



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# MEETING OF THE PARLIAMENT

Thursday 11 February 2016

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# Scottish Parliament

Thursday 11 February 2016

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

## General Question Time

### Cromarty Firth (Ship-to-ship Oil Transfer)

**1. Dave Thompson (Skye, Lochaber and Badenoch) (SNP):** To ask the Scottish Government what its position is on the potential environmental impact if the Cromarty Firth port authority's application for ship-to-ship oil transfer in the Cromarty Firth is granted. (S4O-05554)

**The Cabinet Secretary for Rural Affairs, Food and Environment (Richard Lochhead):** As the member will be aware, many concerns have been expressed about the potential impact on our marine environment of the current application. He may also be aware that, a few years ago, when a similar application was made elsewhere in Scottish waters, the then Minister for Environment and Climate Change, Paul Wheelhouse, wrote to the Secretary of State for Transport in the United Kingdom Government to seek greater powers for the Scottish Government in this reserved matter. Unfortunately, that request was declined. However, I have written again this week to make the same request. I have also made it clear to the secretary of state that the Scottish Government expects to be fully consulted prior to a final decision being taken on the application.

**Dave Thompson:** I am pleased to hear that the cabinet secretary has written again and that he has asked that the Scottish Government be fully consulted before a decision is taken. There is huge concern about the issue in my constituency and in neighbouring constituencies to the north of the firth, such as that of Rob Gibson, including a worry that the Maritime and Coastguard Agency will just follow a process and automatically grant a licence if the main conditions are agreed to. Will the cabinet secretary elaborate a wee bit more on what pressure he is prepared to put on the UK Government to devolve the power to us to deal with the matter?

**Richard Lochhead:** I can assure Dave Thompson and other members that I will continue to apply that pressure. At the very least, the Scottish Government should be involved in the decision-making process. Our adviser, Scottish Natural Heritage, has submitted to the consultation as a statutory consultee. I have a copy of its submission, which indicates that it disagrees with the conclusion of the environmental statement

about the residual likely significant impact on European designated sites. SNH advises the Maritime and Coastguard Agency, as a competent authority in the matter, to carry out an appropriate assessment. It believes that mitigation can reduce but not eliminate the risks to the integrity of several designated interests and says that it is not possible to conclude that there will be no adverse effect on the site integrity in relation to the Moray Firth special area of conservation, which is for bottlenose dolphins.

**John Finnie (Highlands and Islands) (Ind):** The cabinet secretary is aware that the consultation has been going on for months. There is great concern, as has been highlighted by my colleague Dave Thompson, yet there has been utter silence from the cabinet secretary. Will he reflect on whether he was wise to wait until after the consultation before expressing a view?

**Richard Lochhead:** It is only right that the Cromarty Firth port authority should carry out a consultation on extending an existing activity. What I have said publicly in the past few weeks is that we would await the advice of our own advisers, who in turn are statutory consultees for the application that went through the consultation. However, the consultation has closed. Now that I am aware of the views of Scottish Natural Heritage and other advisers, as members can imagine I am very concerned about what I am learning and am taking a close interest in what now happens in response to the consultation.

This is a reserved matter. Unlike the situation with Forth Ports a few years ago, when a different type of oil was being proposed and different circumstances applied, there are still very real concerns about the Cromarty Firth application and the potential impact on the marine environment. That is why we will take a close interest in the issue and make our views known, to both the Cromarty Firth port authority and the UK Government.

### General Practitioners (Reported Shortage in Rural Areas)

**2. Alex Fergusson (Galloway and West Dumfries) (Con):** To ask the Scottish Government what steps it is taking to address the reported shortage of GPs in rural areas. (S4O-05555)

**The Cabinet Secretary for Health, Wellbeing and Sport (Shona Robison):** Ministers are fully committed to supporting primary care, including GPs, and ensuring that all communities in Scotland, including remote and rural, receive safe, reliable and sustainable health care services. Over the next three years, the Scottish Government will invest £85 million as part of the primary care fund. As part of that, £2.5 million will be invested in work to explore with key stakeholders the issues

surrounding GP recruitment and retention, which can be particularly challenging in remote and rural areas.

**Alex Fergusson:** I am grateful for that response but, in Dumfries and Galloway, there are currently 14 GP vacancies and that number is soon to go up to 16 with two impending retirements. Only four out of 12 training scheme places were taken up this year, and 25 per cent of GPs are over 55 and do not appear to be persuaded to continue working past retirement by the Government's proposed contract. Why is it that, since the Government came to power, the proportion of the NHS budget that is allocated to GPs has reduced from 9.8 per cent in 2005-06 to 7.4 per cent in 2014-15? What action will the Government take to address the decline in the NHS budget to make general practice more attractive to young doctors and encourage older practitioners to remain in practice?

