



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# REFERENDUM (SCOTLAND) BILL COMMITTEE

Thursday 6 June 2013

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**REFERENDUM (SCOTLAND) BILL COMMITTEE**  
**16<sup>th</sup> Meeting 2013, Session 4**

**CONVENER**

\*Bruce Crawford (Stirling) (SNP)

**DEPUTY CONVENER**

\*James Kelly (Rutherglen) (Lab)

**COMMITTEE MEMBERS**

\*Annabelle Ewing (Mid Scotland and Fife) (SNP)

\*Linda Fabiani (East Kilbride) (SNP)

\*Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab)

\*Rob Gibson (Caithness, Sutherland and Ross) (SNP)

\*Annabel Goldie (West Scotland) (Con)

\*Patrick Harvie (Glasgow) (Green)

\*Stewart Maxwell (West Scotland) (SNP)

\*Stuart McMillan (West Scotland) (SNP)

\*Tavish Scott (Shetland Islands) (LD)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Alison McInnes (North East Scotland) (LD)

Nicola Sturgeon (Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities)

**CLERK TO THE COMMITTEE**

Andrew Mylne

**LOCATION**

Committee Room 1



# Scottish Parliament

## Referendum (Scotland) Bill Committee

Thursday 6 June 2013

[The Convener *opened the meeting at 09:30*]

### Scottish Independence Referendum (Franchise) Bill: Stage 2

**The Convener (Bruce Crawford):** Good morning, colleagues, and welcome to the 16th meeting of the Referendum (Scotland) Bill Committee. I give a very warm welcome to the Deputy First Minister.

I remind everybody to switch off their phones to ensure that they do not ring at an inappropriate time.

The only item on the agenda is stage 2 of the Scottish Independence Referendum (Franchise) Bill. I welcome to the committee Alison McInnes, who is here to move a couple of amendments.

I will go through some of the stage 2 process.

Everyone should have with them a copy of the bill as introduced, the marshalled list of amendments and the groupings of amendments, which set out the amendments in the order in which they will be debated.

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 to speak to all the other amendments in the group. I will call the Deputy First Minister to speak to every group. Members who have not lodged amendments in the group but who wish to speak should indicate to me in the usual way that they wish to do so.

The debate on the group will be concluded by my inviting the member who moved the first amendment in the group to wind up and indicate whether they wish to press or withdraw the amendment. I remind colleagues that the withdrawal of an amendment requires the agreement of all members present. If any member objects, there must be a division on the amendment. Only committee members are allowed to vote in any division, and it is important that members keep their hands raised until the clerks have the chance to record all the names.

As well as disposing of amendments, the committee is required to consider formally each section of and schedule to the bill and the long

title. I will therefore put a question on each at the appropriate time.

*Section 1 agreed to.*

### Section 2—Those entitled to vote in an independence referendum

**The Convener:** Amendment 30, in the name of Patrick Harvie, is grouped with amendments 31, 32, 40, 1, 2, 41 and 33 to 35.

**Patrick Harvie (Glasgow) (Green):** Before we get into the details of individual amendments, I will say something about the issue in general.

It is understandable that the legal arguments about whether the European convention on human rights provisions require the Scottish Government or the Scottish Parliament to extend to prisoners the right to vote in the referendum and the question whether prisoners voting would have any impact on the referendum at all have sometimes been drawn into the debate about prisoners voting. I suspect that the matter will go to court if the Government continues to resist amendments in the area, and regret that it seems likely that we will have months of legal process instead of a couple of weeks of unfortunate headlines in the newspapers about prisoners getting the right to vote. That is a shame.

Having said that, I think that the arguments in favour of repealing the blanket ban on prisoners voting go beyond the legalities of the ECHR. I think that most members know that I am not a religious person, but the Church of Scotland, the Quakers and others have put forward compelling arguments about the rightness of the issue. They argue that the purpose of prisons and the criminal justice system is to repair the broken relationship between the offender and society, and that that should be seen in the context of rehabilitation.

On the radio this morning, Patricia Ferguson and I discussed rehabilitation and prisons and the fact that we can always do a great deal better than we are doing, particularly in relation to short sentences. I believe that prisoners who have offended and have a custodial sentence should be given the clear message that they are a part of society and that the purpose of their spell in prison is to remind them of that fact and make them clear about the behaviour that is expected of them as a member of society. Participation in the democratic process is consistent with that; it is not a massive part of it, but it is consistent with it.

I turn to the specific amendments. The Liberal Democrats and I seem to have taken a pretty similar approach. We recognise that the weather is against us, so we are offering the widest range of options to be debated. I hope that the Government is willing to respond to the specific arguments on

each option, rather than simply pick apart the amendments at a technical level.

The first option that I propose, which I describe as the full franchise option, is contained in amendments 30, 31 and 34. The amendments would remove section 3; in effect, they would ensure that all convicted prisoners would have the right to vote in the referendum. One quirk of that option is that the committee, should it be so minded, would be perfectly entitled to support amendments 31 and 34 but not amendment 30. The effect would be that, if the United Kingdom Parliament was to change the legislation on the electoral franchise, that would have an effect in Scotland, whereas at present the bill says that Scotland would retain the more restrictive franchise even if the UK electoral franchise was changed. That is an option within the full franchise option.

I describe amendments 40 and 41 as the pre-release franchise. The amendments would require the Government to introduce measures to ensure that prisoners who are coming towards the end of their sentence would regain the right to vote at an appropriate point—I suggest that that would be six months before the end of their sentence. I recognise that it might be possible to find technical flaws with that. For example, it might be difficult to identify all the prisoners who would be entitled to vote on a particular date. However, I have floated the idea to see whether the Government can respond to the principle behind it, which is the idea that prisoners who are coming to the end of their sentence should regain the right to vote as part of their transition back into society. I hope that the Government will be able to respond to the argument or principle behind those amendments.

Finally, my amendment 33 provides another option, which I gather one or two other European countries have taken. They do not have a blanket ban and are compliant with the ECHR in relation to elections, but they specify that electoral offences or offences involving abuse of the democratic process result in the loss of the right to participate in that process. Therefore, I have suggested that the ban should apply to those who commit offences under the Representation of the People Act 1983 or the Political Parties, Elections and Referendums Act 2000.

Alison McInnes's amendments take a slightly different approach, which we discussed at stage 1 and which relates to length of sentence. It is entirely appropriate to discuss that option. Length of sentence or, alternatively, type of offence might be used to determine an appropriate cut-off point.

