the Standards, Procedures and Public Appointments Committee for its excellent report and I look forward to the rest of the debate and to the bill progressing through Parliament so that our country can become a more progressive country and one in which there is greater political engagement with more people in society.

16:04

**James Kelly (Glasgow) (Lab):** I am pleased to take part in this afternoon's debate on the general principles of the Scottish Elections (Franchise and Representation) Bill. As others have done, I thank the Standards, Procedures and Public Appointments Committee for its consideration of some very important issues.

A number of themes are already running through the debate. On the situation regarding foreign nationals, it has been interesting to listen to the various exchanges across the chamber, mainly involving Adam Tomkins, on whether people who reside in this country should be entitled to vote and where that places rights in terms of citizenship. We can have an intellectual discussion back and forth about that but, for me, looking at it logically, people from other countries who reside here and bring up their families here, who are part of the community and are potentially in employment and pay taxes here, have a right to participate in elections of Governments that will set the laws of the country that they will have to abide by and respect. That is a fairly logical position.

The other major debate that arises from the bill concerns prisoner voting. When the Parliament last examined prisoner voting ahead of the 2014 referendum, it took a position not to include prisoners in the franchise for that referendum. It is right that the question should be re-examined at this time. The judgment on the Hirst case took place in 2005, so we are now some 14 years down the line. The driver for the matter to be examined is the new powers that have come to the Scottish Parliament on the franchise for local government and Scottish Parliament elections, but the Government is right to have regard to complying with the outcome of that case under article 3 of the ECHR. That is part of the reason for considering such a change.

In addition, having thought about the matter carefully as someone who was involved in the decision that the Parliament took in 2013, I think



that there is a case for considering rehabilitation. There have been many debates in recent times on the crisis in the prison system and the fact that the prison population is 8,300—sometimes rising higher than that—with prisons almost at full capacity. We need to consider the serious issue of rehabilitation. If we give prisoners the right to vote in a proportionate way, that encourages them to be more responsible citizens. When they re-enter society and the community, there is a better chance of them not reoffending. That is good for that citizen and for society as a whole, and it takes the pressure off the overpopulation in the prison system.

**Liam Kerr:** What is Mr Kelly's evidence base for that assertion?

**James Kelly:** I have participated in a number of debates on the subject, having returned to the justice portfolio. One of the drivers that we consider in relation to reducing the prison population is reducing reoffending—and one of the ways of reducing reoffending is to ensure that people feel better about themselves, that they are more part of society and that they are making more of a contribution. One of the great ways of making a contribution is by participating in the debates—we see this playing out before us in the current election campaign—and being able to vote. That helps people to become better citizens; I see it every day in the election campaign.

There must be a proportionate basis to what we do. The committee is right to ask the Government to consider the evidence and the different options regarding lengths of sentences, ranging from 12 months up to four years. There can be further examination of that ahead of stage 2.

Other important issues that need to be examined include those around electoral registration. It is a real concern that up to 830,000 people could be missing from the electoral register. In practical terms, I have found when canvassing that a lot of people are missing from the register. It is important that we update the register, as the committee recommended in its report. On the financial memorandum, the committee made some valid points about local government funding. If local government is to be empowered to extend the franchise, improve voter education and ensure the accuracy of the electoral register, it will need to be properly funded.

In summary, the committee's report addresses a number of important issues. I support the general principles of the bill and I thank the committee for the work that it has carried out.

16:10

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** It may be worth reminding

ourselves that there have been no major or significant changes to the franchise in the last 200 years that the Tories have not opposed, starting with the great reform act of 1832, or the first reform act and its Scottish equivalent, which, incidentally took the vote away from women. The Pittite faction had its fingerprints all over that. The Tories also opposed the removal of the property qualification.

The only time that the Tories had a momentary point of self-doubt was during the 1922 election when Winston Churchill lost his seat in Dundee to a Scottish prohibitionist party in a hangover from the pre-1832 provisions, whereby boroughs elected multiple members, and Dundee elected only two members. Voters had only one vote, but they could elect two members, and in the 1922 election Winston Churchill came third. He did not think much of the system then—

**Adam Tomkins:** Will the member take an intervention?

**Stewart Stevenson:** My mother had to wait until she was 30 to get the right to vote, and when she got that right she got two votes, because she was a university graduate. Every stage of the way, major changes have been resisted by the Tories. Plus ça change, plus c'est la même chose.