**Shona Robison:** Under the Government, the number of GPs who are employed in Scotland has risen by 7 per cent to nearly 5,000 and we have recently announced an extra 100 training places. I accept that more needs to be done. That is why we are in the midst of negotiating a new contract, so there is no new contract for GPs to reject or otherwise; we have only just begun to negotiate it with the British Medical Association. I hope that the member will appreciate that.

If we get it right, the new model and contract have the potential to deliver Sir Lewis Ritchie's vision for primary care, which is based on a multidisciplinary team in which everyone works to the top of their skill level, thus freeing up GPs to spend more time with the more complex cases. That is what we want to deliver and we will commit to more GPs to deliver that model; we have already said that.

I hope that the member appreciates that we are doing a range of important things to deliver a good future for GPs in Scotland. I hope that, through the junior doctor recruitment that will be happening in the next month, we will see a lot of junior doctors who want to come to Scotland to train for general practice here because it is a great opportunity for them.

#### **"Personal Footcare Guidance" (Review)**

**3. Drew Smith (Glasgow) (Lab):** To ask the Scottish Government whether it plans to review the "Personal Footcare Guidance". (S4O-05556)

**The Minister for Public Health (Maureen Watt):** The national "Personal Footcare Guidance" was launched in September 2013 and we have no plans to review it at this time.

**Drew Smith:** I thank the minister for her answer. She might be aware that my colleague,

Patricia Ferguson, recently raised concerns with the cabinet secretary about the podiatry service that is being offered by NHS Greater Glasgow and Clyde. Although I do not want to go into individual cases, I have examples of elderly and blind constituents who have been told to cut their own nails.

My concern is about the volume of complaints that we are receiving about the service. Will the minister seek statistics from the health board about the number of users who are being turned away from a service that they could previously access so that we can be assured that the upturn in the number of complaints is not a result of attempts to reduce costs? If the minister believes that the guidance is being followed appropriately, I urge her to consider whether unintended consequences are flowing from the guidance that was issued in 2013.

**Maureen Watt:** I thank the member for his supplementary question and I will be happy to look into the figures for NHS Greater Glasgow and Clyde.

Personal care is available without charge for those people who are over 65 and have been assessed by local authority as needing it. The legislation includes keeping fingernails and toenails trimmed as one of the aspects of personal care. However, it need not necessarily be carried out by a podiatrist. Detailed information is available from health boards and NHS inform about how one can look after one's feet or have someone else look after them.

#### **European Union Membership (Referendum)**

**4. Roderick Campbell (North East Fife) (SNP):** To ask the Scottish Government what discussions it is having with the United Kingdom Government regarding the proposed referendum on EU membership. (S4O-05557)

**The Cabinet Secretary for Culture, Europe and External Affairs (Fiona Hyslop):** Although the Scottish Government was not consulted on the UK Government's proposals, I last spoke to the Minister for Europe, David Lidington, on 2 February and received an update on the Tusk letter and the UK Government's position.

The Scottish Government believes that continued European Union membership is overwhelmingly in Scotland's best interests, which is why we are making a positive, constructive case for staying in the EU.

It is essential to ensure that voters are fully informed of the arguments about EU membership and, as such, the Scottish Government is strongly opposed to a June referendum, as has been suggested. As a June date would cut across the election campaigns for the Scottish Parliament

and other devolved Administrations, the First Ministers of the devolved Administrations wrote a joint letter to the Prime Minister on 3 February urging him to defer a referendum to ensure a debate that would be free from other campaigning distractions.

**Roderick Campbell:** One of the threads of the UK Government's negotiating position is to give greater powers to national Parliaments to block or scrap EU legislation. My understanding is that the UK Government has been exploring the possibility of a sovereignty bill to enshrine that. According to *The Sunday Times*, that could be either a British bill of rights or another bill. Does the cabinet secretary share my concerns about the implications for Scotland and will she seek urgent clarification of the UK Government's intentions?

**Fiona Hyslop:** We share Roderick Campbell's concerns. Alex Neil and Michael Matheson are, from their respective portfolios, seeking urgent clarification from the UK Government in relation to any proposals for a British bill of rights. We will stand firm in our position that we do not want diminution of any human rights across these isles. In addition, we need to respect the sovereignty of this place and of the people of Scotland.