I find it odd that people still argue that prison should be the single criterion on which the loss of the franchise is based. We use prison a lot less than in the past. I am a supporter of some of the

measures that the Scottish Government has taken to increase the use of community sentences and to ensure that we use prison only when it is genuinely required. It seems odd that, just a few years ago, somebody could have committed an offence, been given a prison sentence and so lost the right to vote, whereas, if they committed the same offence today, they would not lose that right. The use of prison as the only criterion for the loss of the right to vote throws up many anomalies so, in many ways, it would be better simply to abandon the principle altogether.

I move amendment 30.

**Alison McInnes (North East Scotland) (LD):**

My amendments 32, 1, 2 and 35 are variations on the theme that Patrick Harvie has set out, and would extend the franchise in the referendum to certain categories of prisoner. I appreciate that many members will have reservations about allowing prisoners a vote, whether in the independence referendum or in elections. The bill as it stands bars all prisoners from voting. Although we send people to prison as a punishment, we measure success by the way in which offenders re-enter the community. The primary aim of prison is rehabilitation and we will achieve results only if we give offenders the tools to help them make a meaningful contribution to the community when they are released. That means ensuring that they are engaged with society and that they are prepared for the responsibilities of citizenship.

Allowing some prisoners a say in the decision that will fundamentally shape the future of the country would send a powerful message that we are serious about giving them a role in society upon release. On the other hand, barring prisoners from participating risks isolating them even further.

Members are, of course, aware of the continuing discussions at Westminster regarding the ruling by the European Court of Human Rights that the existing blanket ban violates prisoners' human rights. As the Government has pointed out, that ruling does not apply directly to the referendum, but falling back on that argument is weak. It is a way of avoiding an important issue. As Patrick Harvie mentioned, the UK is already out of step with much of Europe. The Council of Europe's Commissioner for Human Rights is on record as urging the Scottish Parliament to revise the bill.

The best place to start that discussion is with the issue of short-term prisoners. As the Howard League for Penal Reform rightly points out, they represent a particular anomaly.

In 2011-12, a little more than 6,000 people in Scotland were jailed for six months or less—that figure is too high, but that is a debate for another day. The majority of those convictions were for

offences such as shoplifting, breach of the peace and crimes against public justice such as resisting arrest. No one is condoning those offences and saying that those crimes should not be punished, but to deny a shoplifter a say in the future of the country seems a disproportionate punishment—all the more so when that will apply to those who are sentenced in the summer whereas those caught in the spring will still get their vote.

I have presented the committee with three alternatives. Amendment 1 is my first choice, so to speak. The law as it stands in Scotland makes a distinction between short-term and long-term sentences—the dividing line is four years. Amendment 1 would give the vote to all prisoners who have been sentenced to a term of less than four years.

Offenders on such sentences have committed a wide range of crimes, but sentencing judges have made a determination that, within our laws, means that they are considered short-term prisoners. If we are serious about holding Scotland up as a progressive country when it comes to prisoner rehabilitation, that is the best place to start the debate.

The second option that I propose—amendment 2—is a direct alternative to amendment 1. It would specifically target offenders on very short-term sentences by giving the vote to any prisoners on sentences of six months or less.

Opening up the vote to all short-term prisoners would draw in a handful of offenders who are in prison for more serious crimes, and I acknowledge that some members who may be amenable to the general principle of opening up the vote to some prisoners would be uncomfortable with that. Amendment 2 would likely grant the vote to only about 400 prisoners. It would address some of the anomalies that relate to the date of sentencing but, primarily, would send the message that the Parliament takes seriously the issue of prisoner voting.

The third and final option is in the shape of amendments 32 and 35, which go hand in hand. Those amendments would grant the vote to all prisoners on short-term sentences who are within six months of being unconditionally released, with the exception of those convicted of a sexual offence.

Proposed new section 3A in amendment 35 is in two parts. Subsection (2) reflects the law as it currently stands, and subsection (3) reflects the law as it will be if provisions in the Custodial Sentences and Weapons (Scotland) Act 2007 are enacted between now and the date of the referendum. In practice, those two subsections mirror each other and would mean that all prisoners serving a sentence of six months or less,

and other prisoners on short-term sentences who are within six months of the halfway point of their sentence, would be granted the vote.

Amendment 35, if it were agreed to, would take the approach that returning the vote to prisoners is an important step in the rehabilitation process. As prisoners approach release, we begin the process of reintegration into the community by returning some of their rights and, indeed, responsibilities.

I have added my support to Patrick Harvie's amendment 30, which seeks to address an anomaly that his and my amendments could create in relation to the Representation of the People Act 1983.

Depending on which, if any, of my amendments the committee accepts, I acknowledge in advance to the Deputy First Minister the potential need for consequential amendments. I would be happy to work with her on that if that need arises.

I also note the uncertainty regarding the enactment of the 2007 act in relation to amendment 35 and would be open to further discussions on that amendment before stage 3 if the cabinet secretary were minded to take that approach.

**James Kelly (Rutherglen) (Lab):** I draw members' attention to my entry in the register of members' interests. My brother is Tony Kelly, a lawyer and the sole proprietor of Taylor & Kelly, a legal firm based in Coatbridge.

09:45

Scottish Labour does not support any of the amendments that have been lodged by the Greens and the Liberal Democrats. As Patrick Harvie and Alison McInnes outlined, a range of options are being tested.

I listened to the comments on the full franchise, which would give all prisoners a vote in the referendum. It is important to reflect that there is an element of punishment for those who are committed to serve prison sentences, particularly for serious offences such as murder. Those people would be included in the vote if the full franchise was granted. People are sent to prison because they have committed serious crimes. They should use that period to reflect so that they can rehabilitate and then make a proper contribution to society and vote in elections.

In amendment 41, Patrick Harvie proposes that prisoners who reach the final six months of their sentence be granted a vote in the referendum in order to encourage rehabilitation. Again, that would include those who were convicted of serious offences, including murder. We need to reflect on the impact that that would have on victims' families. It is right that people serve their sentence

and are released at the appropriate time, but in the case of serious offences, it causes difficulty for victims when people are released back into the community, and that would be compounded by granting such people a vote in the referendum.

Alison McInnes proposes granting people on lower tariffs a vote. What is missing in this debate is the voice of victims of crime. Any MSP who is close to what is going on in their constituency, particularly if they have an urban constituency, will know that crime such as antisocial behaviour may be termed “low level” in debates in the Parliament, but it can have a really stressful impact on families, individuals and communities. It is easy to quote the higher-profile examples, but let us look at some of the low-level crimes that are committed, the perpetrators of which would be given a vote in the referendum under Alison McInnes’s proposal.