**Adam Tomkins:** Will the member take an intervention?

**Stewart Stevenson:** I will take an intervention from Mr Tomkins now that I have finished my point.

**Adam Tomkins:** I am excessively grateful to the member for taking an intervention.

Surely, in this wonderful and not entirely accurate history of Conservative franchise reform, Mr Stevenson is not going to overlook the Reform Act of 1867, which was pioneered by Benjamin Disraeli, a Conservative Prime Minister, and provided for the biggest single increase in the franchise in the 19th century.

**Stewart Stevenson:** That is correct; indeed, that led to the introduction of the first secret votes, as a result of the doubling in the franchise that derived from the three acts—it was not just one act; there were a number of acts over a four-year period. The first secret ballot took place in August, in a by-election—in Uttoxeter, if I recall correctly, but I am slightly uncertain about that; it is not in my notes, for which I apologise to Mr Tomkins.

We have heard a lot about residency and so on. The bottom line is that we need to be cautious about taking away the right to vote from residents who are citizens of other countries. I have three family members who are not resident in the UK—they are resident in the EU and elsewhere—and who have the right to vote in the country in which

they reside. If we interfere with the rights of people in this country, there might be reciprocal action elsewhere. However, that is speculation, not certainty. I very much support the provisions on qualification.

More fundamental, on prisoner voting, a person is deprived of their liberty as a punishment and perhaps for the protection of society. In other jurisdictions—I have a niece who is now a Swedish citizen because of Brexit, so I am particularly well informed about Sweden—better connections are retained between people who have to be deprived of their liberty and their pre-prison lives, and we find that the chance of a prisoner resuming their life in a proper fashion after prison is enhanced by the number of civic connections that they have with their previous life. The ability to retain their house, their residency, connections to their family and their right to vote: it is not that a single measure makes the difference, but that the aggregation of all the measures provides assistance. In our own jurisdiction, we know that, when we send someone to prison, we reduce the chances of their effective rehabilitation and we increase the chance of their recidivism. That is a more general point.

Like others, I have gained considerable experience since coming to Parliament. I have attended 278 Justice Committee meetings and I have visited prisons—I have not been in prison—in Scotland, Wales, France and the Republic of Georgia in the Caucasus. Different jurisdictions do things in different ways, but the bottom line is that we have to think about the practical effects.

I support what we are trying to do, but there are a couple of things that we can think about. The 12-month rule is a relatively arbitrary one, but it is simple to understand, which is a great merit, and we could tweak it if we think that it should be a different period. I thought that the bill might make a distinction between convictions under a summary procedure and those under a solemn procedure, but that could actually make things more complicated.

In my mind, there is a wee difficulty with the way in which section 7(4) is constructed, because it talks about

“the date of the election”.

However, proxies can of course be postal proxies, so, in a strict sense, votes can be cast before the date of the election. Therefore, I think that it might be worth revisiting the drafting.

On uninterrupted residency, it is possible to have multiple places of residence. I have residences both in my constituency and in Edinburgh, as perhaps some colleagues here do, too. I am not allowed to vote in the same election twice, but I am allowed to be registered in the

electoral register twice, although I choose not to be, I hasten to add. I think that there are wee issues around that point as well.

I strongly support the provisions of the bill, not simply because of the ECHR issues or the court cases, but because it is a modest and useful contribution to the rehabilitation of prisoners as they return to society by preventing the total disconnection that the prison system often creates.

Finally, I congratulate Tom Fox, whom we all know as our connection with the SPS, as he retires at 5 o'clock today.

16:17

**Gil Paterson (Clydebank and Milngavie) (SNP):** It is a pleasure to be involved in this very important debate, which will result in the introduction of sensible modifications to the existing UK legislation as it applies to Scotland. The Scottish Elections (Franchise and Representation) Bill is a worthy piece of legislation that demonstrates how, as a result of devolution, Scotland can take a different approach to major franchise issues from the remainder of the UK.

In my view, Scottish Parliament elections and local government elections will be much more inclusive and will better reflect Scottish society's desire to be fair and to not exclude anyone living in Scotland from the voting process for no good reason.

I am particularly interested in the provisions on voting by qualifying foreign nationals. I have always believed that everyone who lives legally in Scotland should have the same voting rights and that we should not discriminate against anyone on the basis of the land of their birth. Most in Scotland agree that, with an ageing population, Scotland requires foreign nationals—or, as I prefer to say, new Scots—to help to grow and sustain our economy. We want to encourage them to stay, integrate into our society and belong in Scotland.

