OFFICIAL REPORT
AITHISG OIFIGEIL

Standards, Procedures and Public Appointments Committee

Thursday 16 January 2020

Session 5

The Scottish Parliament
Pàrlamaid na h-Alba

Thursday 16 January 2020

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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
2nd Meeting 2020, Session 5

CONVENER

*Bill Kidd (Glasgow Anniesland) (SNP)

DEPUTY CONVENER

*Mark Ruskell (Mid Scotland and Fife) (Green)

COMMITTEE MEMBERS

*Neil Findlay (Lothian) (Lab)
*Jamie Halcro Johnston (Highlands and Islands) (Con)
*Tom Mason (North East Scotland) (Con)
*Gil Paterson (Clydebank and Milngavie) (SNP)
*Maureen Watt (Aberdeen South and North Kincardine) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Liam McArthur (Orkney Islands) (LD)
Michael Russell (Cabinet Secretary for Government Business and Constitutional Relations)

CLERK TO THE COMMITTEE

Katy Orr

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 16 January 2020

[The Convener opened the meeting at 09:01]

Decision on Taking Business in Private

The Convener (Bill Kidd): Welcome to the second meeting in 2020 of the Standards, Procedures and Public Appointments Committee. Agenda item 1 is a decision on whether consideration of a standing order rule change, relating to committee remits, should be taken in private at a future meeting. Do members agree to take that item in private at a future meeting?

Members *indicated agreement.*

Scottish Elections (Franchise and Representation) Bill: Stage 2

09:01

The Convener: Agenda item 2 is the core business of today: Scottish Elections (Franchise and Representation) Bill stage 2 proceedings. I will explain how everything is going to work, so bear with me and we will then move straight to the business.

I welcome Michael Russell, the Cabinet Secretary for Government Business and Constitutional Relations, and his accompanying officials. I highlight that officials are not permitted to speak on the record during today's formal proceedings. We will also welcome at a later point in the meeting Liam McArthur, who has lodged an amendment to the bill.

Members might find it helpful to have a reminder of the stage 2 process. Everyone should have a copy of the bill as introduced, the marshalled list of amendments, which sets out the amendments in the order in which they will be disposed of, and the groupings.

There will be one debate on each group of amendments. I will call the member who lodged the first amendment in the group to speak to and move that amendment and speak to all other amendments in the group. I will then call other members who have lodged amendments in the group to speak to their amendments and to others in the group, but not, at that time, to move their amendments.

Members who have not lodged amendments in the group but who wish to speak should indicate that to me or the clerk, and we will make sure that they are called. If the cabinet secretary has not already spoken on the group, I will invite him to contribute to the debate just before we move to the winding-up speech.

The debate on each group will be concluded by me inviting the member who moved the first amendment in the group to wind up. Following the debate on the group, I will check whether the member who moved the first amendment in the group wishes to press it to a vote or seek to withdraw it. If the member wishes to press it, I will put the question on the amendment. If the member wishes to withdraw it, I will ask whether any member objects to that. If any member objects, the amendment is not withdrawn and the committee must immediately move to a vote on it.

If any member does not wish to move their amendment when it is called, they should say, "Not moved," and should do so audibly. Any other member who is present may move the

amendment. However, if no one moves the amendment, I will immediately call the next amendment on the marshalled list.

Only committee members are allowed to vote. Voting in divisions is by a show of hands. It is important that members keep their hands clearly raised until the clerks have recorded the vote.

The committee is required to indicate formally that it has considered and agreed to each section of the bill, so I will put the question on each section at the appropriate point.

If we have a tied vote on any amendment, I will, as convener, vote as I voted in the division. I will do that consistently throughout the process.

I hope that that is all clear to everyone. Depending on how we progress with the consideration of amendments, we may have a short comfort break at 10.15.

Section 1—Voting by qualifying foreign nationals

The Convener: The first group of amendments is on voting by asylum seekers or dependants at Scottish parliamentary elections and local government elections in Scotland. Amendment 1, in the name of Mark Ruskell, is grouped with amendment 10.

Mark Ruskell (Mid Scotland and Fife) (Green): Amendments 1 and 10 seek to enfranchise around 5,000 asylum seekers in Scotland who have a lawful right to live in Scotland. They are not illegal immigrants but part of our communities. They are our neighbours, friends and colleagues and they make a valued contribution to Scotland. If we can find a way to enfranchise those people, that would send a very clear message that people seeking refugee protection in Scotland are equally valued, no matter where they were born.

The Scottish Government's "New Scots Refugee Integration Strategy" establishes an important principle of integration from day 1, regardless of somebody's immigration status. It is important that people who are seeking safety and peace in this country, who are attempting to rebuild their lives here and are accessing services such as education and healthcare, are part of our community. They are not others—not illegal immigrants—and they should be integrated. Part of that integration is about ensuring that they are enfranchised and have the vote. In the words of one Glasgow refugee,

"Granting refugees full political rights will help overturn stereotypes of migrants and asylum seekers as simply victims in need of help."

From my perspective, having heard some of the evidence at stage 1, I think that there are some practical issues to consider and I have had constructive discussions with the Cabinet Secretary for Government Business and Constitutional Relations, the bill team and Pete Wildman from the Association of Electoral Administrators in Scotland. The first question is about the identity of asylum seekers. How can they prove their identity? They do not have a national insurance number, so when they fill out their registration forms, they will not be able to fill out that section. However, there is an alternative way for people to identify themselves, which is through the production of other accredited documentary evidence that verifies somebody's identity.

In the case of asylum seekers, there are clear forms of documentary evidence that could be provided. One is an immigration bail certificate known as a BAIL 201 notice, which is issued by the Home Office. It underlines the fact that the person is in the immigration and asylum system and that they have a lawful right to live in this country; they are identified. An accompanying piece of documentation alongside the BAIL 201 certificate is an asylum registration card, which is a form of photographic identification that, again, identifies the person.

In my discussion with Pete Wildman, I learned that electoral registration officers would need the guidance that is issued to them to be updated to confirm that those forms of documentation are acceptable as verification. We do not want to put registration officers in a position where they have to assess for themselves what is a reasonable and acceptable form of documentation and verification. The guidance should be updated to make it clear that, if someone does not have a national insurance number but has those other forms of identification, that is fine.

In terms of where they reside—their normal place of residence that allows them to be on the electoral register—in many ways asylum seekers have more evidence than you or I do, convener. When they come to this country, they are not allowed to work and they are therefore largely dependent on the state. The Home Office has a duty to provide dispersal accommodation for them and they are registered at that address. It is their proven place of residence for the period during which they claim asylum. They are verified, and that should, in many ways, make the work of electoral registration officers simpler.

I believe—I think that the cabinet secretary believes this as well—that everybody who makes their home in Scotland should have a say in how our country is run, and we need to find a way through this to give asylum seekers that important enfranchisement and vote.

I move amendment 1.

Neil Findlay (Lothian) (Lab): I endorse a great deal of what Mark Ruskell said. Those who make Scotland their home have the right to have a say in how the country is run.

I have also had discussions with the Scottish Refugee Council and I am reassured that the practical issues that the Government flagged at stage 1 and in our committee discussions can be overcome. People who are in the asylum system have plenty of identification; indeed, they must have it to satisfy the Home Office, so I think that the issues that relate to ID other than a national insurance number can be overcome. We can make the decision here in this Parliament, in Scotland—with no influence from anyone else—to include in the franchise people who are legally here in the asylum system.

The Convener: Gil Paterson would like to come in.

Gil Paterson (Clydebank and Milngavie) (SNP): I would not mind hearing what the minister has to say. I appreciate the points that colleagues are making, but I would like to understand the Government's position. If I am allowed, perhaps I could come in after that.

The Convener: Certainly, Gil. I invite the cabinet secretary to make a statement.

The Cabinet Secretary for Government Business and Constitutional Relations (Michael Russell): I have indicated repeatedly that I am not unsympathetic to the idea—in fact, I am very sympathetic to the idea—but you cannot wish away somebody else's immigration rules and systems; you have to remove them legally. The major obstacle to the proposal is that immigration rules and systems are not set by us. If they were, I would be very happy to see them adapted to see whether we could do this, but they are not.

I am grateful to the Scottish Refugee Council in particular for its views on the bill. It said:

"We maintain that the Bill is a truly exciting piece of legislation, set to address a longstanding democratic deficit whereby thousands of New Scots have been unable to participate formally in Scottish democracy ... The passing of this legislation will be a seminal moment for thousands of New Scots, with refugee communities fully accepted on an equitable basis in the political sphere."

That is being done, and we should all be glad that it is being done. There will be some people who will vote against it, but the majority in the committee and the Parliament will, I hope, be keen to see that that is done.

However, we cannot do everything in a devolved Parliament—that is the issue. Mark Ruskell's proposal cannot be done easily or without enormous complications and difficulties for electoral registration officers, and they accept that. Pete Wildman said in evidence that the proposal

"almost takes us into immigration territory, which would be quite challenging for electoral registration officers."—[*Official Report*, *Standards, Procedures and Public Appointments Committee*, 28 November 2019; c 15.]

Mark Ruskell: Can I—

Michael Russell: No, because there are six points that need to be made. I know that Mr Ruskell has heard these directly, but it is important that we repeat them here.

First, immigration rules say that an asylum registration card is not a form of ID, so, at the very beginning, we know that the use of an immigration card is not enough.

Secondly, the difficulty is identifying refugees, and if the bail card is not identification, there is no other identification. Another issue is residence. The registration office will not know how long a person will be resident where they are seeking to register.