I see examples in my constituency, such as a young woman whose door is kicked down and who is stalked to her place of work; a young family whose car is stolen and then trashed; or a pensioner whose house is ransacked and burgled. Is it right for the offenders to have a vote in the referendum? I think—

**Patrick Harvie:** Will the member take an intervention?

**James Kelly:** Sure.

**The Convener:** It is at my discretion, but I will allow an intervention on this occasion.

**Patrick Harvie:** I am grateful. Any of the offenders that James Kelly talked about could be serving a community sentence rather than a custodial sentence. Is it his view that the type of offence should be the criterion on which loss of the vote is based, or should it be based on where the sentence is served?

**James Kelly:** Of course different types of offence can result in different types of sentence, but that is because the court needs to take into account previous offences. The cumulative effect might well result in someone having to serve a period in prison. If so, they should not be granted a vote in the referendum.

If we agreed to the amendments, we would do a disservice to the victims of crime. People have said that how we treat prisoners and whether we give them a vote in the referendum is a test of the sort of country that we live in. I think that it is a test of how we treat the victims of crime. We would send out the wrong signal if we agreed to the amendments.

There is a duty on the Government to produce competent and robust legislation. To date, the argument of the Deputy First Minister—who will speak later—has lacked detail. Questions still

remain, and the Government and the Deputy First Minister must advance their own argument. To date they have submitted and supported the Law Society of Scotland’s arguments and those in Stephen Tierney’s paper. However, the Law Society says that the legislation “appears to be ... compliant” and Stephen Tierney acknowledges that “question-marks” remain, so it is not enough for the Deputy First Minister to hide behind that legal advice. She said that she does not want to publish the legal advice. I acknowledge that position, but she needs to advance some legal arguments. It is not enough to hide behind others’ arguments.

We reject the amendments that have been lodged by the Liberal Democrats and the Greens and we call on the Government to provide more legal detail as to why the bill is compliant and would survive a challenge in the courts.

**Stewart Maxwell (West Scotland) (SNP):** I will start where James Kelly left off. He was doing rather well until he started to have what I think was a rather undignified dig at the Government, the Law Society and the legal experts who have given evidence to the committee. The Government is not hiding behind anything. In fact, it is clear that the ECHR does not cover the referendum. That is clear. We are not being weak if we agree with that; we are following the law. James Kelly has made a strange argument.

I accept James Kelly’s earlier points. I agree with much that he said on Patrick Harvie’s amendments 30, 31 and 34, on the full franchise. It would be unacceptable to the vast majority of the population if people who had committed extremely serious crimes, including murder, were seen to be entitled to part of the franchise. That position—that people who have committed such heinous crimes should be entitled to take part in the electoral process to decide who will rule on those laws—would be publicly unacceptable and rather illogical.

The arguments regarding amendments 40 and 41 present an interesting idea, which is to allow prisoners to regain the right to vote towards the end of their sentence. However, I think—again—that the rules should apply for all the time that a prisoner is in custody and should not somehow be broken at some point in their sentence. A decision about at what point that should happen would be rather arbitrary. Six months has been suggested, but I do not see why it should be six months rather than three months, one year or whatever. There is no logic to that argument, but the argument that if someone is in custody, they lose that particular right, holds strong.

Amendment 33 also presents an interesting idea: that those who commit electoral offences would lose the right to vote but those who commit

murder, rape, domestic violence or any other crime you want to mention—I will not list them all—would regain the right to vote. I find that, too, to be a rather illogical and bizarre position to hold. The two general purposes of imprisonment are punishment and rehabilitation; I accept some of the Greens' and Liberal Democrats' arguments on that.

There is a principle. Prison is not just about detention and the removal of liberty; it is also about removal of a number of rights of access to parts of society. There are restrictions other than just being held in a penal establishment. Given that prisoners lose numerous rights and cannot do lots of things, it is not illogical that prisoners should also lose the right to vote. That seems to be entirely reasonable.

I was interested by Alison McInnes's argument on amendment 1, in which she said that the judiciary takes everything into account, makes a judgment and decides on a long or short sentence. She is right in that argument; judges and sheriffs do make judgments. However, judges and sheriffs are fully aware of the implications of giving someone a custodial sentence and sending them to prison.

I prefer to leave it to judges and sheriffs to decide—given the circumstances and context of the case, the individual's background, and their previous history of offending—whether a custodial or non-custodial sentence is appropriate. They know that if they give the accused a custodial sentence, the individual will lose not only their liberty but a number of rights, including the right to vote. I agree with the argument that judges and sheriffs should be allowed to make a judgment, but that judgment should be about not only whether to give a short-term or long-term sentence, but whether a person should be in custody, with all the implications that follow from that.

Finally, I know that my colleagues across the table will not agree with this argument, but the bottom line is that if a person wants to retain their vote in a referendum, they should not commit crime. It is simple: they should not steal people's cars, create violence in the streets or do other things that will end up in their going to prison. Individuals make that choice, and if they do so they must suffer the consequences. That is the view of society and it is certainly a view that I support.

**Annabel Goldie (West Scotland) (Con):** I thank both Patrick Harvie and Alison McInnes for the eloquence and lucidity of the arguments that they presented, which were a very helpful exposition of the position that they wish to advance. My position is that I have a fundamental disagreement in principle with what both Patrick

Harvie and Alison McInnes propose, which is why I will not deal with the detailed aspects of the arguments that they presented.

My view is clear. It seems to me that the loss of franchise does not begin in prison; it begins in court. It begins in the court because a judge has decided that a convicted accused should have their liberty removed, and as a consequence serve a term of imprisonment. The court does not impose prison sentences in ignorance of the consequences; it is very clear about the consequences. The consequences are loss of liberty, which involves removal from the normal aspects of social engagement with family and friends and loss of the ability to participate in everyday life. Another consequence is loss of the franchise—the vote. I do not think that any prisoner is either unaware of that or surprised by it.

Although we happen to be discussing the issue in the context of the Scottish Independence Referendum (Franchise) Bill, I take the view that victims would find it anomalous and unacceptable that the experience to which they have been subjected by an individual, culminating in the imposition of a prison sentence, should be reflected by the granting of a vote to that individual.

I have not addressed the specific aspects of what Alison McInnes and Patrick Harvie adduced in support of their proposition, because to me it is a fundamental matter of principle. If a court has deemed it appropriate to take away the liberty of a convicted criminal, a clear consequence of that is loss of the franchise for the duration of the prison sentence. That is why I reject the amendments and am unable to support the proposition.

**The Convener:** No other members want to contribute, so I move on to the Deputy First Minister before I ask Patrick Harvie to wind-up.