Part of that belonging is equal rights, and an important part of equal rights is voting rights. I am therefore very supportive of the bill and am convinced that it will encourage many of the young people and families who are currently living in Scotland to stay.

I think that the provisions of part 2, on prisoner voting rights, are just about correct. Once again, we will demonstrate our difference from the rest of the UK, which breached the European convention on human rights by providing a blanket ban on prisoner voting rights. That ban was ruled unlawful by the European Court of Human Rights and that unacceptable position will be put right in Scotland by the bill.

**Liam Kerr:** Does the member not accept that the position could be put right by having the same temporary licence qualification as they have done down south, rather than by providing for those serving less than 12 months?

**Gil Paterson:** No, I do not. It is a cop-out not to abide by the spirit of what was determined by the European Court of Human Rights. Sometimes, when I listen to Tory politicians, I wonder whether they have had a humanity bypass. We should be looking at prisoner voting rights even if there was no rehabilitation benefit—that is just how we should treat people.

Providing voting rights for prisoners who are serving sentences of no more than 12 months seems to be sensible, particularly when, as a society, we want our penal system to have rehabilitation at its core. In addition, most prisoners with short sentences are in prison because of fairly low-level crimes, and extending the franchise to them will have the effect of including them in mainstream society. That will, I hope, reduce the chances of them reoffending and will reduce our prison population.

I have to admit that I have changed my views over the past four years. Having said that, in my opinion, those who have been convicted of more serious crimes, particularly those of a sexual nature, violent crimes and crimes that harm people, have forfeited their right to vote.

The Scottish Elections (Franchise and Representation) Bill has been set at the correct level on both those issues. I therefore support the bill. I thank all the members of the committee for their solid work on the bill.

**The Deputy Presiding Officer (Linda Fabiani):** We move to closing speeches. Every member who took part in the debate should be back in the chamber.

16:22

**Neil Findlay (Lothian) (Lab):** I thank the committee clerks and witnesses for their support and input throughout the initial stages of the bill. It has been an interesting bill at times and we have heard some interesting speeches and evidence.

On the extension of franchise rights to foreign nationals, the majority of the committee supported the proposals to extend the franchise to those resident in Scotland at the time of an election, and I agree with them. The principle—as other speakers have emphasised—that people who live in our country and contribute to our society should also have the right to influence politics and policies in elections to local government and the Scottish Parliament is the right one. Those bodies spend money and take decisions that affect people living

here. It is a sound principle. Maureen Watt and Alex Rowley mentioned the principle of no taxation without representation, which is an old principle but one that stands the test of time.

However, questions were raised in the committee about the number of people who are likely to be added to the register, and we need to be clear about that, so that electoral registration officers and others can be prepared for that increase.

Although we want to widen democratic participation to foreign nationals, we must also look to expand the number of citizens in Scotland who register to vote across the board. As a result of the involvement of political parties, councils, Government, schools, colleges, youth groups and all manner of organisations, around 3 million people have been added to the register since the election was called. That is a very good thing and shows what can be done to widen participation if we take the right approach. However, voter registration and voter education campaigns require resources, commitment and personnel.

I know a number of youth workers who worked for councils and were extremely skilled. They did prize-winning projects with young first-time voters to get them on to the register and educate them about their responsibilities. Many of those youth workers have gone in the massacre of personnel that has followed all the cuts to local government. Councils have had to cut back on administration staff, communications professionals, advertising and much more. If the choice is between social care or education and voter registration, we know what is going to fall off the edge. Capacity and resource need to be put into voter registration if it is going to have a significant impact, and if the Government is serious about doing that, it has to fund it with real money.

**Stuart McMillan:** Regarding the comments that I made before, would Neil Findlay agree that the political language used by all politicians and parties is also extremely important in engaging people and in getting them to register to vote?

**Neil Findlay:** Absolutely. Politics is a robust business. The language that is used can get fiery at times and all members have been involved in that, but there are times when it can go too far.

Bill Kidd referred to the meeting that the committee had with a group of men and women from the refugee community. They were very keen to have both voting and candidacy rights extended. That was a very good and powerful meeting. Their evidence was excellent—I agree with Mark Ruskell, who said that they would make excellent public representatives. They were very articulate in expressing their views and it was a pleasure to meet them.