Thirdly, registration officers are absolutely clear that they do not want to hold immigration-style hearings or to have to employ people who have the expertise to do that. They see that as a difficulty in terms of the integrity and reputation of their work, which must be clearly impartial.

Fourthly, they believe that the public may lose confidence in the register if it contains people who have left Scotland or who have lost their claim.

Finally, adding foreign nationals, which is a good thing and which the bill is doing, is a big step. Registration officers believe that that major change would have to bed in before they looked at an even more difficult task, which is what Mark Ruskell is proposing.

As I said, I am not against it. If Scotland were in total charge of its immigration system, I would try to change the system. I hope that we would not have the type of system that we have now. However, we cannot wish that away.

Neil Findlay: Will the cabinet secretary take an intervention?

Michael Russell: No, let me finish.

If the registration officers are saying that this is something that they cannot do, those people who are setting the regulations in the legislation need to be very mindful of that. The registration officers are not even saying that it is a difficulty that they will overcome; they are saying that there are other things that they need to do first. I am not against it but, in practical terms of good legislation, the best in these circumstances is the enemy of the good. We should recognise that.

09:15

The Convener: Thank you, cabinet secretary.

To clear up the situation for members, the opportunity for them to speak comes after the person who is moving the amendment has spoken. Thereafter, after members have had the opportunity to speak, the cabinet secretary will have the opportunity to speak. We will then return to the mover of the amendment to wind up. Those are the rules that we operate by at stage 2. As such, if members want to bring anything up, they have to do so prior to the point at which the cabinet secretary speaks. Those are the rules at stage 2, I am afraid.

Neil Findlay: To clarify, convener, is it correct that we can intervene on one another, but not on the cabinet secretary?

The Convener: Yes.

Neil Findlay: Can we intervene on the cabinet secretary?

The Convener: No, you cannot.

Neil Findlay: We cannot intervene on the cabinet secretary. Can we intervene on Mr Ruskell when he is summing up?

The Convener: Yes, you can—as long as he is willing to accept an intervention. That is only to make sure that the discussion is in a format that we can carry through, because it is about legislation.

I call Mark Ruskell to wind up and press or withdraw amendment 1.

Gil Paterson: Could you start—

The Convener: Hold on a second, please. When I ask someone to wind up and to press or withdraw their amendment, that person will speak. A member can intervene if that is okay with the person who is winding up. We have to follow that format.

Mark Ruskell: I would like to hear everybody's views before I wind up; nonetheless, if the convener wants me to do it iteratively, I will do it iteratively.

I start with the cabinet secretary's views. I was a bit disappointed to hear his position, because it does not appear to have moved on since November. Has he or his team spoken to the electoral registration officers in the past couple of months? He can intervene if he likes.

Michael Russell: Yes.

Mark Ruskell: It is fair to say that the electoral registration officers were rather busy during December, but I spoke to them on Monday of this week. They have not met to review their position on the enfranchisement of asylum seekers; I understand that they will meet at the end of this month. However, I took from the meeting that I had with Pete Wildman that there is—understandably—a lack of detailed knowledge about how the asylum system works and about the forms of verification that asylum seekers have as to their identity and residency.

Gil Paterson: Will Mark Ruskell take an intervention?

Mark Ruskell: In a second.

I am confident that, by furnishing the registration officers with more information on how the asylum system works, those concerns can be resolved; I do not see them as enormous complications in any way.

The cabinet secretary talked about residency and about people moving around. Asylum seekers are often in the system for years, in dispersal accommodation. Students in our society move around from semester to semester, from term to term and from month to month. Although I am sure that it would be easier for the registration officers if they did not have to register students, they do have to do that, because students have an important role in our society, and they have a vote and are enfranchised. There are logistical issues around particular groups in our society, but I am sure that the enfranchisement of more foreign nationals provides an opportunity for our electoral system, as well as placing a burden on it. However, as I said, all the issues can be resolved; indeed, they are largely being resolved at the moment.

I will take interventions from Gil Paterson, Neil Findlay and Tom Mason—and anybody else who wants to come in.

Gil Paterson: Thank you. I am sorry if I am abusing my position—I was hoping to intervene or seek guidance after the cabinet secretary spoke, as there are two aspects to his comments that I want to address.

I am sympathetic to the general thrust of what we are trying to do here, but there are two things that, at this moment in time, prevent me from supporting Mark Ruskell's amendments. First, if the Government is saying that the practicalities mean that enfranchising asylum seekers will be at best difficult and at worst impossible, I have to take that into consideration.

The second is an issue that comes up quite frequently and is a major one for me, so I will explain it now. Certain parties in the Scottish Parliament want the Government to act as though it has all the powers, but it does not. That annoys me somewhat. I get quite annoyed when people—I am not talking about Mark Ruskell—refuse to even support the idea of the Parliament having the powers that we should have in order to deal with such things. They only come on board to try and

blame the Government and the cabinet secretaries for not implementing something that they cannot do because they are handcuffed by the lack of powers.

There is an opportunity to change the bill at the final stage, but at this point in time those two aspects mean that I cannot give the amendments my support.

Mark Ruskell: Thank you.

It is important not to conflate two issues here. The first is the devolved issue that the bill is dealing with, which is the enfranchisement of citizens of this country, and the second is the immigration status of particular individuals in this country. I accept the limitations that the cabinet secretary has spelled out in relation to our inability to change somebody's immigration status. However, that is not what we are debating; we are debating a change in the enfranchisement arrangements under the bill and the inclusion of people who have a definite immigration status and a lawful right to live in our country.

I point to Scottish Government policy, which is about integration from day 1, regardless of immigration status. That is the Scottish Government's policy, and it allows asylum seekers certain rights in the healthcare and education systems, all of which is backed up by the BAIL 201 form. That documentary evidence is presented to hospitals and NHS service providers to enable asylum seekers to access services. The logistical issues do not appear to be a problem for doctors and nurses treating asylum seekers or for schools or other public service providers, such as councils.

Like Gil Paterson, I hope that we can move forward and reassure registration officers that those issues can be dealt with.

The Convener: I will let members finish and then I will come back to how we will run the rest of the meeting.

Neil Findlay: Let us be absolutely clear that the issue is one that Parliament can decide today. There is no other Parliament holding powers over us that prevents us from enfranchising asylum seekers—it is up to the Scottish Parliament to decide today, and to say otherwise is a red herring. We can decide what we accept as a form of identification—that is completely at our discretion and within the powers of the Parliament. Again, it is a red herring to say that that cannot be done.

The cabinet secretary says that we cannot know how long people will be in a certain place. None of us knows how long we will be resident anywhere—we could move tomorrow, and the next day and again the day after that. Mark Ruskell gave the very good example of students in that respect. All those objections are red herrings.

The Scottish Refugee Council has explained very clearly how the practicalities of the bill can be implemented. I repeat: it is a decision for the Scottish Parliament to make today. We have the powers to do this—let's do it.

The Convener: For the rest of today's stage 2 discussion of the bill, we will return to the correct procedures, under the guidance on bills. As it has been such an unusual start, I will allow the cabinet secretary to say something in reply.

Michael Russell: I simply make the point that you can believe the registration officers' view and that we do not have control of migration—and I certainly think that my responsibility is to listen to the registration officers—or you can believe other views that this is easy and can all be done. However, it cannot be done.

It is the committee's choice to create difficulties for the registration system and imperil the really good things in the bill by insisting on adding something that is very difficult to do, but I am afraid that that would damage what we are all trying to achieve. The best is the enemy of the good, and I urge members not to reject the idea, but to say that it is not practical. In any case, the drafting would have to be changed because there are real problems with it. The amendments try to do something that the committee is being told by those who are responsible for the system will damage the wider objectives that we have set ourselves. I do not think that that is a sensible thing to do.

The Convener: I call Mark Ruskell to wind up and press or withdraw amendment 1.

Mark Ruskell: In those comments, the cabinet secretary just reiterated where he was previously in the debate—he did not really add anything. I was hoping for a statement that there will be continued discussions with the electoral registration officers on the issue and that some of the lack of awareness around how the asylum system operates and the more practical, administrative aspects could be reflected in those discussions. We are talking about administrative reasons why asylum seekers cannot be enfranchised. Are we really going to let paperwork hold up citizens' rights in Scotland? That is what the debate has come down to. It is not about immigration status, devolved and reserved powers or wider questions about the constitution; it is about paperwork and administration. I am not going to let paperwork stand in the way of the rights of citizens who are part of my community.

Let us focus on the paperwork, as that issue can be resolved through guidance. I would like to know whether the Scottish Government is considering

how to update the guidance on the paperwork that is required under the relevant section of the registration form. The relevant section is not the one in which people fill in their national insurance number; it relates to other forms of documentary evidence. That would give the registration officers what they want, which is clarity. They do not want to get involved in debates around individuals' immigration status, and they do not need to. If they have clear guidance that tells them that a BAIL 201 form is an acceptable form of identification, they can tick the box, move on and give people the rights that they deserve.

I press amendment 1.

The Convener: The question is, that amendment 1 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Findlay, Neil (Lothian) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Halcro Johnston, Jamie (Highlands and Islands) (Con)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, Tom (North East Scotland) (Con)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 1 disagreed to.

The Convener: Before we move on, I will refer to the guidance on bills, because it is important. The guidance states:

"The debate on a group is the only opportunity members have to comment on any of the amendments in the group."

The opportunity has been given for this group and will be given again for each future group.

The guidance also states that

"the calling of speakers in a debate is at the discretion of the convener".