On sovereignty and the so-called red card, I point out that the red card is meant to allow groups of national Parliaments to block EU legislation. It is worth noting that the existing yellow card procedure, which has a far lower threshold than that proposed for the red card, has been used only twice since 2009, and that the orange card has never been used.

### NHS Lanarkshire (Meetings)

**5. Linda Fabiani (East Kilbride) (SNP):** To ask the Scottish Government when it last met NHS Lanarkshire. (S4O-05558)

**The Cabinet Secretary for Health, Wellbeing and Sport (Shona Robison):** Ministers and Government officials meet regularly with representatives of all health boards, including NHS Lanarkshire.

**Linda Fabiani:** Was the out-of-hours service in East Kilbride discussed at the last meeting? When can the residents of the town expect an update on the current interim situation?

**Shona Robison:** As Linda Fabiani knows, the recommended interim model that NHS Lanarkshire introduced in the short term has given it an opportunity to develop a longer-term solution around a broad range of out-of-hours proposals, including for the East Kilbride area. I have made it clear to NHS Lanarkshire that those proposals must be developed in consultation with staff and the public, and that they must be completely in line with the outcome of the national review of out-of-

hours services, the report of which was published at the end of November. I understand that NHS Lanarkshire intends to involve Sir Lewis Ritchie in discussions on taking forward the proposals, to ensure that what it is considering is very much in line with the national recommendations. I will be very happy to write to Linda Fabiani and give her a further update, in due course.

### Climate Change Budget (Reduction)

**6. Claudia Beamish (South Scotland) (Lab):** To ask the Scottish Government for what reason it has reduced the climate change budget. (S4O-05559)

**The Minister for Environment, Climate Change and Land Reform (Aileen McLeod):** The draft budget embeds climate change spend within relevant portfolios, including support for renewable energy, energy efficiency, sustainable travel, waste reduction and natural carbon capture through forestry and peatland restoration.

Reductions are predominately in the energy budget; it is widely recognised that the United Kingdom Government is hampering the renewable energy sector and putting at risk millions of pounds of investment in the Scottish and UK economies. If the UK Government had kept to its previous commitments, the viability of many projects would not now be in question and Scottish Government support would have been maintained. In addition, the UK Government's axing of its green deal home improvement fund led directly to Scotland losing £15 million in ring-fenced conditionals that supported our home energy efficiency programme cashback scheme.

Despite the raft of UK regulatory and policy changes in energy and energy efficiency, we have increased our climate change budget across other areas by £13.3 million.

**Claudia Beamish:** It is disappointing to hear blame being passed to the UK Government, when those issues can be made priorities by the Scottish Government. Agriculture, for instance, accounts for a significant proportion of greenhouse gas emissions, so it is disappointing to see a reduction in the rural land use budget. How will that affect emissions?

After the failure to meet the climate change emissions targets again this year, what engagement has the Scottish Government climate change sub-committee had across portfolios on the draft budget and climate change?

**Aileen McLeod:** The challenge that we have is that this Parliament does not have all the levers that it needs—not least in the crucial area of energy policy, in which we need the UK Government to assist Scotland's drive to develop

renewables and carbon capture and storage, and not to stymie it, as it has done recently.

We are developing a third report on policies and proposals, which will contain an assessment of the progress that has been made towards implementing policies and proposals that were set out in "Low Carbon Scotland: Meeting our Emissions Reduction Targets 2013-2027. The Second Report on Proposals and Policies". It will include any adjustments that the Scottish ministers consider are required. It is our aim, wherever possible, to overachieve against future annual targets in order to recover the difference by which the earlier targets were missed. RPP3 will also set out proposals and policies to compensate, in future years, for excess emissions from previous annual targets.

### **Train Services (Edinburgh to Glasgow)**

**7. Alison Johnstone (Lothian) (Green):** To ask the Scottish Government what its position is on extending train services between Edinburgh and Glasgow later into the evening. (S4O-05560)

**The Minister for Transport and Islands (Derek Mackay):** The Scottish Government, as part of the ScotRail franchise agreement, specifies that later evening services are to be provided to cater for special and big events across the network, including in Edinburgh and Glasgow.

**Alison Johnstone:** I welcome the improvements to the line and the minister's assurance that such services will be provided when big events are on. However, it is important that people have reliable and frequent transport options that enable them to get home not only after attending events and gigs in the city, but after enjoying an evening that goes on until late.

The minister knows, of course, that Glasgow is now home to the third biggest venue in the world. There would be many benefits to introducing a later train service, where the conditions are agreed by staff and unions on an on-going basis. It would benefit towns such as Linlithgow in between the two cities. Will the minister look into maximising the potential for improvements to the line?