The Government has identified issues with extending rights to asylum seekers and has stated that only those with a legal right to remain should be enfranchised, but the Scottish Refugee Council commented that

“In its current format, the Bill draws an incorrect and uncomfortable association between people still in the asylum system and those who are living in Scotland without any form of leave to remain ... If the legislative intent is to ‘enfranchise citizens of all nationalities who are legally resident in Scotland’”.

The Scottish Refugee Council believes that it is inconsistent to exclude people who are in the asylum system, because asylum seekers have a lawful right to live in the UK while an asylum claim is pending. Eventually, many of those people will be recognised as refugees and will be given an extended period of leave to remain, although the decision-making process takes some time. Could the cabinet secretary address that point when he sums up? The SRC also points out that the Immigration Act 1971 is reserved. Could the cabinet secretary expand on any discussions that he may have had with the UK Government about that?

**Gil Paterson:** It is kind of Mr Findlay to let me in. In reflecting on what he said, I note that we heard evidence in the committee this morning from Pete Wildman, who is the chair of the Scottish Assessors Association electoral registration committee. He said that, presently, it is unworkable to administer the process to allow folk to vote. Does Neil Findlay agree that the Government should look carefully at ways to circumvent that, so that we can provide for folk to be able to vote?

**Neil Findlay:** We can put men on the moon; I am sure that we can organise elections and expand the franchise.

There is a wide range of views on prisoner voting; indeed, there is a wide range of views in all political parties, and in society. People take the view that all prisoners should get the right to vote or that no prisoners should. The committee took a lot of evidence from articulate and vocal advocates of various forms of prisoner voting. However, we heard very little evidence from the other side of the debate. That is not to say that it does not exist; it is just that the committee heard very little from it.

We have had very little evidence from the Tories for their oppositionist position. The Government cannot ignore the ECHR, and the issue has been around for a long time. However, the Government’s position is just not credible. It is calling for prisoners who are serving a sentence of less than 12 months to be given the vote and at the same time seeking to end short sentences, which is giving with one hand and taking away with the other. The Government must think about

that contradictory position. We are supposed to be in an era of evidence-led policy, so we should see the evidence for any proposal before we make a final decision.

16:30

**Adam Tomkins (Glasgow) (Con):** This has been a really good debate on a profoundly important issue. There is no more profound issue for a parliamentary democracy to debate than the right to vote, how we should frame that argument and how we should even think about and discuss the reform of the franchise.

During the afternoon, we have heard a number of well put together arguments for a liberal progressive view of franchise reform, with none being quite so articulate as that of Alex Cole-Hamilton.

I will try to put what I hope is a thoughtful Conservative view about franchise reform. I say to Mr Stevenson that there are thoughtful Conservatives, and Disraeli was certainly one of them. He was a key player in the 19th century moves to extend the franchise, which Mr Stevenson should not have overlooked in recounting the history. By the way, to correct Mr Stevenson—I love being able to correct him on a point of history—the first use of a secret ballot in the United Kingdom was in August 1872 in Pontefract, which is not quite what Mr Stevenson said—but there we are.

In the cabinet secretary’s opening remarks, he said that

“no franchises stand still”

and that every franchise is

“and should be ... dynamic.”

I agree with that—it is entirely right.

We have heard that, throughout western democracy and globally there is a loosening of the link between citizenship and voting, and that that is part of the journey of modern human rights. Somebody mentioned that we started thinking about human rights in the enlightenment, although neither David Hume nor Adam Smith ever wrote about democracy or the right to vote—but never mind. However, when we started thinking about rights in the time of the enlightenment, we thought about them in the context of birth rights—rights that we had by virtue of where we were born. Of course, that is arbitrary and we have no control of it.

These days, we tend not to think about rights in terms of birth rights; we tend to think about them in terms of human rights or universal rights. That is what the Government wants voting to become in Scotland, and it has a point. It is a perfectly

reasonable approach to modern franchise law to think that the way to frame the debate about who has the right to vote should simply be a matter of lawful residency. James Kelly talked about logic, and I have no difficulty in following the logic of that as a point of principle. However, I am not yet ready to give up on citizenship or to abandon entirely the old language of birth rights. Of course I believe in universal human rights. I believe in free speech, the right not to be tortured and all manner of prisoners' rights, which Mr Kerr talked about.