**The Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities (Nicola Sturgeon):** Thank you, convener.

It is worth observing at the outset that it is perhaps a mark of the overwhelming consensus in favour of extending the franchise to 16 and 17-year-olds in the referendum, which is of course the main purpose of the bill, that the proposal has proved to be completely uncontroversial—*[Interruption.]* I am sorry; I mean that with the honourable exceptions of Ms Goldie and her colleagues, that proposal has turned out to be uncontroversial, while the controversy is about the matter that we are debating, which is whether prisoners should have the right to vote. The balance of opinion appears to lie very strongly with the position that is set out in the bill.

The amendments that have been lodged by Alison McInnes and Patrick Harvie seek to change the provision that will prevent a convicted person from voting in the referendum while he or she is detained in a penal institution. The position in the bill is that which currently applies in all elections throughout the UK: a person who is in prison serving the custodial part of a sentence is not entitled to vote.

10:00

The amendments seek to change the current position in various ways. I appreciate that the amendments put forward a variety of options, such as the universal franchise of people detained in prison, and the enfranchising of people serving sentences of less than six months or people nearing the end of their sentences. However, all the amendments would have the intended effect of allowing some convicted prisoners who are still serving their sentences to vote, so the issues of principle—while perhaps not identical—are broadly the same in respect of all the amendments in the group.

As Annabel Goldie did, I thank Alison McInnes and Patrick Harvie for lodging the amendments. It is right that the issue be aired fully as the bill progresses through Parliament. As I have said previously, I have given, and will continue to give, the issue careful thought at all stages of the bill. I am not yet persuaded of the case that is being made, although I am sure that it is an issue that we will continue to debate until the bill reaches its final stage.

The Government does not believe that convicted prisoners should be able to vote while they are detained in custody. We hold that view for reasons of principle, reasons of law and reasons of consistency.

I will deal first with the issue of principle. I make no apology for saying that we believe that there must be a balance between rights and responsibilities in society. Patrick Harvie is right to say that we use prison less. However, if a judge, after he or she has heard all the facts of the case, considers that the circumstances of the case, the seriousness of the crime or the previous convictions of the offender warrant a custodial sentence, it is right that the individual should, as a result, lose rights that others who have not committed a crime, whose crime does not merit a custodial sentence or who have already served the custodial part of the sentence can enjoy. For the time during which a person is serving a sentence in prison, the right to vote is one of the rights that he or she should lose. When a person re-enters society, they regain that right to vote, along with other rights. That is the issue of

principle. I agree with many of the comments by other members on the matter.

On the law, I have said to Parliament previously that ECHR case law in this area does not apply to the right to vote in a referendum. I do not think that that is contested by anyone; I am not even sure that it is contested by Patrick Harvie and Alison McInnes. A legal challenge to any Government policy is always possible, but we do not believe that a challenge to this policy would be successful. The committee heard that from Professor Tierney and from the Law Society of Scotland, both of which share the Government's view.

In response to James Kelly, the bill has gone through the normal processes and procedures that any bill goes through and has a certificate of legislative competence as a result of those processes. James Kelly made an excellent contribution, but for the point on legal advice.

It seems that Labour is using a bit of a device here. I observe that the position of Scottish Labour is as follows: it agrees with the Government on the issue but cannot quite bring itself to say, without any caveats, that it does so it is turning to the legal advice point to provide some proof that it does not completely agree with the Government and that there is still a point of distinction. The better position would be to accept that we agree with each other and that we have come to the same position on the point of principle and on consideration of the legal position. I am sure that that is how the vote will pan out. However, I have given our position on the law.

Finally, on consistency, Patrick Harvie made a number of reasonable points in the stage 1 debate. However, I reiterate that the position as set out in the bill—not just on this issue, but generally—seeks to ensure that the current arrangements remain in place for the referendum, with one exception, that exception being the extension of the vote to 16 and 17-year-olds. Prisoners do not currently have the right to vote in elections and will not have the right to vote in the referendum if the amendments are not agreed to. I appreciate that the UK Government might change that position in respect of elections, but the fact of the matter is that right now, as we are considering the bill, prisoners do not have the right to vote in elections.

Detailed arrangements for running the referendum need to be in place well before the vote next September—I think that that applies to the franchise as much as, if not more than, it applies to other areas of the running of the referendum. It is right that the franchise for the referendum be settled soon, with the passage of this bill. That will be to the benefit of voters, campaigners and electoral administrators. It is right that we take that position now, based on the

current position, which will lead us to a consistent outcome.

For those reasons—the combination of law, principle and consistency—I oppose the amendments. I am sure that this is not the last time we will have the debate as the bill proceeds through Parliament, and I respect the views that have been put forward, and will continue to listen to the arguments, but the Government's position remains as it is set out in the bill. I ask committee members to oppose the amendments.

**Patrick Harvie:** I thank all those who have contributed to the debate. The Deputy First Minister began by noting the breadth of support for votes at 16, and I am comfortable in saying that we agree with the Government on that. As the Deputy First Minister pointed out, the balance of opinion is very clearly against my amendments. To be honest, I was not expecting anything but that. However, I am glad that we have been able to give the issue an airing, because it deserves one.

Several arguments have been made relating to the purpose or purposes of prison. As I understand it, there are three: punishment, public protection and rehabilitation. I think James Kelly was first to argue that loss of the right to vote is part of the punishment when a custodial sentence is given. Is that really the case? Do we really think that offenders who are sent to prison after committing some of the severe offences that James Kelly mentioned feel more severely punished because they cannot vote? I really do not think that it has that effect, and I would question whether anyone genuinely considers loss of the right to vote as being a serious part of the punishment that prison represents.

Does loss of the right to vote to provide an element of public protection? I cannot see that it does.

That leaves us with the final purpose of prison: rehabilitation, which I regard as being the most important purpose of prison and which, as I mentioned earlier, the Church of Scotland spoke about in terms of mending the broken relationship between the offender and society. In that context, I can see only arguments in favour of allowing prisoners the right to vote.

James Kelly also used various examples of lower-level offences, which he rightly acknowledged can have a high-level impact on people, such as antisocial behaviour offences. It struck me that the logical extension of that argument would be to remove the franchise from offenders who commit those offences, but are given non-custodial sentences, or even to remove from those who are subject to preventative orders. It would be dangerous if we were to use how we feel towards those who have broken society's

rules as the basis of decisions about who should have the right to vote.