I have used that discretion already.

The guidance goes on to say that

"members should generally assume they will be called only once in each debate. Members should therefore ensure that their speech relates to all the amendments in the group on which they wish to comment."

As we go forward, one opportunity will be granted to each member of the committee—should they wish to speak—prior to the cabinet secretary's opportunity to sum up. After that, we will move on.

Amendment 10 not moved.

Section 1 agreed to.

After section 1

The Convener: The next group is on voting by foreign nationals with leave to remain and European Union citizens at Scottish parliamentary elections. Amendment 17, in the name of Tom Mason, is grouped with amendment 18.

09:30

Tom Mason (North East Scotland) (Con): Amendments 17 and 18 seek to address an anomaly in relation to people who have residency in this country, as opposed to people who have citizenship. As the bill stands, individuals who arrive in the United Kingdom will, in a relatively short time, have the same franchise as those who have demonstrated a long-term commitment to reside here.

It goes without saying that people who have chosen to come here make our society richer, through their different experiences and cultural traditions. We value all who make Scotland their home. I should also say that I do not intend my proposed approach to remove the right to vote from anyone who currently has that right. If further provision is necessary to clarify that, I will be happy to look again at the amendments. In particular, amendment 18 does not make holding citizenship a requirement. Rather, it sets out a timeframe that implies a similar commitment to living here permanently.

There is international precedent for similar measures. In Canada, non-Canadian citizens with permanent residency do not have the right to vote at any level; they get that right only after gaining full citizenship. Since 1996, green card holders in the United States have been able to vote in certain local elections but not at state or federal level.

Amendments 17 and 18 seek to decouple local and national voting, ensuring that individuals who come to our country can have their say at local level while setting a higher standard for national elections. Amendment 18 sets the relevant time period as being the same as that for citizenship, but I am open to the committee's views on that.

We are changing the fundamental principle of voting in relation to citizenship and residency. Although the bill is small, it will have implications for many generations. It is therefore important that we make the right decision at this point. If we do not do so, we might create a situation that will cause problems for future generations, and which we will then be unable to change.

I move amendment 17.

The Convener: Does any committee member want to speak about the amendments in this group, before I invite the cabinet secretary to wind

up? This is your opportunity to do so; it will not come again.

Mark Ruskell: Let me briefly just go back to Scottish Government policy, because I am a big fan, in this context. Integration of foreign nationals from day 1 in this country, regardless of their immigration status and where they are from, is important. The restricting of voting rights to people who have been here for a certain time is not the right way forward. Let me be frank with Tom Mason: I think that we need to extend the franchise to everyone who is resident here. That is a key point that I will make in the context of amendments that we will consider later.

Michael Russell: We have just had a discussion about whether the bill should go further and enfranchise more people. I agree with Mr Ruskell that we should do everything that we can to enfranchise the largest number of people.

Therefore, I disagree with Mr Mason on amendments 17 and 18. No franchise is static. All franchises change—they should change, and they should go on changing. What we are trying to do here is to have a wide and inclusive franchise.

Amendments 17 and 18 seek to restrict the extension of rights in the bill by limiting it to local government elections. Amendment 18 also puts forward the concept of allowing only European Union and other foreign nationals who have five years' residence to vote in Scottish Parliament elections.

Throughout the bill process, I have made clear that the bill seeks to send a strong, positive message to people who have chosen to make their life here—it is just as Mr Ruskell said; we are in substantial agreement on these points. I am pleased that the majority of the committee welcomed the extension of voting rights to foreign nationals. We have just discussed how it is a positive move to allow as many people as possible who live in and contribute to our country to have the right to vote in our elections.

The majority of respondents to our consultation on electoral reform agreed with that. Of the 751 respondents who answered the question on enfranchising legally resident foreign nationals, 79 per cent were in favour. The Welsh Government and Senedd also agree with such an approach: the Senedd and Elections (Wales) Bill, which allows foreign nationals to vote—using almost exactly the same formulation as our bill uses—has been passed.

I do not expect to convince Mr Mason of the benefits of that approach. However, I offer a couple of observations on amendment 18. By restricting the right of EU citizens to vote in Scottish Parliament elections, amendment 18 would remove rights that EU nationals hold under the existing law. It would also impose on electoral registration officers another potentially onerous obligation, which we have been discussing: to satisfy themselves with regard to people's residency over the past five years. As members know, we have substantial evidence that such a requirement has already proved problematic for EU nationals who are applying for settled status. The Scottish Government has made very clear its commitment to ensuring that EU citizens' rights to vote will be protected after the UK leaves the EU.

For those reasons I cannot support the dilution of existing rights that amendment 18 proposes. I ask the committee to reject amendments 17 and 18.

The Convener: I call Tom Mason to wind up and press or withdraw amendment 17.

Tom Mason: As I said, the bill represents a change in the fundamental principles of voting in Scotland. Amendment 18 seeks to extend the time period for residency of a qualifying foreign national. At the moment, anybody who arrives here can establish their residency in as little as three months. They could come here not understanding anything about the local culture, including our voting methods, but would then be able to make decisions on very important matters through the elections to the Scottish Parliament.

I consider that extending the necessary residency period from three to five years, which would be consistent with the period for applying for citizenship, would not block people's rights; it would be advisable for us to do so, to ensure that we get rational development of policy in Scotland.

If we need further amendments to maintain existing voting rights for those who are already here, I would go along with those. However, anybody who is already here has the right to seek citizenship in exactly the same way as anybody else.

With those thoughts, I leave the matter with the committee. I press amendment 17.

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

Members: No.

The Convener: There will be a division.

FOR
Halcro Johnston, Jamie (Highlands and Islands) (Con)
Mason, Tom (North East Scotland) (Con)

AGAINST
Findlay, Neil (Lothian) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 17 disagreed to.

Amendment 18 moved—[Tom Mason].

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

Members: No.

The Convener: There will be a division.

FOR
Halcro Johnston, Jamie (Highlands and Islands) (Con)
Mason, Tom (North East Scotland) (Con)

AGAINST
Findlay, Neil (Lothian) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 18 disagreed to.

Section 2—Scottish parliamentary elections: nomination, election and holding office

The Convener: The next group is on the candidacy of foreign nationals with leave to remain and asylum seekers at Scottish parliamentary elections and local government elections in Scotland. Amendment 11, in the name of Mark Ruskell, is grouped with amendments 12 to 14.

Mark Ruskell: At the moment, the bill creates unequal candidacy rights for foreign nationals. A citizen who arrives from the European Economic Area or the European Union is able to stand for election pretty much on the day of their arrival. However, others require to have an immigration status with indefinite leave to remain before they can stand for election. That will exclude people who have applied for indefinite leave to remain and have been involved in a process of renewal for many years. Some people in our communities have been here for more than a decade and, despite applying, do not yet have indefinite leave to remain. That is wrong: there should be equal candidacy rights for all foreign nationals who live in this country and have a legal right to do so.

An individual's immigration status might be a complicating factor in relation to their ability to take and hold office and to be remunerated for their work, but it should not be a factor that removes their right to candidacy.

Every year, local authorities have by-elections that are caused by members standing down for a variety of reasons, such as ill health or changing personal or work-related circumstances. People come in and out of politics for a range of reasons, but they are not barred from standing for election because of their health or employment status or for any other reason. If they are eligible to stand, they stand.

Asylum seekers currently have no automatic right to work. The ban on working can be waived by the Home Office, and guidance exists about that. I am interested to hear from the cabinet secretary whether the Scottish Government has discussed with the Home Office whether the guidance on asylum seekers who are in paid work can be changed to allow them to work and to be remunerated in certain positions, including elected office. They can of course undertake voluntary work, so in theory they could stand, be elected to office and conduct their duties in a voluntary capacity, claiming only expenses. That would create equity issues for them in comparison to other elected members, but in theory it would be a way forward.

The committee had an excellent briefing session on this issue. We met asylum seekers and I made the point at the time that many of those individuals were highly valued by their communities and would make excellent elected representatives—I would be willing to vote for a number of them.

The issues around immigration status relate not to candidacy but to the right of those individuals to undertake paid work in this country. I recognise that there is a discussion to be had with the Home Office and I would be interested to hear from the Scottish Government how hard it is pushing at that door.

I move amendment 11.

The Convener: Do any other members of the committee wish to speak?

Neil Findlay: Consistent with my previous position on the franchise, I will support this amendment, for many of the reasons that were outlined by Mark Ruskell.

The Convener: As no other member of the committee wishes to speak, I invite the cabinet secretary to do so.

Michael Russell: The situation with regard to this group is not dissimilar to that of the first group. Mr Ruskell has asked whether I can assist him with this issue, and I will do my best to do so.

The way forward for this issue is slightly different from the way forward for the first one. The difficulties for returning officers are not as great, given the numbers that are involved, but there are issues with regard to by-elections. They are not quite as presented by Mr Ruskell; of course there are by-elections because people change their jobs, or for other reasons. However, the number who are disbarred, such as by bankruptcy or a jail sentence, is comparatively limited—in fact, very

limited. For this issue, there would be a disbarring effect; the person would not be able to complete their term because, in essence, they were no longer eligible to be here.

There is a difference, but I think that we can move the situation forward in two ways. I am sympathetic, and I am willing, as are my officials, to approach the Home Office in the light of today's debate.

I have very little confidence that it will respond in a positive way. I have dealt with migration issues through the Brexit process for the past three and a half years. There are lots of brick walls, and the brick wall on migration is particularly dense—the UK Government has an obsession with it.