**Neil Findlay:** Will the member give way?

**Adam Tomkins:** Let me finish this point, then I will happily give way.

Those are universal human rights that do not depend at all on where people are born. However, I still think that there are some things that I want to call rights, including the right to vote, that link to citizenship and do not extend merely to the thinness of residency. I have asked a number of members in the debate to say, if they do not accept that argument—I am not saying that everybody has to accept it—what value citizenship still holds for them. Mr Russell said that he did not want to

“go into a dissertation on citizenship.”

We do not have to get into a dissertation on anything, but it behoves us all to reflect on what it means for the future of citizenship in Scotland if we extend the franchise to everybody who is lawfully resident here.

**Stewart Stevenson:** Will the member give way?

**Adam Tomkins:** I have already said that I will give way to Mr Findlay.

Mr Rowley was kind enough in his remarks to say that, even though he does not necessarily agree with the point that I was seeking to make, there is a point to be made and something for us usefully to reflect on.

**Neil Findlay:** While Mr Tomkins was speaking about citizens' rights, I checked and confirmed that, under one of its treaties, the European Union gives its citizens the right to vote and to stand in European and municipal elections. There are citizens' rights that we have at the moment because of our EU membership.

**Adam Tomkins:** That is a very good point, which makes my point for me. When the European Union, at Maastricht, started to talk about the idea of union citizenship, what rights did it afford to citizens? It gave them the right to vote and the right to stand in elections. Those are rights that are linked to citizenship, even in EU law. They are not linked to nationality or to residency; they are linked to citizens.

If a Canadian citizen comes to an EU member state, no right in European law is conferred upon them, as a Canadian citizen, to vote in elections in Europe. That right appends to European citizenship. That is the point that I am trying to make.

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

**Adam Tomkins:** I will be happy to give way in a moment.

There is still room for an argument that the franchise is appropriately linked to citizenship and should not be extended to everybody who is lawfully resident in a territory.

**Mike Rumbles:** I have followed Adam Tomkins's very good speech, but it slipped for me when he mentioned European citizenship. There is no such thing.

**Adam Tomkins:** It was Mr Findlay who brought up European citizenship, and there is such a thing—it was introduced in the treaties at Maastricht. Very few rights are attached to it in those treaties, but the rights to vote and stand in elections are among them.

I will move on to prisoners' right to vote. Again, I start with a point of agreement with the cabinet secretary. In his opening remarks, he said that we must be ECHR compliant and, of course, he is correct about that, as a matter of policy and of law.

However, the proposals to extend the franchise to every prisoner in Scotland who is serving a jail term of less than 12 months go much further than is necessary to comply with the European Court of Human Rights' judgments on prisoners' right to vote. I am sure that the cabinet secretary is right when he says that, if the provisions were challenged, the European Court of Human Rights would not find that they were disproportionate or irrational, and would find that they fell within the margin of appreciation.

I will close my remarks with a few brief reflections on the problem with the Hirst judgment.

The Hirst judgment is one of the worst judgments that the European Court of Human Rights has ever handed down. To start with, it is based on a false premise—which was, unfortunately, reflected in Alex Cole-Hamilton's otherwise excellent speech. The false premise is that there is a blanket ban on prisoners' right to vote in the United Kingdom, when there is not. Prisoners on remand and those who are in contempt of court are not excluded from the franchise, so it is not a blanket ban. It is a general exclusion, which the European Court of Human Rights has, in my view, wrongly found to be unlawful, but it is not a blanket ban. That is the first problem with the Hirst judgment.

The second problem—this point has been made by a number of Conservative members—is that there is, quite deliberately, no right to vote in the European convention on human rights. The job of the European Court of Human Rights in Strasbourg is to give effect to the words of the convention; it is not the job of the court to invent new rights that do not appear in the convention. Unfortunately, that is what the court did with the Hirst judgment.

**Alex Cole-Hamilton** rose—

**The Deputy Presiding Officer:** There is no time, Mr Cole-Hamilton.

**Adam Tomkins:** The European court should not have done that—not least because there is no European consensus on the question of prisoner enfranchisement and, therefore, there was no respect in the Hirst judgment for the all-important margin of appreciation on which the convention system depends.

That is why, over the course of the 15 years since the Hirst judgment, the court has swithered on it, given up and backed down on it, in effect, and has never found that the United Kingdom's repeated refusal to comply with that ill-considered judgment should result in any kind of damages that disenfranchised prisoners could seek from the United Kingdom or any Government within it.