**Derek Mackay:** Alison Johnstone raises a valid point. There have been studies and a cost benefit analysis looking at the output of such an investment. In the context of the Government's substantial multimillion-pound investment in infrastructure, track and rolling stock, I am happy to look again at further improvements that could be made in order to maximise rolling stock to suit the timetable, and to see what further support we can provide for economic growth.

### **Mental Health Issues (Awareness)**

**8. David Torrance (Kirkcaldy) (SNP):** To ask the Scottish Government how it is supporting local organisations that raise awareness of issues surrounding mental health. (S4O-05561)

**The Minister for Sport, Health Improvement and Mental Health (Jamie Hepburn):** Mental health is absolutely a priority for the Scottish Government, and we continue to work closely with our partners, including the national health service, local authorities, the third sector, service users and carers, to ensure that we offer the best quality of life and opportunities for all people with mental health problems.

The Scottish Government funds the see me project, the Scottish Association for Mental Health, Voices of Experience, the Scottish recovery network and NHS Health Scotland, which all work with local organisations to raise awareness of mental health issues.

Last year, we announced additional investment of £100 million to improve mental health services over five years. The 2016-17 draft budget provides a further £50 million, resulting in a total package of £150 million to 2019-20.

**David Torrance:** Staff members at the Penumbra Fife youth project, which works in every high school in Fife, are now on 90 days' notice as Fife Council has cut the organisation's funding without prior consultation of service users. That will have a severe impact on crucial services that it provides.

Will the minister agree that early intervention is an important mechanism to prevent mental health problems and helps young people who are at risk to focus on positive outcomes?

**Jamie Hepburn:** That question is very important, not just locally for David Torrance but because this week is children's mental health week. I certainly agree with Mr Torrance that early intervention with youngsters in particular is crucial.

I concur that Penumbra Fife is a great organisation. I am aware of the situation, although Penumbra has not approached me directly in relation to the matter. As Mr Torrance said, the decision is one for Fife Council, but I would certainly expect the council to have considered the impact that closure may have on young people, and to have in place plans to mitigate any adverse effects.

### **Glasgow Queen Street Tunnel (Closure)**

**9. Gil Paterson (Clydebank and Milngavie) (SNP):** To ask the Scottish Government what impact the closure of the Glasgow Queen Street tunnel will have on commuters in the Clydebank and Milngavie constituency. (S4O-05562)



**The Minister for Transport and Islands (Derek Mackay):** The ScotRail alliance has developed a temporary timetable for the Queen Street tunnel closure that minimises the impact on all commuters and allows the vast majority of customers to continue to travel to and from Glasgow by train.

Four services will continue to operate each hour from Milngavie to Glasgow, and customers using Clydebank will experience a reduced service from four to two trains per hour. During the tunnel closure, there will be twelve trains each hour connecting the west of the city with Glasgow Queen Street low level and Glasgow Central low level.

**Gil Paterson:** With the upgrading works taking place at Queen Street to enhance our railways, will the minister, after the works are carried out, look at the possibility of a feasibility study for a rail halt at the Allander leisure centre, located on the branch line between Hillfoot and Milngavie, in order to increase capacity?

**Derek Mackay:** I understand that the council is carrying out an appraisal of that in line with our guidance. I am happy to look at the matter and to give it due consideration through, for example, the Scottish stations fund.

**The Presiding Officer (Tricia Marwick):** Before we move to the next item of business, members will wish to join me in welcoming to the gallery Her Excellency Päivi Luostarinen, the ambassador of Finland to the United Kingdom. *[Applause.]*

## First Minister's Question Time

12:00

### Engagements

**1. Kezia Dugdale (Lothian) (Lab):** To ask the First Minister what engagements she has planned for the rest of the day. (S4F-03229)

**The First Minister (Nicola Sturgeon):** I understand that Jeremy Hunt will shortly announce in the House of Commons that the United Kingdom Government intends to impose a new contract on junior doctors. I want to make it clear to the chamber that that will not apply in Scotland. This is not in my view the way to treat health professionals, so we will not be imposing a contract. Instead, we will continue to work with our junior doctors and other national health service staff in the best interests of patients.

Later today, I will have engagements to take forward the Government's programme for Scotland.

**Kezia Dugdale:** Labour will protect education spending in real terms for the whole of the next session of Parliament. Will the First Minister do the same if she is re-elected?