If Mr Ruskell is not going to press these amendments, I am willing to have the conversation and see what comes out of it. That could remove the first blockage, which is about whether this amendment—particularly as drafted—is within our competence, because it would impinge on the status of migrants, which is not within our competence. If, for example, the Home Office were to say, "Yes, we are going to change the regulations, the guidance and the law to allow this to happen—this will be an exception", that would remove the first of the barriers.

There is another barrier, which I think we can remove at stage 3 and I am looking to see how to do that. As the bill is presently drafted, EU nationals with settled status would be able to stand as candidates, but the bill does not at present enfranchise people with pre-settled status.

I am very concerned about pre-settled status, what it means and how the system is operating. I think that it would be logical to extend that right to people with pre-settled status, so I am seeking to find a way in which we can do that at stage 3.

09:45

Being realistic, I do not hold out much hope that the Home Office will change its position, but I am willing for my officials to have that conversation with a view to getting the position changed. If we can do that, we could see whether an amendment at stage 3 was possible. I commit to lodging such an amendment at stage 3 if we can find a way—I hope that we can—to deal with pre-settled status. In other words, we are moving towards Mr Ruskell's position. Let us see whether we can complete that move. To that end, it would be helpful if Mr Ruskell withdrew amendment 11 and we can return to the matter at stage 3.

Mark Ruskell: I welcome what the cabinet secretary has said, particularly his comments about people with pre-settled status, in relation to whom it is clear that there is an anomaly with regard to candidacy. If a stage 3 amendment was lodged to deal with that, that would give hope that the brick wall can be dismantled in small chunks and that asylum seekers can be part of our community and do useful work, which I know that they desperately want to do but are thwarted in doing by the Home Office's restrictions.

On the basis that that would move things forward, I am happy to seek to withdraw amendment 11.

Amendment 11, by agreement, withdrawn.

Amendment 12 not moved.

The Convener: The next group is on candidacy at Scottish parliamentary elections of foreign nationals with indefinite leave to remain. Amendment 19, in the name of Tom Mason, is the only amendment in the group.

Tom Mason: Amendment 19 seeks to bring the requirements for candidacy into line with the requirements for voting that are outlined in amendments 17 and 18. It is largely a technical amendment that does not raise any considerations in relation to qualification other than those that have already been discussed. However, because I did not succeed with amendments 17 and 18, I do not intend to move amendment 19.

Amendment 19 not moved.

Section 2 agreed to.

Section 3—Local government elections: nomination, election and holding office

Amendments 13 and 14 not moved.

Section 3 agreed to.

After section 3

The Convener: The next group is on the minimum age for candidates at Scottish parliamentary elections and local government elections in Scotland. Amendment 3, in the name of Mark Ruskell, is the only amendment in the group.

Mark Ruskell: One of the most positive changes that we have seen in our democratic franchise in recent years has been 16 and 17-year-olds acquiring the ability to vote. During the 2014 referendum, I was really moved to see whole class loads of high school students coming down to their local polling centre to vote; the same has happened in subsequent elections. Those are incredible scenes.

Globally, young people such as Greta Thunberg are showing great leadership in our society. That begs the question, if young people are enfranchised, why should they not also be able to stand for election to the Scottish Parliament or to

local government? Fundamentally, I believe that candidacy rights should match voting rights. That is why I lodged amendment 3.

The potential introduction of candidacy rights for 16 and 17-year-olds is potentially quite a big change. I realise that a lot of issues would need to be considered and consulted on; I am not sure whether we are quite ready in Scotland to consider a proposal at this point to deliver those rights in this bill. However, I think that we need to initiate a process and a discussion. That is why I felt that it was appropriate to put in place provision in this bill to allow ministers to introduce regulations at the right time. A super-affirmative procedure would ensure that it is given adequate consideration in Parliament. There would be a long period of 120 days for Parliament to consider any potential change in those candidacy rights. It is a belt-and-braces approach. It is not about saying, "Today is when we give 16-year-olds—or 17-year-olds—the right to stand in council elections". However, we need to consider the issues.

The committee has already had some evidence from members of the Scottish Youth Parliament, which thinks that young people would be prepared to take on such a responsibility. There is a growing debate on this issue and the way forward would be to establish a power for ministers to make regulations through this proposed act and to see what transpires in the years to come.

I move amendment 3.

The Convener: Thank you. Do any other members have anything that they would like to contribute?

Gil Paterson: I have been a great believer for a long time in young people being able to influence issues that society charges them with. For instance, if they work and pay tax, they should be involved in decisions on the level of tax. Someone can get married at 16 years of age—in Scotland, that has been possible for a long time—and the idea that they cannot vote has always bothered me.

However, there is a counter-argument. In this Parliament, we have people with a variety of experience. My academic experience is not the best, but I bring a lot of experience to the table on technical stuff. I worry about lowering the age for candidacy because young people lack experience.

I do not want to criticise anyone, but I sometimes think that there are limitations to how some members manage in their parliamentary journey. They do not have experience of some of the things that they deliberate on. I have just explained that academia is not my area—I am fessing up to that. I think that there is a requirement that when people are making laws, for instance, they should bring something to the table. Unfortunately, it takes young people a bit of time to get that experience. The age of 18 is borderline, but reducing the candidacy age to 16 or 17 is somewhere that I do not want to go.

Tom Mason: I am fairly sympathetic to this in some ways. My biggest worry generally is the inconsistency of the age where people are seen as coming into adulthood—the age of legal competency and so on.

My biggest worry here is that it is proposed as a change by regulation and not by primary legislation. Although, in general, I am fairly sympathetic, I do not think that that is the way to do it.

Neil Findlay: I am quite torn. I do not concur with Gil Paterson's view that just because people are young they cannot bring experience to the table. To turn that on its head, there are several people in Parliament whose experience we could have done without, over the years. However, that is neither here nor there.

I have sympathy with what Tom Mason says about the way in which it is done. I am supportive of the principle behind amendment 3, but I do not think that giving ministers the powers to develop regulations is the way in which it should be done.

Michael Russell: Unusually, I find myself in agreement with Neil Findlay and Tom Mason. I am not unsympathetic to amendment 3. If I had a crystal ball, I would look into it and see that such a change will probably happen at some stage. However, the way in which it happens is crucial. It is a major change to the electoral franchise—indeed, it could be unique. There is no substitute.

The normal situation in such discussions is that committees are critical of secondary legislation and ministers are urging secondary legislation. We have the opposite situation here. I do not think that such a change can be made by secondary legislation. The super-affirmative procedure is no substitute for a three-stage bill, with consideration of the general principles of the bill at the first stage and of the details at the subsequent stages. An example of that can be found in amendment 3 itself. The amendment fixes the age at 16—it sets that age. However, there could be substantial discussion about that age.

I am not at all unsympathetic to discussing the idea. I suspect that the issue will return the next time that the Parliament considers an electoral bill, which may be in the next session. If this change were to be proposed, either by the Government—whichever Government that is—or by a member, it would be as part of primary legislation, rather than secondary legislation.

There are some issues that we would have to consider. For example, the Welsh Government

considered the issue under its recent legislation on electoral reform. It concluded against making the change and the debate threw up some important issues about child protection and working hours, which would need to be considered. We have not explored those issues and they would need to be explored through a primary legislation process.

Although I accept that Mr Ruskell is building in the consultation issue, reflecting the discussion that took place at stage 1, I do not think that this is the way to tackle the matter. The card is marked, and that being so, I suspect that a future Parliament will return to the issue—perhaps quite soon—but not by means of secondary legislation.

Mark Ruskell: I appreciate those points. The points around child protection and working hours are real issues that would need to be considered in any consultation or scrutiny. I also appreciate the points made by Neil Findlay, Tom Mason and the cabinet secretary on the appropriateness of secondary legislation. Amendment 3 explores how, if this were implemented through secondary legislation at the end of a long, consultative process, that procedure could be robust. I came down on the side of the super-affirmative procedure as being the most robust way to do it through secondary legislation.

If the committee's view is that the matter would be better dealt with through future primary legislation, rather than the bill as it stands, I will take that on and withdraw amendment 3. It is an area that will continue to provoke a lot of debate and discussion. In advance of any legislation that might be proposed by a future Government, it would be good to see the current Government committing to a consultation and discussion with key stakeholders about how such a change could be introduced and what issues would need to be considered.

At this point, I would be content for there to be some sort of scoping of the issues. The cabinet secretary says that the card has been marked, but we need to do more than that: we need to understand the issues that are associated with it to ensure that any primary legislation in the future is well informed and that there is a consensus on whether it is the right way forward.

Amendment 3, by agreement, withdrawn.

The Convener: The next group is on the removal of disqualification as candidates for local government elections in Scotland of former councillors who received a severance payment. Amendment 4, in the name of Neil Findlay, is the only amendment in the group.

10:00

Neil Findlay: The reform of local government and changes to the voting system that followed from the Local Governance (Scotland) Act 2004 were accompanied by a scheme of severance for councillors who stood down at the 2007 election. Those councillors were paid between £10,000 and £20,000, depending on their length of service, and the payment was designed to recognise their contribution at a time of significant change in councils and in the role of elected councillors.

Some of the councillors who stood down in 2007 did so for family reasons or because of work commitments at that time in their lives. Thirteen years have passed and many of those who stood down are sadly no longer with us. However, some may now be in a situation in which they can commit to public service and we should not prevent them from doing so.