That is why the United Kingdom's approach to the issue, which is to give the right to vote to prisoners who are released on temporary licence, has been accepted by the Committee of Ministers, which is the enforcement agency of the Council of Europe.

That is why the Scottish Government is going much further than it needs to with this bill to give effect to the ECHR's jurisprudence on prisoners' right to vote.

16:40

**Michael Russell:** This has been an interesting and varied debate: a great deal has been discussed during the afternoon and I want to cover as much of it as I possibly can. There were a huge number of issues raised, albeit that there are only two items in the bill. There has been a difference of opinion on each of those items—I suppose that that was inevitable in this chamber. However, let me see if I can bring together the areas of agreement first.

On the franchise, there is agreement by all parties bar the Conservatives that the reforms that have been recommended are a big step forward. They are a big step forward because they are inclusive. I shall come to Mr Tomkins's helpful suggestion—although I disagree with it—on citizenship in a moment, but there is agreement

among the parties that residence should be the qualification for voting.

I say to those who have tended to skate over the progress that the bill makes and to focus immediately on the one group that is still to be decided, do not let the best be the enemy of the good. I have made it clear that I would like to move on the issue of asylum seekers, but the bill makes enormous progress in other areas, so let us try to bank that progress, agree on it and get it to work, and if we can move any further in an area that will have many difficulties, let us try to do so. It would be wrong to throw out the progress that we can make for the sake of the one item on which we are not yet able to make progress.

I come to Mr Tomkins's contribution on citizenship and residence.

**Neil Findlay:** Will the cabinet secretary take an intervention?

**Michael Russell:** No, I want to make progress.

Although I refused to go into a dissertation, I think that there is an issue to be discussed about the difference between residence and citizenship, if there is one. We can go into that as the bill progresses, because we might find that we can draw the Conservative Party into supporting the bill, which would be helpful to everybody.

**The Deputy Presiding Officer:** I ask members to please cut down on the private conversations. It is getting very noisy.

**Michael Russell:** I make two contributions to that process. The first is that I think that residence is a necessary, but not a sufficient, condition for citizenship. There is a relationship between residence and citizenship. Here, we are saying that residence is the qualification that we should look for for voting, but it is not necessarily the qualification that we should look for, for example, for international protection. The UK passport still says, "Her Majesty's Secretary of State for Foreign Affairs", etcetera, so there is an element, as there has been since the issuing of the first passports, of international protection, and there is a link to voting protection. Lyndon Johnson observed that

"A man without a vote is a man without protection".

So, there is an issue of rights within the state, where residence takes place, which are protected by voting and may not be protected by voting internationally.

There is also the question of passing on citizenship. It was touched upon by Mr Tomkins and it deserves further consideration, but we have the possibility to explore it at stage 2. It is an issue that I think needs to be explored and it would benefit the committee and Parliament if we understood the relationships.

Another point raised was about money. I can confirm that there will be £280,000 for the Electoral Commission, the spending of which needs to be considered in terms of how we can drive up participation and reach parts that presently are not reached. I know that Mr Rowley, for example, raised that yesterday in the context of the Referendums (Scotland) Bill. There is a lively interest in the referendums bill and in the Scottish Elections (Reform) Bill, about the issue of turnout and participation. We should not see this bill as standing on its own in those areas, but should draw the bills together and see what the resources are to effect that with all relevant authorities working together—I have to stress the word “relevant” in the light of the discussion yesterday at the Finance and Constitution Committee. The point that Maureen Watt made about unconventional places where that might take place should certainly be considered.

I move on to the question of prisoner voting. It has been said repeatedly that the Scottish Government is overreaching here and that it could, in the terms that have been used, “get away with” doing less. I am not sure that any Government should try to get away with doing less if it believes that its position is based on principle.

As I stressed, our position is based not only on principle but on particular Scottish conditions. Twelve months is the maximum sentence that a judge can pass in cases heard without a jury. It is the threshold for the Government’s presumption against short sentences. It was the most favoured option of the periods on which we consulted, so there is a logic in that position.

Moreover, there are concerns about the position that the UK Government has taken. The current Committee of Ministers, which has indicated that it considers that the action taken meets the requirement of the Hirst court ruling, is a political body of the Council of Europe that is responsible for the oversight of the implementation of judgments. It is for the court alone to determine the requirements of the European convention on human rights. Although Mr Tomkins does not like the judgment, and has criticised it, the judgment stands. Government has to observe that judgment. What we heard from the Tory party—not from Mr Tomkins, but from another member—on defying the judgment was not wise.