**The First Minister:** We will set out our full plans for education and other matters in our manifesto, but I just point out to Kezia Dugdale the record of this Government so far. According to the most recent published statistics, average spend per primary pupil has increased by 11 per cent or £496 since 2006; average spend per secondary school pupil has increased by 10 per cent or £618 since 2006-07; and total revenue spending on schools has risen by £208 million. That is the record of this Scottish National Party Government, and we will continue to act to protect the numbers of teachers in our schools and to address the attainment gap. I am happy to ask the people of Scotland in a few weeks' time to judge us on that record.

**Kezia Dugdale:** Here is the record of the SNP Government: 4,000 fewer teachers; 152,000 fewer college students; and the gap between the richest and the rest as wide as it has ever been. I listened very carefully to the First Minister, and there was no commitment to protect education spending in real terms for the next five years. We can therefore take from that response that education spending will be cut again, with even more severe consequences.

This afternoon, SNP-controlled Perth and Kinross Council will hold a special budget meeting to discuss the cuts that it is being forced to make because of the choice that the First Minister has

made. Perth and Kinross is the SNP-controlled council in John Swinney's backyard. I have here the planned cuts—186 pages of them—and they include cuts to childcare, cuts to help for those with additional support needs, cuts to early years teachers and maths and cuts to English teachers. Page after page contains a warning of SNP cuts that will harm our children's future. That is the reality from one of the First Minister's own councils. When will she stop pretending that her budget will not harm our children's future?

**The First Minister:** As Kezia Dugdale is aware, we have put forward a settlement for local authorities that—yes—involves a 2 per cent reduction in their total revenue spending, but that reduction is offset by the £250 million that we are investing from the national health service into social care. That settlement, which has now been accepted by all of the local authorities in Scotland, enables us to protect households by freezing the council tax; to protect the number of teachers in our schools; to invest in and expand social care; and, from October this year, to ensure that all social care workers are paid a living wage.

That is the reality of the Government's position. It should be seen, of course, in the context of a budget cut from Westminster that has been imposed on this Government—a budget cut that Labour, when it campaigned so vigorously with the Conservatives, was quite happy to see imposed on this Parliament.

**Kezia Dugdale:** That ship sailed the moment Nicola Sturgeon stood side by side with the Tories last week to impose cuts on our community. *[Interruption.]*

**The Presiding Officer:** Order.

**Kezia Dugdale:** Let us be clear about what these cuts really mean. The document that I am holding from Perth and Kinross Council—an SNP council—says that the council is cutting the entire budget for supply teachers. I quote from the SNP council paper directly on the consequences of that cut:

“classes may have to be sent home and possibly schools closed”.

That is the scale of the cuts that the First Minister is forcing on schools.

Today, the Scottish Parliament will have to set the Scottish rate of income tax for the very first time. The First Minister will have another chance to keep the anti-austerity promise that she made to stop the cuts to schools and other vital public services. For years, she has argued that more powers would mean fewer cuts. Today the First Minister will have the chance to use those powers to stop those cuts. Will she finally take it?

**The First Minister:** In the interests of accuracy, the ship of Labour campaigning hand in hand with the Tories has not sailed but has been sunk—and it has sunk Scottish Labour completely.

Let us turn to Labour's policy of raising tax—*[Interruption.]*

**The Presiding Officer:** Order. Stop heckling the First Minister.

**The First Minister:** Let us turn to Labour's policy of raising the basic rate of income tax for every worker in our country earning £11,000 and above.

**Neil Findlay (Lothian) (Lab):** Liar. *[Interruption.]*

**The Presiding Officer:** Order.

**Members:** Withdraw.

**The First Minister:** Presiding Officer, we know how desperate the Labour Party is by the volume of the insults that Labour members like to sling across the chamber. *[Interruption.]*

**The Presiding Officer:** Order.

**The First Minister:** There is a debate to be had in Scotland about tax, but it should be a proper, grown-up debate about tax. Labour's policy is written on the back of a fag packet. The lack of detail is embarrassing, but then it is a policy put forward by a party that knows that it is 100 million miles away from being a credible Opposition, let alone a credible alternative Government. It is a dishonest policy, because Labour knows that it would hit the low paid, which is why Labour is suggesting a rebate but has not been able to answer a single question about how that would work in practice. It is also a policy that, in its presentation by Labour, is out of touch and callous.

Kezia Dugdale stands there as someone who, like me—*[Interruption.]*

**The Presiding Officer:** Order.

**The First Minister:** Like all of us, Kezia Dugdale has a decent salary, yet she suggests that increasing the tax bill of the low paid by 5 per cent somehow does not matter. I say to her that she should tell that to someone who is struggling to make ends meet or to someone who has suffered years of pay freezes and is counting every penny. It is not fair and it is not progressive to shift the burden of Tory austerity on to the shoulders of the low paid. That is probably why less than one in three voters backs Labour's policy.