In the Scottish Parliament, members who have lost their seat or stand down collect a resettlement grant of 50 per cent of salary or one month's salary for each year served up to a maximum of 12 years. There are current members of the Scottish Parliament who have previously benefited from such a scheme. Also, ministers who are sacked or stand down receive a one-off payment, but there is no barrier to them being appointed to the cabinet again. That may, indeed, have happened to someone in this room.

At Westminster, MPs who lose their seats are paid up to £31,000, depending on their length of service. None is prevented from standing again. At the recent 2019 election, a number of people who lost their seats in 2017 were re-elected.

The bill is about extending the franchise and candidacy rights. Amendment 4 is about ending what is, in effect, a lifetime ban on one group of people whose only offence is to have served their community.

I move amendment 4.

Tom Mason: I am very sympathetic to the amendment. That payment happened a long time ago and people go back into politics for various reasons. We can never tell what will happen in the future. I, for one, have come back. If I had accepted that payment way back—not that it applied to me—I would be disappointed if I could not come back, given that the political dimensions have changed substantially since then. Therefore, I support amendment 4.

Mark Ruskell: I will be honest and say that I am pretty torn about amendment 4. The restriction and resettlement provision relates to a particular cohort of councillors in 2007. It does not, I think, apply to any councillor who steps down today and it was wrapped up in a process of electoral reform

in which single-member wards were being abolished and we were bringing in the single transferable vote and proportional representation. It was about a refresh in our local councils. However, a number of councillors decided to stay on and fight for election to the new multimember wards, not taking the severance money at that point. Many of them continue to serve today.

I am not clear what the potential number is of people who took that resettlement grant in 2007, deciding not to stand again and fight multimember wards, but who now want, 13 years later, to stand for re-election. I am not clear about the demand for that. Councillors who step down today do not get any kind of severance payment. That was a particular moment, when we were reforming local democracy. People who had been councillors for many decades and provided great service, in many instances, were faced with a situation in which the electoral wards that they had fought for and served for a number of years were being abolished. Therefore, they had to make a choice about whether to step away from the system or fight elections under a completely new system.

Jamie Halcro Johnston (Highlands and Islands) (Con): I have sympathy with a lot of the points that have been made. My understanding is that the councillors who stepped down were given the payment on the basis that has been outlined, and those who continued would be working in the new system under which councillors were salaried—they received remuneration. In principle, I do not like the concept that we are talking about now and have talked about in the context of earlier sections, that is, that people who have a right to stand in elections, or who previously had that right, can have it removed. The long and short of the matter is that I will probably support amendment 4.

Michael Russell: The issue was raised with me in the past couple of weeks by, I think, an individual who has been in touch with Neil Findlay. As Neil Findlay explained, the Local Governance (Scotland) Act 2004 contains the arrangements for those severance payments, and a person who took the payment was disqualified from nomination, election and holding office as a member of a local authority. Only councillors who accepted a severance payment were not entitled to stand as candidates in future local government elections. That was made clear to people who applied to the scheme, so, to that extent, Mr Ruskell is right: people knew what they were doing and made a conscious choice.

However, Mr Mason is also right, in saying that 2007 was a long time ago. There was a reasonable proposition, which came from a previous Administration, to refresh local government, and it was quite right to say that people who pocketed the cash should not seek to return to local government.

I think that that time has passed. I cannot see much point in continuing with such a bar. Mr Findlay is right to raise the issue. I see no need to restrict former councillors from standing. We do not know how many people are in that position, but I suspect that the number is small. I am aware of only one case of someone in those circumstances who was about to be nominated but found that they had to withdraw. There seems to be no point in continuing the situation, so I urge people to support amendment 4 and to conclude the matter.

Neil Findlay: I very much welcome all committee members' comments.

I find Mr Ruskell's position difficult to accept given that, throughout our debates, he has argued for the extension of rights to various groups. We continue to ban candidates from standing if they belong to that group of people who made a decision based on their situations at a particular time. The ban remains for the rest of people's lives, and I suspect that if it was challenged in court it would not stand up to due process.

I welcome the cabinet secretary's position and I hope that members will support amendment 4, which I press.

Amendment 4 agreed to.

The Convener: Before we move on, I welcome Liam McArthur MSP, who has joined us to take part in debates that we will have a wee bit later.

The next group is on voting by electors living outwith Scotland at Scottish parliamentary elections. Amendment 20, in the name of Tom Mason, is the only amendment in the group.

Tom Mason: Amendment 20 seeks to address an anomaly between UK general elections and Scottish parliamentary elections, in relation to overseas voting. Currently, a Scot who is living abroad can vote for their representative at UK level, provided that they have lived at home at some point in the past 15 years. Such people have no corresponding right at Scottish level.

We accept that those people do not currently live here and might have moved for different reasons, such as academic and career considerations. In the past, Scots have been well known for supporting overseas activities. They might be posted by their companies, working for Government or doing all sorts of other things overseas, while retaining a close connection with this country.

We accept that such people retain a considerable stake in the future of their communities, and we have acknowledged that by

giving them the right to vote at UK level. By denying them the right to vote in elections to this Parliament, we send a contradictory message.

The approach in amendment 20 seeks to mirror the system that is used at UK level, applying it to Scottish citizens in Scottish Parliament elections. Scots have made an incredible contribution around the world in a wide variety of fields and should be able to do so without fear of being disenfranchised in elections to this Parliament.

I understand that the area gives rise to considerable debate, and I am aware that there is difference of opinion on how we should address the anomaly. With that in mind, I am prepared to withdraw amendment 20 if the minister commits to look into the issue with a view to lodging a corrective amendment at stage 3.

The Convener: Are you moving the amendment, Mr Mason?

Tom Mason: I move amendment 20. I would like to hear what the cabinet secretary has to say.

The Convener: Okay. As no other members have anything to say, I call the cabinet secretary.

Michael Russell: This was—of course—an issue in the stage 1 report on which members held different views. The majority concluded that British citizens who had previously been included on the register of local government elections, and who no longer live in Scotland, should not be given the right to vote in Scottish elections.

I agree with the majority of the committee that the case for allowing people who do not live in Scotland the opportunity to influence the result of local government or Scottish Parliament elections has not been made. However, even if we agreed that extending voting extra-territorially was desirable, we would need to devise a scheme that worked, which would be challenging.

I regret that amendment 20 would need extensive reworking in order to operate in any effective way at all. It relies upon the definition of a Scottish citizen in such a way that it self-references the existing franchise. It is, in a sense, a rabbit hole down which we would be drawn. As residency is a key part of the franchise, the amendment as drafted would not achieve the aim of adding anything to the existing requirement of residency in Scotland.

The central difficulty seems to be in establishing which UK citizens living outwith Scotland would qualify as Scottish citizens, and which would not. Without a Scottish passport—which is something that I would like to see, though I suspect that Mr Mason would not—we would have to identify a connection to Scotland, and we would be drawn back to the residency definition.

We established a franchise for Scottish Parliament and local government elections in Scotland on the basis that people who live here should be able to vote on matters that affect them. We are taking that approach to the next stage by extending the franchise to foreign nationals who live here. That principled approach should not be undermined, and amendment 20 would undermine it. Therefore, I urge Mr Mason not to press the amendment.

The Convener: I call Tom Mason to wind up, and to press or withdraw amendment 20.

Tom Mason: I heard what the cabinet secretary said. However, I will press my amendment, for the purpose of the record.

The Convener: The question is, that amendment 20 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Halcro Johnston, Jamie (Highlands and Islands) (Con)
Mason, Tom (North East Scotland) (Con)

Against

Findlay, Neil (Lothian) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 20 disagreed to.

The Convener: We will suspend for a few minutes to allow for a comfort break.

10:12

Meeting suspended.

10:18

On resuming—

Section 4—Voting by convicted persons sentenced to terms of 12 months or less

The Convener: The next group relates to criteria for prisoners to vote at Scottish parliamentary elections and local government elections in Scotland. Amendment 21, in the name of Jamie Halcro Johnston, is grouped with amendments 15, 22, 16, 23, 24, 26 and 9A to 9E. If amendment 21 is agreed to, I cannot call amendments 15 and 22 because of pre-emption.

Jamie Halcro Johnston: My amendments in the group would remove from the bill the existing

provisions on prisoner voting, particularly sections 5, 6 and 7.

Amendment 21 would replace the existing provisions with a provision that would allow anyone who is enfranchised by UK Government guidelines in England and Wales to also vote in Scottish elections. The approach recognises that the enfranchisement of people who are released on temporary licence in England and Wales is being achieved by non-legislative means through guidance to prison governors. The amendment would ensure that, at a minimum, people in Scotland who are in the same circumstances would be able to vote in elections here, and it would address the main concerns that have been raised by the European Court of Human Rights in relation to the United Kingdom's compliance on prisoner voting. The UK Government's approach has been accepted by the Council of Europe, which is the body that organises the court, as an appropriate response to the concerns that have been raised.

Amendment 22 would exclude any person who has been convicted of corrupt or illegal practices under election law from benefiting from the prisoner voting provisions and would exclude not only prisoners who are under sentence for breaking electoral law but those who are under sentence for other offences—if someone had broken electoral law but was in prison for another offence, they would remain excluded. We already accept that people who are guilty of corrupt and illegal practices under election law should be barred in some circumstances from voting or standing as a candidate, as well as from holding certain offices. This is a question of type and relation. Improper interference with the democratic process should render a person unable to participate in it.

Amendment 15, in the name of Mark Ruskell, seeks to extend the length of sentence above which prisoners would not be able to vote from one to four years, and amendment 16, in the name of Liam McArthur, would give ministers the power to increase that period indefinitely. I will not support those amendments.

I move amendment 21.