We have to consider whether the UK Government’s current approach might withstand a court challenge. I will quote the Welsh Assembly’s Equality, Local Government and Communities Committee’s report, from 11 June, because I agree with the point that

“We cannot take lightly the concerns raised”—  
in evidence given to the committee—

“that the current approach by the UK Government of minimal compliance may not continue to be sufficient in the future. As legislators, we have to take very seriously the risk of failing to pass legislation that would be within competence.”

It has been said that the Scottish Government is attempting to overreach on that. We may in fact be pitching the proposal not just on the basis of the arguments for that proposal but on the fact that we wish to make sure that we could withstand a challenge in a way that the UK position may not be able to. There is no option on that matter—I want to emphasise that.

It was indicated that there might be an option on whether to do that. If the judgment stands, which it does, and this Parliament has responsibility for the franchise, which it has had for the past three years, we are obliged to make changes.

There is the question what those changes should be. If we consider that changes made elsewhere are not sufficient and would not withstand challenge, it would be wrong and irresponsible of this Government to put those forward as serious proposals.

We must make a proposal that we believe will withstand challenge, which is precisely what we are endeavouring to do with the 12-month proposal. That is the right proposal; it could and will withstand any challenge.

I will reflect on franchise reform. I am glad that Mr Tomkins agrees with me that franchises are dynamic and not static. I would not want to take a position in any dispute between Mr Stevenson and Mr Tomkins, but I have to say that the truth lies somewhere between the two of them. The Conservatives have certainly made parliamentary and franchise reforms in the past.

The Reform Act 1867 has been cited—that, of course, was under Lord Derby’s premiership and not Disraeli’s. However, that bill was introduced in one form, and, having been massively revised by Opposition amendments, it became a much bigger bill. Why was that? Apparently, it was because Disraeli believed that he could win an election based on a wider franchise. He lost the 1868 election.

The Conservatives repeatedly espouse reform when it benefits them. They opposed the great reform bill, because they considered that property is the basis of society and the constitution would be destroyed. They opposed further extension, until they thought that they would benefit from it. They opposed votes for women, until they thought that they would benefit from it. They still oppose proportional representation, except here, where they have benefited from it. They oppose voting by 16 and 17-year-olds and they oppose any meaningful reform of the House of Lords.

Today, unfortunately, they are opposing necessary changes to the franchise. They oppose changes to residents that would modernise the franchise and take us forward, recognising the contribution of all who live here, and essential changes that are required because of a judgment of the European Court of Human Rights. It is to be regretted that they still hold back on that point; if only I could persuade the Tories that the changes would benefit them, I think that they would jump to support them.

## Scottish Elections (Franchise and Representation) Bill: Financial Resolution

16:49

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of motion S5M-19966, in the name of Derek Mackay, on a financial resolution for the Scottish Elections (Franchise and Representation) Bill.

*Motion moved,*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Scottish Elections (Franchise and Representation) 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*]

**The Presiding Officer:** I am minded to accept a motion without notice to bring forward decision time to now. As no one objects, I call on the Minister for Parliamentary Business and Veterans to move such a motion.

*Motion moved,*

That, under Rule 11.2.4, Decision Time be brought forward to 4.49 pm.—[*Graeme Dey*]

*Motion agreed to.*



## Decision Time

16:49

**The Presiding Officer (Ken Macintosh):** The first question is, that motion S5M-20049, in the name of Michael Russell, on the Scottish Elections (Franchise and Representation) Bill at stage 1, 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)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (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, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (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)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 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)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)

Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Wishart, Beatrice (Shetland Islands) (LD)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

### Against

Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Lindhurst, Gordon (Lothian) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Tomkins, Adam (Glasgow) (Con)

**The Presiding Officer:** The result of the division is: For 63, Against 18, Abstentions 0.

### *Motion agreed to,*

That the Parliament agrees to the general principles of the Scottish Elections (Franchise and Representation) Bill.

**The Presiding Officer:** The final question is, that motion S5M-19966, in the name of Derek Mackay, on a financial resolution for the Scottish Elections (Franchise and Representation) Bill, be agreed to.

### *Motion agreed to,*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Scottish Elections (Franchise and Representation) 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 16:51.*



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.

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Textphone: 0800 092 7100

Email: [sp.info@parliament.scot](mailto:sp.info@parliament.scot)

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