**Kezia Dugdale** rose—

**The Presiding Officer:** One moment, Ms Dugdale, please sit down. I already warned the

chamber about heckling the First Minister or anyone else who is speaking. A remark came across the chamber. I did not quite hear it but, from the reaction in the chamber, a word was used that is clearly unparliamentary. I will review the *Official Report*. If the member who used that word wishes to admit it and withdraw it now, that would be helpful. If not, I will take action this afternoon. *[Interruption.]*

**Members:** Withdraw.

**Kezia Dugdale:** It is very clear from the evidence from the Institute for Public Policy Research, the Resolution Foundation, the Scottish Parliament information centre, the House of Commons library, Professor David Eiser and Professor David Bell that Labour's proposals are fair and workable. That is why council leader after council leader has backed our proposals and why union leader after union leader has said that they are fair. That is the truth that the First Minister cannot escape.

The First Minister and I have something in common—we both oppose George Osborne's austerity and we both want the best for our country. Where we part is that Labour has a fair plan that will ask some of us to pay a bit more and the wealthiest few to pay a lot more. In so doing, we can stop these cuts—cuts that would damage our economy and stop young people achieving their potential; cuts that would see councils across the country slash spending on our schools; and cuts to childcare that would hold back working families. Faced with the choice between using the powers of this Parliament to invest and cutting schools, why does the First Minister choose cuts?

**The First Minister:** Kezia Dugdale and Labour do not oppose George Osborne's austerity; they campaigned with the Tories to keep us subject to George Osborne's austerity. What Labour wants to do is not to end austerity but to shift the burden of that austerity on to the shoulders of low-paid workers. Kezia Dugdale mentioned the Resolution Foundation. The Resolution Foundation said that, on Labour's policy, there will be "hard cases" and poor families will lose out. Kezia Dugdale mentioned David Bell and David Eiser from the University of Stirling. Here is what they said about Labour's rebate:

"This part of the proposal would require a comprehensive data sharing arrangement between HMRC and local authorities in Scotland, and it would impose a substantial administrative burden on local authorities. There are also questions as to whether such an arrangement would be possible under the Scotland Act 2012."

Labour is perpetrating a con trick on the lowest-paid workers in our society. The truth of the matter is that my tax bill would rise by 2.7 per cent if Labour's proposal was implemented but the tax bill

of a teacher or a nurse would go up by 5 per cent. That is not fair.

However, I want to give Kezia Dugdale an opportunity to explain. She wants to see this tax rise implemented in seven weeks' time so, if she wants to be taken seriously, let her answer these questions about her rebate: how much will it cost to administer? *[Interruption.]* How will eligibility be assessed?

**The Presiding Officer:** First Minister—

**The First Minister:** How many of the half million pensioners who will pay a tax rise—

**The Presiding Officer:** First Minister—

**The First Minister:** —will even get the rebate?

**The Presiding Officer:** First Minister, the Opposition puts questions to you. You do not put questions to the Opposition.

### Secretary of State for Scotland (Meetings)

**2. Ruth Davidson (Glasgow) (Con):** To ask the First Minister when she will next meet the Secretary of State for Scotland. (S4F-03228)

**The First Minister (Nicola Sturgeon):** No immediate plans.

**Ruth Davidson:** For the first time, the Scottish National Party Government has taken over responsibility for managing payments to farmers. Here is how it has done so far: we have a botched information technology system—costing nearly half as much as this Parliament building—which still does not work; we have farmers fobbed off with promises that they would receive their payments by the end of January—but only a third of them have; and we now find that ministers were told of problems in 2014 but, of course, back then, were all too busy campaigning for independence. We know what its response has been, as it came in five pages of excuses and lines to deploy that were emailed by mistake from the SNP to everybody in Parliament.

I ask the First Minister: should her team, instead of getting their excuses in, be spending more time fixing the problem?

**The First Minister:** My team, both in Government and in the civil service, are working to make sure that we get payments to farmers as quickly as possible. The Cabinet is discussing the issue weekly. We are fully behind those in the farming community and are doing everything possible to get payments to them as quickly as possible.

It is true that processing payments has taken longer than we had intended due to the complexities of the new common agricultural policy system. We have been open with farmers

and with industry about those complexities and what we are doing to address them.