Mark Ruskell: It is my belief that voting is a right and not a privilege. The majority of prisoners who are serving sentences will at some point be released back into communities and so will need to go through a period of rehabilitation. I therefore do not believe that, in considering disenfranchising prisoners, punishment can be the sole consideration. If we are to deploy criminal disenfranchisement to certain groups of prisoners, we need to do it with very good reasons.

A number of states have introduced automatic and blanket criminal disenfranchisement, and in many cases those policies have been struck down by the European Court of Human Rights. Russia, Bulgaria and Georgia put in place restrictions on all those who are serving sentences of more than one year, but those were found to be wanting and were struck down by the European Court of Human Rights.

Any voting restriction must be a proportionate response to the crime that has been committed, and drawing the line at four years would be a more proportionate response, because sentences of more than four years are longer-term sentences that relate to more serious crimes. For example, 89 per cent of homicide convictions are for more than four years and those who are convicted of rape or attempted rape are given sentences of more than four years.

Wales has considered where to draw the line in this regard and has agreed that the vote should be removed from those who are serving sentences of more than four years. During consideration of the issue, the National Assembly for Wales was told that a period of four years

"would be more clearly justifiable in the light of the level of criminality of such individuals".

I believe that disenfranchising those who have been convicted of shoplifting or breach of the peace is not proportionate. For those reasons, I think that the enfranchisement of those who are serving sentences of up to a year needs to be extended to those who are serving sentences of up to four years.

With amendment 16, Liam McArthur is in effect trying to forge a middle way and to create the power to change the period in future. However, we have a bill in front of us now and we have the opportunity to make a judgment about where it is proportionate to draw the line on enfranchisement. That is the content and subject of the bill, and we need to make a clear decision on where we want to draw the line, as has been done in Wales and many other states around Europe.

The Convener: As I mentioned, we have been joined by Liam McArthur. I invite Mr McArthur to speak to amendment 16 and the other amendments in the group.

Liam McArthur (Orkney Islands) (LD): I thank Mark Ruskell for setting out the backdrop to the issue. He fairly reflects views that I share. Although we might disagree slightly on the amendments, I associate myself with the points that he has made.

The current blanket ban on prisoner voting means that we have been in breach of the European convention on human rights—and have

therefore been breaking international law—since 2005. I again pay tribute to the work of my former colleague Alison McInnes for helping to lay much of the groundwork for the debate that we are having in the context of the Scottish Elections (Franchise and Representation) Bill. Although her amendments on prisoner voting were voted down twice in the previous session of Parliament, she undoubtedly helped to show that a blanket restriction on prisoner voting is not legal, fair or progressive.

Imprisonment does not have to mean disenfranchisement, nor should it. I very much welcome the fact that the bill acknowledges that. However, I am concerned that, now that the principle has been accepted, there remains some uncertainty, which is why—to respond to Mark Ruskell's comments—we might need to keep the issue open beyond this bill.

Mark Ruskell's amendment 15 returns to the question of where the right place is to draw the line and presents four years as an option. As that is the current threshold for throughcare, I can see the logic behind it. Indeed, a threshold of that length of sentence was among the options that were presented by Liberal Democrats in the previous session of Parliament.

My amendment 16 takes a different approach. It would ensure that there was a means to adjust the system, should that be desirable or required, without having to go back to primary legislation. As the Scottish Human Rights Commission said,

"the ECHR defines the floor rather than the ceiling of human rights protection."

The ruling in the Hirst case made it clear that a blanket ban breaches article 3 of the ECHR, but it was less clear about what compliance would look like. The court said that there must be

"a discernible and sufficient link between the sanction and the conduct and circumstances of the individuals concerned."

In other words, restrictions should take account of the individual. The bill might meet that requirement, but an automatic sentence length-based distinction could be vulnerable to future legal challenge. Without allowing for review and amendment, the bill might manage to bring about only temporary compliance. There needs to be a means to fix things in the event that greater clarity is provided or there is a successful challenge.

Amendment 16 would also allow for a change to be informed by the experience in the first election under the new rules. That would seem to be a sensible move at a point at which the implications of what is proposed might be a little clearer.

I look forward to hearing what the cabinet secretary and other colleagues have to say.

Maureen Watt (Aberdeen South and North Kincardine) (SNP): This is a very interesting part of the bill and one that there has been quite a bit of debate about, not just in the committee but informally among members of the Parliament, for quite some time.

I think that it was HM Inspectorate of Prisons for Scotland that said that there was no ban on prisoner voting for 20 years prior to 1969 and that, prior to 1949, only prisoners who had been convicted of the most serious crimes were banned from voting. It seems to me that, in the years since then, we have gone backwards in the UK as a whole. However, under the Scotland Act 2016 we have the power to act in this area and we must ensure compliance with the ECHR. It is interesting to note that, in 2018, a majority of members of the Parliament's Equalities and Human Rights Committee called on the Scottish Government to legislate to remove the ban on prisoner voting in its entirety.

I accept the point that the Government received mixed evidence on this part of the bill, as the cabinet secretary said. However, in evidence to this committee, organisations such as the Faculty of Advocates, Sacro, the Law Society of Scotland and the Howard League for Penal Reform all thought that we should be bolder than we are going to be.

10:30

At stage 1, I said that we should reflect on that and consider the issue again. There is now a presumption against imposing short prison sentences of a year or less. I have also taken soundings around the Parliament. I do not think that current members have sufficient desire to move towards anything beyond a period of one year. If the bill is to pass through the Parliament it would require the support of two thirds of members, so I believe that, at this point, we will have to go for a period of one year.

Gil Paterson: I started by thinking that sentences of four years would be the right threshold for me to be able to support the proposal but, like Maureen Watt, I then took soundings from other members around the Parliament, after which I changed my mind. I will explain why I have done so.

First, I should say that I have always been extremely worried and concerned about the number of people—especially women—who end up in jail because they have been involved in what I call low-level crime, such as shoplifting, or perhaps involved with drugs or alcohol. When we look at such crimes we often find that they have been driven by the circumstances that the people who commit them have been in. The reason why

they end up in prison is usually that they have been persistent offenders, and they are often there for less than a year. Because of the circumstances, such as poverty, that drive such offenders, I do not think that they should be in prison in the first place.

I find the threshold of a year satisfactory but, having looked at other aspects of the issue, I found that sentences for sexual crimes and domestic violence can come under the four-year threshold. Just the other day, there were news reports about two individuals who had attacked a taxi driver by beating him up and stabbing him and who had been jailed for 44 months for their crime. I find it hard to gift such offenders the legal right to make a decision in elections—I consider that they give up that right by committing their crimes. I have therefore reverted to thinking that a 12-month threshold is appropriate, and I am comfortable with that. Those are my reasons for changing my mind.

Neil Findlay: My view is that, in the longer term, all prisoners should have the right to vote. However, I, too, have taken soundings around the Parliament, and I do not think that the majority of members want to see that. I am sure that all committee members will have spoken to their political groups about their views. At this stage, I support a threshold of one year.

Michael Russell: This substantial group of amendments provides a number of alternative approaches to the bill's provisions on prisoner voting as they are drafted.

At the outset it is right to stress that the position of the European Court of Human Rights is not that there should be a specific threshold or a blanket ban, and that it is for each contracting state to determine the correct approach for that state.

Mr Halcro Johnston's amendment 21, and the consequential amendments 23, 24 and 26, strike at the heart of the enfranchisement of prisoners in Scotland and, indeed, the bill's intention to fulfil our wider obligations.

Amendment 21 would replace the Government's proposal to enfranchise prisoners serving sentences of 12 months or less, by instead applying the guidance that is in operation in England and Wales. That would raise a number of serious concerns. First, that proposal would replace the proposed scheme upon which the Scottish Government has consulted and this Parliament's committee has taken evidence. It would place the enfranchisement of our prisoners under the control of guidance that has been issued by the Ministry of Justice—and not just that issued in 2018, but any future guidance that the ministry might choose to set out. Of course, any such guidance would be intended for prisoners in England and not those in Scotland. Although there is much common ground between our systems, there are also many differences—for example, in the way that temporary release operates.

Although amendment 21 refers to prisoners in England and Wales, it is worth noting that the Welsh Government has committed to enfranchising prisoners who are serving sentences of under four years. Indeed, I note that the Welsh Assembly's Equality, Local Government and Communities Committee described the UK Government approach as one of "minimal compliance".

Even if amendment 21 were focused purely on the current approach of the Ministry of Justice, the UK Government's response to the human rights case law on prisoner voting is a position that did not enfranchise any prisoners in custody, but focused instead on clarifying a number of points in relation to those on temporary release.

I welcome this committee's stage 1 report on the bill concurring that the blanket ban is unsustainable, as it is against the European Convention on Human Rights. We, as a Parliament, are responsible for ensuring ECHR compliance on this and all other matters; that is a non-negotiable for us. One of the principal aims of the bill is to accept that responsibility, and to resolve the issue in a fair and proportionate way that sends a positive message about rehabilitation and civic responsibility. Amendments 21, 23, 24 and 26 seek to transfer that responsibility back to Westminster, without even a pretence of respecting the historical independence of the Scottish justice system, or any apparent concern that this Parliament is responsible for human rights compliance on the issue. I cannot commend that course. Therefore, I ask Mr Halcro Johnston not to press the amendments, and, if he does so, I urge the committee to reject them.

In contrast, the amendments of Mr Ruskell and Mr McArthur present alternatives to achieving the policy of enfranchising prisoners in Scotland at Scottish elections based on the length of sentence. Nonetheless, I maintain that our suggested course is the correct one, and I will explain why I am not minded to support either amendment at this time.