Stewart Maxwell used a similar argument, which boiled down to the simple phrase, "If you want the right to vote, don't commit a crime." That is a simplistic approach that should be balanced against the equally powerful argument that an offender in prison, serving a sentence, is still a human being, is still a part of society and is subject to the decisions that a Government makes or to the decisions that the population makes in a referendum. I think that there is a powerful argument in principle that the franchise should extend to all who are affected by the decisions that are made through the democratic process.

Stewart Maxwell also said that the Government is following the law because the ECHR does not directly relate to referendums. The ECHR provisions directly relate to elections. They do not prevent the Government from making a comparable decision in relation to a referendum, so there is no law to follow. If Stuart Maxwell is correct that the ECHR does not apply to referendums, we have a choice that we are free to make.

In my view, the principled argument in relation to ECHR compliance goes way beyond whether it directly applies or whether it compels us, because this Government hopes, as I do, that Scotland—after the referendum that we are about to hold—will make decisions including incorporating ECHR into a written constitution. The Government has made that commitment publicly, on the record, and I strongly support the idea that we embed human rights legislation into documents that embody—that constitute—the new independent Scotland.

We will do that after the referendum or perhaps, if we do not get the referendum result that the Deputy First Minister and I want, at some other stage of devolution. There might be another 20 years of disappointment before it happens, but if at some point we get devolved competence over the electoral franchise, we will still be faced with the question. It seems bizarre to support ECHR—and therefore to support an end to the blanket ban on prisoners voting in elections—but to begin a referendum process with a franchise that is not compatible with the position that we wish to take in relation to elections.

There is a principled argument in favour of compliance with the spirit of ECHR, irrespective of whether it would be applicable technically. On that basis, I press amendment 30.

**The Convener:** The question is, that amendment 30 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Harvie, Patrick (Glasgow) (Green)  
 Scott, Tavish (Shetland Islands) (LD)

**Against**

Crawford, Bruce (Stirling) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Kelly, James (Rutherglen) (Lab)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)

**The Convener:** The result of the division is: For 2, Against 9, Abstentions 0.

*Amendment 30 disagreed to.*

*Amendment 31 moved—[Patrick Harvie].*

**The Convener:** The question is, that amendment 31 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Harvie, Patrick (Glasgow) (Green)

**Against**

Crawford, Bruce (Stirling) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Kelly, James (Rutherglen) (Lab)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Scott, Tavish (Shetland Islands) (LD)

**The Convener:** The result of the division is: For 1, Against 10, Abstentions 0.

*Amendment 31 disagreed to.*

*Section 2 agreed to.*

**Section 3—Offenders in prison etc not to be entitled to vote**

*Amendment 32 moved—[Alison McInnes].*

**The Convener:** The question is, that amendment 32 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Harvie, Patrick (Glasgow) (Green)  
 Scott, Tavish (Shetland Islands) (LD)

**Against**

Crawford, Bruce (Stirling) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)

Goldie, Annabel (West Scotland) (Con)  
 Kelly, James (Rutherglen) (Lab)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)

**The Convener:** The result of the division is: For 2, Against 9, Abstentions 0.

*Amendment 32 disagreed to.*

*Amendment 40 moved—[Patrick Harvie].*

**The Convener:** The question is, that amendment 40 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Harvie, Patrick (Glasgow) (Green)

**Against**

Crawford, Bruce (Stirling) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Kelly, James (Rutherglen) (Lab)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Scott, Tavish (Shetland Islands) (LD)

**The Convener:** The result of the division is: For 1, Against 10, Abstentions 0.

*Amendment 40 disagreed to.*

*Amendment 1 moved—[Alison McInnes].*

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

**Members:** No.

**The Convener:** There will be a division.

**For**

Harvie, Patrick (Glasgow) (Green)  
 Scott, Tavish (Shetland Islands) (LD)

**Against**

Crawford, Bruce (Stirling) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Kelly, James (Rutherglen) (Lab)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)

**The Convener:** The result of the division is: For 2, Against 9, Abstentions 0.

*Amendment 1 disagreed to.*

*Amendment 2 moved—[Alison McInnes].*

**The Convener:** The question is, that amendment 2 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Harvie, Patrick (Glasgow) (Green)  
Scott, Tavish (Shetland Islands) (LD)

**Against**

Crawford, Bruce (Stirling) (SNP)  
Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
Fabiani, Linda (East Kilbride) (SNP)  
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
Goldie, Annabel (West Scotland) (Con)  
Kelly, James (Rutherglen) (Lab)  
Maxwell, Stewart (West Scotland) (SNP)  
McMillan, Stuart (West Scotland) (SNP)

**The Convener:** The result of the division is: For 2, Against 9, Abstentions 0.

*Amendment 2 disagreed to.*

*Amendment 41 not moved.*

10:15

*Amendment 33 moved—[Patrick Harvie].*

**The Convener:** The question is, that amendment 33 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Harvie, Patrick (Glasgow) (Green)

**Against**

Crawford, Bruce (Stirling) (SNP)  
Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
Fabiani, Linda (East Kilbride) (SNP)  
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
Goldie, Annabel (West Scotland) (Con)  
Kelly, James (Rutherglen) (Lab)  
Maxwell, Stewart (West Scotland) (SNP)  
McMillan, Stuart (West Scotland) (SNP)  
Scott, Tavish (Shetland Islands) (LD)

**The Convener:** The result of the division is: For 1, Against 10, Abstentions 0.

*Amendment 33 disagreed to.*

*Amendment 34 not moved.*

*Section 3 agreed to.*

### After section 3

*Amendment 35 moved—[Alison McInnes].*

**The Convener:** The question is, that amendment 35 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Harvie, Patrick (Glasgow) (Green)  
Scott, Tavish (Shetland Islands) (LD)

**Against**

Crawford, Bruce (Stirling) (SNP)  
Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
Fabiani, Linda (East Kilbride) (SNP)  
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
Goldie, Annabel (West Scotland) (Con)  
Kelly, James (Rutherglen) (Lab)  
Maxwell, Stewart (West Scotland) (SNP)  
McMillan, Stuart (West Scotland) (SNP)

**The Convener:** The result of the division is: For 2, Against 9, Abstentions 0.

*Amendment 35 disagreed to.*

*Sections 4 to 6 agreed to.*

### Schedule 1—Application of enactments

**The Convener:** Amendment 3, in the name of the Deputy First Minister, is grouped with amendments 4, 5 and 29.

**Nicola Sturgeon:** Amendments 3, 4, 5 and 29 arise directly from requests from electoral registration officers for us to set out in legislation that the canvass period for the register of young voters should be the same as that for the local government register.