We started paying the first instalment payments to farmers by the end of December. By the end of January, almost 30 per cent had been paid the first instalment, with further payments initiated since then. As of last week, the total number of payments committed was 35 per cent. Area offices are operating seven days a week, and IT teams are working around the clock. Additional staff have been taken on in local offices.

Richard Lochhead is working hard on the matter. He has also been working with the banks to ensure that they take it into account in their dealings with farmers. We will continue to get on with the job of ensuring that we get the payments to farmers as quickly as possible.

**Ruth Davidson:** Blame complexity—line to deploy number 4; it is right there on the paper.

While the First Minister might be quoting straight from that document, I will quote directly from the National Farmers Union Scotland president, Allan Bowie. He says:

“Time and again, the Scottish Government’s actions have not matched up to what has been promised ... NFUS ... Have lost trust in the system ... to the extent that the Cabinet Secretary’s assertions cannot be taken as given.”

Today, Audit Scotland is launching its own investigation into this complete failure of management, warning that

“there is still a significant risk to the successful delivery of the programme”.

The First Minister has lost the trust of rural Scotland. She has overseen yet another Government IT fiasco, and farmers no longer have confidence in her rural affairs secretary. What reassurance, if any, can she give rural workers today that this failure is getting the fullest priority from the Scottish Government?

**The First Minister:** The reassurance that I can give to farmers is that we will continue to do what Richard Lochhead and all of us have been doing, which is to concentrate on ensuring that we get payments to farmers as quickly as possible.

I have given Ruth Davidson and the Parliament an update on the statistics so far. They continue to change on a daily basis as more payments are made. We continue to work as hard as possible to ensure that as many as possible of the first instalment payments are made by the end of March, with the balance of payments as soon as possible after that.

We are now reporting progress weekly, as I understand it, to the relevant parliamentary committee and to industry, and we are in regular communication with area offices to support faster

processing and to unblock any issues that arise. That is what we will continue to do: to work as hard as we can to ensure that farmers get the payments that they are due.

### Cabinet (Meetings)

**3. Willie Rennie (Mid Scotland and Fife) (LD):** To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S4F-03225)

**The First Minister (Nicola Sturgeon):** Matters of importance to the people of Scotland.

**Willie Rennie:** We have just heard that councils across Scotland are setting their budgets with £500 million-worth of cuts. We have also just heard about the situation in Perth and Kinross. Right now, SNP-run Aberdeenshire Council is in its budget meeting, and £3 million-worth of cuts to education are on the table. However, it is not too late for the First Minister to call a halt. Will she pick up the phone, or does she want her council to make those cuts?

**The First Minister:** If Willie Rennie had picked up the phone to his Conservative colleagues while he was propping them up in coalition, we might not have suffered the cuts to our budget, which were imposed on us by Westminster.

As I have said, we have put forward a settlement for local authorities that reduces their total revenue expenditure by 2 per cent, offset by £250 million of investment in social care. We want to work with local authorities to ensure that that settlement protects the things that matter: teachers in our schools; social care investment; a living wage for social care workers; and household budgets.

It is no surprise to me that the party that backed Iain Duncan Smith when he wanted to impose the bedroom tax does not care about increasing taxes on low-paid workers, but I do care about it, so we will continue to take a fair and balanced approach. That will be one of the many differences between the Government and the Liberal Democrats.

**Willie Rennie:** It is the same old excuses. I would have sympathy for the First Minister—*[Interruption.]*

**The Presiding Officer:** Order.

**Willie Rennie:** I would have sympathy for the First Minister if she did not have the power to do something about the situation, but she does. The buck stops at her seat.

This afternoon, the Parliament votes on the Scottish rate of income tax resolution. One penny gives £475 million for education for Scotland’s children. That is the power to stop the cuts. The First Minister has the power. Why will she not use

it? Is it pride, is it her finance secretary or does she simply not care any more?

**The First Minister:** As I have said, it is no surprise to me that the leader of a party that spent five years in coalition with the Conservatives does not care about people on low wages. But I care about people on low wages, struggling to make ends meet, spending every week counting every penny and every pound. Willie Rennie's policy of putting a penny on the basic rate of income tax—he is not even pretending that he is going to compensate low income workers the way Labour is—would have everybody earning above £11,000 a year paying more in tax. I do not think that that is fair; I think that that is transferring Tory austerity to the shoulders of the low paid. He might want to do that, but I am not prepared to do it.