Mr Ruskell referred—I think—to the offences of house breaking and breach of the peace; I point out that, statistically, a very small number of people are sentenced to more than one year, which means that there will, obviously, be special sentencing conditions. The vast majority of people who commit those offences, and other offences in those sort of categories, are not sentenced to anything more than a year.

Mr Ruskell's amendments go further than the Government's proposal by seeking to increase the threshold to 48 months. I accept that that is, of course, being pursued by the Welsh Government, which has stated its intention to amend its Local Government Elections (Wales) Bill to enfranchise in Welsh local government elections prisoners and young people in custody who are serving a sentence of less than four years.

As Maureen Watt pointed out, four years is the threshold that is suggested by the Law Society of Scotland and the Faculty of Advocates. However, Maureen Watt also indicated—as did Gil Paterson and Neil Findlay—that it is an issue upon which views are divided. The committee also heard evidence calling for a removal of the ban in its entirety, while around one in three respondents to the Government consultation expressed the view that no prisoner should be allowed to vote. That underlines the challenge that we all face in settling on an approach that is principled and justifiable. I maintain that we have found that approach in the form of the bill as introduced. The 12-month threshold has a solid grounding in the Scottish justice system, in that 12 months is the maximum sentence that can be imposed in a case that is heard without a jury. In addition, it was the most popular period among those who responded to the Government's consultation question on the sentence threshold, with a third of respondents choosing it.

It is worth noting that Mr Ruskell's proposal would enfranchise the majority of prisoners in the custody of the Scottish Prison Service. Based on the prison population on Monday 13 January, a total of 3,327 prisoners would be enfranchised by a four-year threshold, while a smaller cohort of 916 prisoners would be enfranchised by the proposed one-year threshold.

I appreciate the rationale behind Mr McArthur's amendment 16. Society's views evolve, and, as other members have indicated, it may well be that a future Parliament decides to amend the threshold. However, we are back in the very unusual situation that we were in earlier this morning in which the Government is arguing against secondary legislation and committee members are arguing in favour of it. This is another area that should be done not by regulation, but by primary legislation. Given the range of views on the subject, and the strong feeling that it evokes, I consider that that would be the right place to do it. It is important that we have a full and frank debate on an issue of this magnitude, and it has encouraged very substantial debate. Therefore, I would not recommend that we use secondary legislation in that regard. Mr Ruskell and Mr McArthur have engaged very seriously on the issue, and there is—undoubtedly—debate to be had on the threshold.

The spirit of Jamie Halcro Johnston's amendments does nothing to take the issue forward. Amendment 22 would undermine the integrity of Scottish elections because it would create a circumstance that is already in electoral law. The amendment deals with disqualification for people who are guilty of offences under electoral law. However, the Representation of the People Act 1983 already specifically makes provision for a person who has been found guilty by an election court of corrupt or illegal practices at an election to be barred from registering to vote or voting, being elected to Parliament, or holding any elected office. In the case of a person who has been convicted of corrupt practice, that prohibition applies from the date of conviction and ends after five years. For illegal practices, the period is three years. In our consultation paper on prisoner voting, the Government proposed that those provisions be retained, so there is no intention of changing them. Essentially, amendment 22 seeks to achieve something that already exists in law and can be activated, so it is completely redundant.

In summary, Mr Halcro Johnston's amendments seek to undermine the responsibilities of the Parliament and the responsibilities that we have to take. I appreciate what Mr Ruskell's and Mr McArthur's amendments are trying to do, but the proposal that we have made is the right one at this time, and it should be supported.

Jamie Halcro Johnston: I take on board the comments that have been made, and I think that we all accept that there is a need to comply with the judgment that has been made. However, the question is how far we want to go with that compliance and whether we want simply to comply with the law and the ruling or to go further. I do not want to see that.

The cabinet secretary mentioned responsibility, powers and decision making going back to Westminster. I have tried to look at how we can meet the compliance requirements and also have some consistency across the UK.

We will come to the practicalities of prisoner voting later. Obviously, we are looking at how many prisoners are disenfranchised or given the franchise by the bill, but that does not mean that we cannot look at engagement and that prisoners cannot be engaged in the political process or sphere.

I press amendment 21.

The Convener: The question is, that amendment 21 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Halcro Johnston, Jamie (Highlands and Islands) (Con)
Mason, Tom (North East Scotland) (Con)

Against

Findlay, Neil (Lothian) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 21 disagreed to.

Amendment 15 moved—[Mark Ruskell].

The Convener: The question is, that amendment 15 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Findlay, Neil (Lothian) (Lab)
Halcro Johnston, Jamie (Highlands and Islands) (Con)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, Tom (North East Scotland) (Con)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 15 disagreed to.

Amendment 22 not moved.

Section 4 agreed to.

After section 4

Liam McArthur: I will reflect further on the concerns that the cabinet secretary has raised about introducing changes in future by means of secondary legislation, so I will not move amendment 16.

Amendment 16 not moved.

Section 5—Residence of convicted persons in prison etc: uninterrupted residence

10:45

Amendment 23 moved—[Jamie Halcro Johnston].

The Convener: The question is, that amendment 23 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Halcro Johnston, Jamie (Highlands and Islands) (Con)
Mason, Tom (North East Scotland) (Con)

Against

Findlay, Neil (Lothian) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 23 disagreed to.

Section 5 agreed to.

Section 6—Residence of convicted persons in prison etc: notional residence

The Convener: We move on to arrangements for registration to vote and voting by prisoners et cetera at Scottish parliamentary elections and local government elections in Scotland. Amendment 5, in the name of the cabinet secretary, is grouped with amendments 6 to 9.

Michael Russell: To a great extent, these are technical amendments, which deal with the technicalities of prisoner voting. I ask members to bear with me as I go through them, because they are important.

The amendments have three main aims: to ensure that the bill's provisions in relation to registration of prisoners who are eligible to vote operate as intended; to make the requisite changes to secondary legislation to facilitate proxy and postal voting by eligible prisoners at Scottish Parliament and local government elections; and to allow for early commencement of part 2 of the bill, which relates to prisoner voting. I will deal with those aims in turn and say why the amendments are necessary as I go through them.

As introduced, the bill modifies the Representation of the People Act 1983 to allow eligible prisoners to register to vote via declaration of local connection. That is an existing legal mechanism, which is used to allow an individual with untypical residence to register. The provisions seek to ensure that registration at the prison address would only ever occur as a last resort. That proposition appears to have been generally supported during the progress of the bill.

However, the provisions are complex and take into account a range of residency scenarios. We have identified two possible scenarios in which the bill does not operate as intended as a result of that complexity. Amendments 5 and 6 are necessary to make the technical changes that are required to avoid those situations arising.

Amendment 5 will ensure that a person who used to live in Scotland but whose permanent residence immediately prior to imprisonment was outwith Scotland will not be able to register to vote using a declaration of local connection simply because of their residence in a Scottish prison. Amendment 5 will ensure that a connection can be declared to the address at which a person was resident immediately before the prisoner's detention. If a person was homeless immediately before their detention, they may declare a connection to the address of a place in Scotland where they have spent a substantial part of their time.

Amendment 6 will amend the same section to ensure that a person whose only connection to Scotland is their residence in a Scottish prison will not be entitled to register to vote. That will ensure that the bill does not allow, for example, an overseas visitor to Scotland who commits a crime and is subsequently sentenced to a prison in Scotland to register to vote in devolved Scottish elections or to vote in those elections. The amendment is designed to ensure that only those people with a sufficient connection to Scotland and who cannot give an address under the bill's other provisions are able to register at the address of a Scottish prison. We expect very few people to use the provision, but it is an important backstop nevertheless.

I turn now to the practicalities of voting by prisoners. Amendment 7 will introduce a schedule of necessary modifications to secondary legislation and amendment 9 will insert the schedule itself into the bill.

Members are well aware of the complexities of electoral law. Some changes on proxy and postal voting were already contained in the bill as introduced, where amendment to primary legislation was needed. The changes today are in respect of secondary legislation, and the intention had been to achieve them by subordinate legislation. That remains the case for the foreign nationals who are being enfranchised by the bill, but I have concluded that provision should be made now, via the bill, for postal and proxy voting for prisoners. That is the result of amendment 8, which will commence the bill's provisions on prisoner voting early and which I will explain in a moment. The changes are made to the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007 and the Scottish Parliament (Elections etc) Order 2015 to facilitate prisoner voting at local government and Scottish Parliament elections, respectively.

As I have stated previously, voting by prisoners will occur by postal and proxy vote only. No provision has been made to allow prisoners to cast their vote at a polling station within the prison complex. Indeed, one of the amendments specifically rules that out for Scottish Parliament elections and section 7 of the bill already prohibits it for local government elections.

As I said, amendment 8 provides that the bill's provisions in relation to prisoner voting will come into force on the day after royal assent is received. I will outline to the committee why I believe that early commencement of this part of the bill is desirable.

I am grateful to the committee for agreeing in its stage 1 report that the current blanket ban on prisoner voting is unsustainable and that compliance with the ECHR must be achieved. I believe that the bill's provisions ensure compliance with the ECHR for devolved elections, and I want the provisions to be in force as soon as possible. If the provisions were not commenced early, there would be a period of approximately two months after royal assent in which a Scottish Parliament by-election could take place without the act being in force. In order to ensure that there was ECHR compliance, another remedial order would be required for a Scottish Parliament by-election in that period. Given the committee's consideration of the remedial order that was made for the Shetland by-election that took place in August, I think that members will agree that it is desirable to have the long-term change to the law in place as soon as possible, rather than have another remedial order.