Specifically, EROs requested that the bill should specify the date of the end of the canvass period for the register of young voters, and that that should be 10 March 2014, in line with the end of the canvass period for and publication of the local government register. Although the register of young voters will not, of course, be published, EROs advised us that it was important for their purposes to have clarity in the bill about when the canvass period for young voters ends and rolling registration begins. As we now know, the start date for local government register canvass activity in Scotland will be 1 October 2013. Amendment 3 sets an identical canvass period of 1 October 2013 to 10 March 2014 for the register of young voters.

Amendments 4 and 5 mirror, and take into account for the young voters register, the local government register canvass arrangements, which provide that the date of application to that register will be the date on which the canvass form is received by the ERO, and will not be deemed to be 15 October as under previous canvass arrangements.

EROs also requested that section 13(2), which prevents any application for registration in the young voters register from being made before 1 December 2013, should be amended to reflect the earlier canvass start date. As the committee knows, the date in the bill was set out before the date of the referendum had been confirmed, and before the full details of the United Kingdom Government's 2013-14 canvass plans were known. In line with what EROs have requested,

amendment 29 provides that applications for registration in the young voters register can be received from 1 October onwards.

These changes will fully align the canvass period for the register of young voters with that for the local government register. They are sensible changes that take account of requests from stakeholders, and I commend them to the committee.

I move amendment 3.

*Amendment 3 agreed to.*

*Amendments 4 and 5 moved—[Nicola Sturgeon]—and agreed to.*

**The Convener:** Amendment 6, in the name of the Deputy First Minister, is in a group on its own.

**Nicola Sturgeon:** Amendment 6 relates to the register of young voters and the supply of notices in connection with registration. As the committee is aware, the bill has been carefully drafted to take account of the need to protect the information that is collected on young people.

Amendment 6 reflects the modifications that have already been applied in part 3 of schedule 1. It is a technical amendment that will remove an unnecessary reference. The subparagraph to which the amendment relates suggests that an ERO must supply copies of certain notices in accordance with procedures in particular regulations but, as the bill does not apply those procedures, the reference is simply unnecessary and could be confusing to readers of the bill. The amendment seeks to adapt the modifications that have already been applied in the bill to remove the reference, in line with our general approach to the treatment of information that is contained in the register of young voters. As I said, it is a straightforward technical amendment.

I move amendment 6.

**The Convener:** As no other member wishes to speak, I presume that the Deputy First Minister waives the right to wind up.

**Nicola Sturgeon:** Yes.

*Amendment 6 agreed to.*

*Schedule 1, as amended, agreed to.*

#### **Section 7—Declaration of local connection: additional ground for young people**

**The Convener:** Amendment 7, in the name of the Deputy First Minister, is grouped with amendment 8.

**Nicola Sturgeon:** Section 7 currently allows any person who is under the age of 17 and who does not wish to disclose the address at which they are resident to register using an address in

Scotland at which they have previously resided. They can do that by making a declaration of local connection. Similar provisions for older voters already exist in electoral legislation, but the circumstances in which such a declaration could be used are fairly narrowly drawn.

The Scottish Government's general approach to the bill and the policy that underpins it has been to replicate current registration practice for the purposes of the young voters register as far as possible, while balancing that with the need to treat data on young people sensitively and recognising that they might have particular needs.

As the policy memorandum and explanatory notes that accompany the bill made clear, the additional ground for making a declaration of local connection that is contained in section 7 is intended to be used by vulnerable young people who are applying to the register of young voters—for example, those young people for whom the disclosure of their address even to a very limited group of people could pose a risk. Amendments 7 and 8 put beyond doubt the purpose of the provision, which is to protect particularly vulnerable young people, by setting out, in broad terms, the circumstances in which such young people will be entitled to make such a declaration.

As amendments 7 and 8 make clear, the two groups of young people who will be able to utilise this facility are young people who are being looked after by a local authority and those who are kept in secure accommodation, mainly in care situations. The additional ground for a declaration of local connection is designed to offer protection for particular groups of young people in particular circumstances. A young person in such a situation would be entitled to register by giving the ERO an address other than the one at which they were currently residing, as long as they previously resided at that address and it was in Scotland. They will also be able to give a correspondence address—for example, that of the local authority—or to collect correspondence from their ERO's office. That will avoid their current address being shown on the register of young voters. In short, it was felt that, as currently drafted, the relevant provision might be too wide. Therefore, amendments 7 and 8 seek to narrow it to ensure that it can fulfil its original intention.

Of course, it is possible that, in certain circumstances, young people could have other reasons for wanting to register without disclosing their address. I know that the Commissioner for Children and Young People in Scotland has recently suggested that those young people who are fleeing domestic abuse, whether with a parent or not, are one such example. I should stress that young people in that situation and others who are in different circumstances will still be eligible to

apply to register to vote completely anonymously, as some electors on the local government register are already entitled to do. That would mean that neither their name nor their address would appear on the register of young voters. The process of anonymous registration is well established and, depending on their circumstances, is available to any young person and, indeed, their parent. It is a different process from the declaration of local connection, but it provides even stronger protection.

I hope that that gives some clarity to the committee, but I am also happy to commit to discussing matters with the commissioner before we reach stage 3, so that we can assure him that all appropriate circumstances are being taken account of.

I move amendment 7.

**Stewart Maxwell:** I very much welcome what the Deputy First Minister said towards the end of her comments, particularly on amendment 7. At stage 1, when the commissioner was giving evidence alongside Dr Ken Macdonald, I raised the issue of young people who are in the unfortunate situation of fleeing domestic violence. Both seemed very comfortable with the bill as drafted and the commissioner has since contacted me, asking for clarification on amendment 7. You have said that amendment 7 effectively narrows the scope to children who are looked after by a local authority or are being kept in secure accommodation. That is very clear, but the question is whether it is reasonable for young people to go through the other process that you mentioned—the anonymous registration process under section 9B of the Representation of the People Act 1983 and subsequent regulations. It has been suggested that that process is particularly onerous and would result in a clear differentiation between children who are looked after or who are in secure accommodation and those who are, for example, fleeing domestic violence. Surely we want those children to have the opportunity to vote in the referendum and for the process to be as simple as possible for them.

I take on board the cabinet secretary's comments about contacting the commissioner before stage 3 and very much look forward to hearing the outcome of those discussions.

**Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab):** I share Mr Maxwell's concerns in this area. When the committee highlighted this issue in its report, we recommended that guidance on the use of the provision be issued but did not suggest that its scope be narrowed as a result. Although the sort of young people whom Mr Maxwell has identified give me cause for concern, I am sure that the provision will not apply exclusively to them.