I considered whether the bill's provisions in relation to foreign nationals should also be commenced early, but they do not have the same ECHR compliance concerns and they affect many more people, so more work requires to be done. As a result, I consider that those provisions should be commenced in the normal way, on a day that is appointed by commencement regulations that are made by the Scottish ministers and laid before the Scottish Parliament.

The committee has previously expressed its broad contentment with the proposed arrangements in relation to proxy and postal voting and the declaration of a local connection. I therefore hope that members will support the amendments, which facilitate those arrangements and seek to achieve ECHR compliance as expeditiously as possible.

I move amendment 5.

Amendment 5 agreed to.

Amendment 6 moved—[Michael Russell]—and agreed to.

Amendment 24 moved—[Jamie Halcro Johnston].

The Convener: The question is, that amendment 24 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Halcro Johnston, Jamie (Highlands and Islands) (Con)
Mason, Tom (North East Scotland) (Con)

Against

Findlay, Neil (Lothian) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 24 disagreed to.

Section 6, as amended, agreed to.

After section 6

The Convener: The next group is on election meetings on the prison estate. Amendment 25, in the name of Jamie Halcro Johnston, is the only amendment in the group.

Jamie Halcro Johnston: Amendment 25 seeks to create a new section that would provide that candidates who were standing in a ward or Scottish Parliament constituency or region would have to agree in advance before a hustings could be held in a prison or other such institution. It would also require the prison governor to conduct a risk assessment of any such hustings or event. That would guarantee that no candidate—including, for example, one who had been a victim of crime or was otherwise unwilling to entertain election meetings in a prison environment—would be disadvantaged or pressured into attending an election event in a prison or similar facility.

The requirement for the governor to conduct a risk assessment would provide for consideration of the safety of candidates, prison staff and other prisoners as a result of the holding of a political event in a prison environment, and the practicalities of that.

I move amendment 25.

Michael Russell: Amendment 25 is drafted to mirror the provisions for electoral meetings in schools and community rooms that were set out in the Representation of the People Act 1983, but those provisions were rooted in specific constituencies. The prospect of such meetings being held in prisons is distinct from those arrangements, and the amendment does not accommodate that difference.

The bill seeks to ensure that prisoners will register, as I indicated previously, at their home address or their declared local connection, instead of at the prison. As a result, there will not be only one constituency or ward that is relevant to a prison. Prisoners in the same prison will have different choices of candidates, depending on where they are registered. Given that, the amendment is unclear as to which candidates might arrange events—whether they might be from specific constituencies or be nominated representatives of their parties who are sharing information about the wider party platform.

Those ambiguities could lead to substantial additional work, most of which would be unnecessary. In its evidence to the committee, the Scottish Prison Service has indicated that it is content to make arrangements for electoral events in prisons. The planning that is under way will accommodate the important security considerations that are necessary for prison estate events and the distinctive needs of an audience from multiple voting areas, without the need for the measure in amendment 25.

Even on a practical level, there is too little detail in the amendment. Unlike similar provisions of the 1983 act, amendment 25 makes no reference to allocation of costs for the events or appropriate periods of notice to be given before an event.

Although the amendment highlights that a risk assessment by prison governors would be a requirement of such meetings, it provides no further clarity about the decision-making process once such an assessment has been made, and whether governors, for example, could veto meetings that are declared unsafe.

Amendment 25 could be said to be seeking to resolve an issue that is not likely to arise, thus bringing in uncertainties for the Prison Service. It is also incredibly vague on the vital, practical details. I therefore invite Mr Halcro Johnston not to press the amendment. If it is pressed, I ask the committee to reject it.

Jamie Halcro Johnston: I am happy to work further, and perhaps with the cabinet secretary, on some of the practicalities, if that is his concern. What we did not hear in his response was the implications for a candidate who might be reluctant to be involved in events that are held in prisons, particularly if they have been a victim of crime.

I press amendment 25.

The Convener: The question is, that amendment 25 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Halcro Johnston, Jamie (Highlands and Islands) (Con)
Mason, Tom (North East Scotland) (Con)

Against

Findlay, Neil (Lothian) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 25 disagreed to.

Section 7—Method of voting by convicted persons at local government elections

Amendment 26 moved—[Jamie Halcro Johnston].

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

Members: No.

The Convener: There will be a division.

For

Halcro Johnston, Jamie (Highlands and Islands) (Con)
Mason, Tom (North East Scotland) (Con)

Against

Findlay, Neil (Lothian) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 26 disagreed to.

Section 7 agreed to.

After section 7

Amendment 7 moved—[Michael Russell].

The Convener: The question is, that amendment 7 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Findlay, Neil (Lothian) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

Against

Halcro Johnston, Jamie (Highlands and Islands) (Con)
Mason, Tom (North East Scotland) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 7 agreed to.

Amendment 9 moved—[Michael Russell].

Amendment 9A moved—[Mark Ruskell].

11:00

The Convener: The question is, that amendment 9A be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Findlay, Neil (Lothian) (Lab)
Halcro Johnston, Jamie (Highlands and Islands) (Con)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, Tom (North East Scotland) (Con)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 9A disagreed to.

Amendment 9B moved—[Mark Ruskell].

The Convener: The question is, that amendment 9B be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Findlay, Neil (Lothian) (Lab)
Halcro Johnston, Jamie (Highlands and Islands) (Con)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, Tom (North East Scotland) (Con)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 9B disagreed to.

Amendment 9C moved—[Mark Ruskell].

The Convener: The question is, that amendment 9C be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Findlay, Neil (Lothian) (Lab)
Halcro Johnston, Jamie (Highlands and Islands) (Con)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, Tom (North East Scotland) (Con)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 9C disagreed to.

Amendment 9D moved—[Mark Ruskell].

The Convener: The question is, that amendment 9D be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Findlay, Neil (Lothian) (Lab)
Halcro Johnston, Jamie (Highlands and Islands) (Con)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, Tom (North East Scotland) (Con)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 9D disagreed to.

Amendment 9E moved—[Mark Ruskell].

The Convener: The question is, that amendment 9E be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Findlay, Neil (Lothian) (Lab)
Halcro Johnston, Jamie (Highlands and Islands) (Con)
Kidd, Bill (Glasgow Anniesland) (SNP)
Mason, Tom (North East Scotland) (Con)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 9E disagreed to.

The Convener: Cabinet secretary, do you wish to press or withdraw amendment 9?

Michael Russell: I press amendment 9.

The Convener: The question is, that amendment 9 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Findlay, Neil (Lothian) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

Against

Halcro Johnston, Jamie (Highlands and Islands) (Con)
Mason, Tom (North East Scotland) (Con)

Abstentions

Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 4, Against 2, Abstentions 1.

Amendment 9 agreed to.

The Convener: The next group is on a review of the impact of the proposed act on the integrity of elections. Amendment 27, in the name of Jamie Halcro Johnston, is the only amendment in the group.

Jamie Halcro Johnston: Amendment 27 seeks to require a review following the next Scottish Parliament election after the act receives royal assent, assuming that it is passed by the Parliament. The review would consider the operation of the act in general and in regard to its impact on the integrity of elections and the number of electoral offences arising from the act.

In its current form, the bill will create significant change, enfranchising a range of new groups of people. Amendment 27 would allow for problems that are created by the significant shift in the franchise to be considered. The amendment would create a review period of one year after polling day, when the Scottish ministers would be expected to bring about a review in consultation with persons who "they consider appropriate". Under my proposed approach, the Scottish ministers would have to lay a report before Parliament no later than one year after the review period had ended, which would be two years after polling day.

I move amendment 27.

Michael Russell: Although it is always good to consider the impact of new legislation, amendment 27 implies that the bill is expected to have a negative impact on the security of elections, and that electoral offences will increase as a direct result of it. That is a political and not a factual view. There is nothing in the provisions of the bill to suggest that that will be the case. It has been drafted with the need to protect the integrity of elections always in mind.

Stakeholders ranging from the Electoral Commission to the Scottish Prison Service have

been in close contact with officials during the preparation of the bill, and they have identified no concerns that would justify a provision of this nature.

I remind Mr Halcro Johnston—as he seems to have forgotten—that the Electoral Commission has a statutory duty to review the conduct of Scottish Parliament and local government elections, including on issues of integrity. I do not see the need for the Scottish ministers to carry out an additional review. If, as I hope, the bill is passed and becomes an act, there will be scrutiny by the Electoral Commission.

Therefore, I invite Mr Halcro Johnston not to press amendment 27.

Jamie Halcro Johnston: I am not sure whether the cabinet secretary is reluctant for the impact of the bill to be reviewed, so I press amendment 27.

The Convener: The question is, that amendment 27 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Findlay, Neil (Lothian) (Lab)
Halcro Johnston, Jamie (Highlands and Islands) (Con)
Mason, Tom (North East Scotland) (Con)

Against

Kidd, Bill (Glasgow Anniesland) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 27 disagreed to.

Section 8 agreed to.

Section 9—Commencement

Amendment 8 moved—[Michael Russell].

The Convener: The question is, that amendment 8 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Findlay, Neil (Lothian) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

Against

Halcro Johnston, Jamie (Highlands and Islands) (Con)
Mason, Tom (North East Scotland) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 8 agreed to.

Section 9, as amended, agreed to.

Section 10 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. I thank everyone for their attendance and contribution.

Meeting closed at 11:08.

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