Everything that we—and, to its credit, the Government—has tried to do with this bill has been with the aim of making it as safe and as easy as possible for young people to exercise their vote next year, and I would hate to think that we would be doing something that makes the process more difficult for young people whose lives are already perhaps more difficult than we would like them to be. As a result, I hope that the cabinet secretary will look at the issue again and see whether there might be a better way of drawing that provision.

**Annabel Goldie:** I am comforted by the additional reassurance provided in amendment 7, which I think is helpful.

Given that we will discuss the cabinet secretary's amendment on the canvass form later, I do not know whether to mention this point now. However, I was concerned that the adult completing the canvass form would not be alert to the facility of not requiring to disclose the young person's postal address and wondered whether any further thought had been given to the issue. Again, I make it clear that I am reassured by this amendment.

**Nicola Sturgeon:** I appreciate that we might discuss the point that Annabel Goldie has raised in a bit more detail when we come to a later group, but I should say that we are considering a potential stage 3 amendment to cover the question that she has highlighted. Whether it is right to do things this way or whether they need to be covered in guidance is a matter that we will get into in more detail when we come to the relevant group.

First, I should perhaps make it more explicit why we consider amendments to this section to be appropriate. As the bill's original provision does not explicitly state who would be eligible to make a declaration of local connection, it is theoretically possible—although I accept that it is practically unlikely—that it could have allowed any young person living outside Scotland to register using a previous Scottish address. As I think that that definition is too wide and poses risks, I have lodged these amendments.

The amendments are consistent with the bill's general principle of seeking to replicate existing practice as far as possible while recognising certain young people's particular needs. As I said in my opening remarks, I accept that there are young people who might be at risk for reasons other than those set out in these amendments. It is not the Government's intention to make things any more difficult for young people whose lives are already difficult.

I believe that the provisions on anonymous registration cater for young people in these circumstances. To register anonymously, a person

has to provide evidence of either of two types: first, that the person or a member of their household is protected by one of several listed court orders giving protection from harassment; or, secondly, that a senior police officer, chief social work officer or other listed person of similar type has certified that the safety of someone in the household would be at risk if they were registered in a way that showed their name or address.

10:30

That is more about suppressing a person's name and address than about allowing a different address to be used. It provides arguably stronger protection than a declaration of local connection for young people in the circumstances. However, given the sensitivity of the issue and the determination of us all to get this right, I give the committee two undertakings. First, as I have said, we will have a discussion with the commissioner to ensure that the commissioner understands where we are coming from and what we consider the position to be. That will tell us whether that satisfies the commissioner or whether there are any remaining concerns. Secondly, I will write to the Electoral Commission before stage 3, setting out the position and the outcome of our discussions with the commissioner.

*Amendment 7 agreed to.*

*Amendment 8 moved—[Nicola Sturgeon]—and agreed to.*

*Section 7, as amended, agreed to.*

*Section 8 agreed to.*

### **Schedule 2—Canvass form**

**The Convener:** Amendment 9, in the name of the Deputy First Minister, is grouped with amendments 10, 11, 11A, 13, 12, 36, 14, 37, 15, 38, 16 to 21, 39 and 22 to 27. There are some pre-exemptions. If amendment 37 is agreed to, I will not be able to call amendment 15. If amendment 38 is agreed to, I will not be able to call amendment 16. If amendment 39 is agreed to, I will not be able to call amendment 22.

I call the Deputy First Minister to move amendment 9 and to speak to all the amendments in the group.

**Nicola Sturgeon:** Schedule 2 contains the young voter registration form that is to be used in the autumn 2013 canvass, which was developed by the Government in line with Electoral Commission guidelines. Both the Electoral Commission and electoral registration officers provided valuable advice in the development of the form.

The form has also been subject to a rigorous process of independent testing, which was conducted through a series of one-to-one interviews. It covered households with eligible and ineligible 15-year-olds and targeted groups who may be more likely to encounter difficulties in filling out a form, such as those who have a low level of literacy or English as a second language.

The main findings of the testing report were that the form works well and is easily understood. In particular, no one failed to include an eligible 15-year-old on the canvass form and everyone who should have been registered to vote was included on it in tests. Various minor changes to the form were recommended in relation to wording and formatting. The Government fully accepts all the recommendations and seeks to implement them through our amendments.

The amendments to schedule 2 that I propose fall into three broad groups. The first group of amendments inserts into the canvass form the date of the referendum, which had not been confirmed when the bill was published. The amendments dealing with that include amendments 15, 16, 22 and 23.

The second group of amendments were suggested by the electoral registration officers. The Government has worked closely with those officers in developing the bill and will continue to do so throughout its implementation. Amendments 9 and 18, in particular, are the result of further discussion of the form with the EROs. Amendment 9 allows space for the address of the household to be included on the form, allowing registration officers to associate the details contained in the form with the correct address even if the form is returned separately from the main canvass form or the two forms become separated during processing. Amendment 18 makes it clear that anyone who fills out the form should correct any errors in the pre-populated fields, ensuring that registration officers will collect the most accurate and up-to-date information.

The third category of my proposed amendments results from recommendations following independent testing of the canvass form. The Scottish Government committed to accepting all the recommendations made in the testing report, and the amendments achieve that. The minor amendments that I propose for the canvass form should ensure that it is clear, intelligible and as easy to use as possible.

Amendments 11A and 36 to 39, in the name of Patricia Ferguson, propose using the date of birth on the canvass form to establish eligibility as opposed to the current method of using the young person's age at the date of the referendum. I understand that the Scottish Youth Parliament

raised this issue during one of the committee's evidence sessions.

I appreciate the reasoning behind the proposed amendment, but the form has been independently tested using the phrase "will be 16 by the date of the referendum" rather than the phrase "was born before 19 September 1998". Indeed, the testing report specifically considered including the date of birth on the front of the form, but it concluded:

"Given that none of the participants had any difficulty in working out eligibility from the dummy referendum date, and given the preference for less text ... we do not recommend adding this to the front page."

Given the process of independent testing that we have gone through, I think that it would be wrong to insert something that was not only not recommended for the process but which was specifically considered and rejected in a recommendation. I appreciate the reasoning behind amendments 11A and 36 to 39, but I cannot support them.

I move amendment 9.

**The Convener:** Patricia Ferguson will speak to amendment 11A and other amendments in the group.

**Patricia Ferguson:** I will speak to amendment 11A and the consequential amendments.

As the Deputy First Minister rightly indicated, the genesis of amendment 11A was the compelling evidence of Andrew Deans, member of the Scottish Youth Parliament, who pointed to the confusion that he and his colleagues had experienced when considering the way in which the registration voting forms were drafted. They suggested that we should include the date of birth for the sake of clarity. The committee agreed with that in its stage 1 report; indeed, it raised the matter—certainly, I did—in the debate at that point.

I realise that the Government has gone some way towards making the form clearer through the amendments that it has introduced. However, I point out to the Deputy First Minister that the report on the independent testing of the young voter form and the other registration forms commented on the inclusion of 16-year-olds—or one at least—on the young voter form; and I understand that a 15-year-old and a 16-year-old were included on both of the canvass forms. I accept that it would be better to be on both than on none at all, but I think that that indicates that there is still an element of confusion.

I believe that the use of date of birth as a marker is generally accepted and that it would be recognised more widely by those completing the forms. I think that it would help improve the clarity of the form for those who will be tasked with

completing it, often on behalf of their younger child or sibling.

**The Convener:** Annabel Goldie wants to contribute to the debate.

**Annabel Goldie:** Yes, very briefly.

Again, I thank the Deputy First Minister, because I think that her amendments help to clarify the position. For the avoidance of doubt, although I am very happy to contribute to the debate on the mechanics of the bill, that does not in any way indicate my agreement with the principle of giving youngsters of 16 and 17 the vote. I want to make that clear, but I do not want that to detract from my willingness to participate in the debate.

On Patricia Ferguson's point, I mulled it over and wondered what I would do if I were a parent filling up the canvass form. I think that most parents are aware of the ages that their youngsters are coming to, but I think that it requires in some cases a bit of mental arithmetic to work out when they were born. Perhaps not all parents are entirely clear about that, so I think that my preference is to leave the bill as drafted by the Scottish Government. I therefore do not propose to support Patricia Ferguson's amendments, because I think that the Government's drafting position is clear.

**The Convener:** The Deputy First Minister will wind up.

**Nicola Sturgeon:** I have just two points to make.

The first is a point of clarity and information: the date of birth is included on the back of the form, so it is used on the form. My second point returns to a point that I made earlier. I appreciate that Patricia Ferguson's arguments are not completely without validity. However, I read out earlier the conclusion of the independent testing process on including the date of birth. If I accepted Patricia Ferguson's proposed amendment, I would be going against a process and recommendations that I have made clear I want to accept. I do not think that the case has been made for me to do that.

Secondly, the point that Annabel Goldie made at the end of her remarks is a powerful one. A parent knows whether or not their child will be a certain age by a certain date. If that date is the date of birth, they might have to think about it a bit more, but I do not know—perhaps that is a bit of a generalisation.

Anyway, for all the reasons that I have set out, I think that we should keep the bill as it is in relation to that aspect of the form. I therefore ask the committee to support the amendments in my name and to oppose the amendments in the name of Patricia Ferguson.

*Amendment 9 agreed to.*

*Amendment 10 moved—[Nicola Sturgeon]—and agreed to.*

*Amendment 11 moved—[Nicola Sturgeon].*

*Amendment 11A moved—[Patricia Ferguson].*

**The Convener:** The question is, that amendment 11A be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
Kelly, James (Rutherglen) (Lab)

**Against**

Crawford, Bruce (Stirling) (SNP)  
Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
Fabiani, Linda (East Kilbride) (SNP)  
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
Goldie, Annabel (West Scotland) (Con)  
Harvie, Patrick (Glasgow) (Green)  
Maxwell, Stewart (West Scotland) (SNP)  
McMillan, Stuart (West Scotland) (SNP)  
Scott, Tavish (Shetland Islands) (LD)

**The Convener:** The result of the division is: For 2, Against 9, Abstentions 0.

*Amendment 11A disagreed to.*

*Amendment 11 agreed to.*

*Amendments 13 and 12 moved—[Nicola Sturgeon]—and agreed to.*

*Amendment 36 not moved.*

*Amendment 14 moved—[Nicola Sturgeon]—and agreed to.*

*Amendment 37 not moved.*

*Amendment 15 moved—[Nicola Sturgeon]—and agreed to.*

*Amendment 38 not moved.*

*Amendments 16 to 21 moved—[Nicola Sturgeon]—and agreed to.*

*Amendment 39 not moved.*

*Amendments 22 to 27 moved—[Nicola Sturgeon]—and agreed to.*

*Schedule 2, as amended, agreed to.*

### **Section 9—Register of young voters not to be published**

**The Convener:** Amendment 28, in the name of the Deputy First Minister, is in a group on its own.

10:45

**Nicola Sturgeon:** Section 9 provides that information in the register of young voters is to be available to electoral registration officers and their staff only for purposes connected with registering young people to vote in the referendum and the

conduct of the referendum. The bill prohibits registration staff from publishing the register or disclosing information about it.

Such an approach is in line with the bill's consistent approach, in ensuring that information that relates to young voters is treated sensitively and kept securely. The approach was welcomed by stakeholders in the consultation that we undertook around Christmas last year.

We have been considering whether the strict control on access to the register could impede the investigation and prosecution of offences that are provided for in this bill or in the Scottish Independence Referendum Bill. We concluded that there could be difficulties and that this bill should be amended to ensure that, while information about young people will continue to be protected, electoral registration officers will be able to disclose information where it is necessary to do so for purposes that are connected with criminal investigations or criminal proceedings that relate to the referendum.

I move amendment 28.

*Amendment 28 agreed to.*

*Section 9, as amended, agreed to.*

*Sections 10 to 12 agreed to.*

### **Section 13—Commencement**

*Amendment 29 moved—[Nicola Sturgeon]—and agreed to.*

*Section 13, as amended, agreed to.*

*Sections 14 and 15 agreed to.*

*Long title agreed to.*

**Annabel Goldie:** On a point of order, convener.

**The Convener:** I still have things to say, but on you go.

**Annabel Goldie:** I did not want to jump up and down to disagree with every section, but I want to make clear that my objection in principle to the extension of the franchise to 16 and 17-year-olds stands.

**The Convener:** That is on the record. That probably was not a proper point of order, but I will let you away with it on this occasion.

Members should note that the bill will be reprinted as amended and will be available in print and on the web tomorrow morning.

Stage 3 is expected to take place in the final week of business before the summer recess, but the date has yet to be decided. Members may lodge stage 3 amendments with the legislation team at any time from today. You will be informed of the deadline for lodging amendments when the date for stage 3 has been determined.

*Meeting closed at 10:47.*

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e-format first available  
ISBN 978-1-78351-240-9

Revised e-format available  
ISBN 978-1-78351-254-6

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Printed in Scotland by APS Group Scotland

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