#### **Housing Benefit (Supported Accommodation and Women's Aid Refuges)**

**4. Clare Adamson (Central Scotland) (SNP):** To ask the First Minister what the Scottish Government's position is on the impact in Scotland of planned United Kingdom reductions to housing benefits for vulnerable people who stay in supported and women's aid refuge accommodation. (S4F-03236)

**The First Minister:** The UK Government proposes to set the housing element of benefit claims to local housing allowance levels as that is lower than the cost of rent and service charges in refuges and supported accommodation. That will have a catastrophic impact on some of the most vulnerable people in our society who rely on such support for survival. They include women fleeing domestic abuse, disabled people, older people and some homeless people.

The Scottish Government is concerned about the proposals, which were outlined in the UK Government spending review. The Cabinet Secretary for Social Justice, Communities and Pensioners' Rights has written to the UK Minister for Welfare Reform to express our grave concerns and to seek urgent clarification on what protection will be provided for those in supported accommodation.

**Clare Adamson:** Does the First Minister agree that the only way to stop tenants and providers suffering the worry and distress that is being caused by the proposals is if the UK Government makes clear now that refuge and supported accommodation will be totally exempt from the local housing allowance cap?

**The First Minister:** I agree with that. Tenants urgently need to be reassured that their accommodation will be exempt from the local housing allowance cap so that they do not need to

worry about their future. Providers of supported accommodation and refuge accommodation also need to have the security of knowing that they can continue to provide essential services and be able to plan for the future.

The UK Government's proposals mean that there is now real uncertainty about the future provision of refuge and other forms of supported accommodation not only in Scotland but across the UK, despite an earlier announcement that changes to funding arrangements would be cost neutral.

UK ministers can put an end to that worry now, and I call on them to immediately announce an exemption for refuge and supported accommodation from the local housing allowance cap.

#### **North Sea Decommissioning (Forecast until 2040)**

**5. Jenny Marra (North East Scotland) (Lab):** To ask the First Minister what the Scottish Government's position is on Douglas-Westwood's forecast for North Sea decommissioning until 2040. (S4F-03226)

**The First Minister (Nicola Sturgeon):** The report reinforces how important it is to support the sector at this time. Of course, our first aim is to avoid any premature cessation of production, which is why the United Kingdom Government should ensure that the fiscal regime is not a barrier to activity and investment, which it often has been in the past.

In addition, we must ensure that the decommissioning process is managed effectively. As we set out in the refreshed oil and gas strategy that was published on Monday, Scotland can play a leading role in the development of the decommissioning market.

Although some decommissioning activity is to be expected over the next decade, substantial reserves remain to be recovered in the North Sea. Up to 22 billion barrels of oil and gas are estimated to remain, and new fields continue to come on stream. For example, first production from Total's Laggan and Tormore fields in the west of Shetland was announced just this week.

**Jenny Marra:** The First Minister says that some decommissioning is to be expected, but 150 of our oil platforms are to be scrapped over the next 10 years, making decommissioning an urgent priority if we are to anchor those industrial jobs in Scotland. They are already sailing past our ports down to Hartlepool.

Dundee needs a working river, not just a waterfront. I have met with Shell and Decom North Sea, and they have said that decommissioning

can happen in our city. We lost out on the 750 renewables jobs that the Scottish National Party promised, but we have seen three factory closures over the past three weeks, resulting in lots of skilled people looking for work.

**The Presiding Officer:** Can we get a question?

**Jenny Marra:** I ask the First Minister to pledge three things to the 100 engineers at the Flint factory who are facing redundancy: that the oil and gas technology centre will be established in Dundee; that she will find economic development money for our city, as she did for Aberdeen; and that she will come to Dundee, meet with our decommissioning companies, and see how we can scale up to a full-size industry in our city.

**The First Minister:** I will obviously give consideration to Jenny Marra's specific proposals, although I understand that a city deal for Dundee is still under discussion. As she will know from the Scottish Government's position on the Glasgow and Clyde valley city deal and the Aberdeen and Aberdeenshire city deal, we are very supportive of city deals.

It is important to have a focus on two things, the first of which is avoiding premature decommissioning. That is why the announcements that we have made around support for North Sea oil and gas are so important; why the city deal investment and the additional investments are so important; and why having the right fiscal regime is so important.

Secondly, we need to make sure that, as decommissioning starts—which, notwithstanding what is happening to oil prices right now, was always going to be the case—Scotland plays a leading role. Decommissioning will develop into a major business activity, and there is a huge economic benefit for us from that. We created Decom North Sea, the decommissioning trade body, to capture and share good practice. We support the Oil and Gas Authority's plan to establish a single decommissioning board so that we can drive forward innovation and efficiency. Furthermore, we are committed to investing in the necessary infrastructure to support decommissioning activity, which is of course demonstrated through the £2.4 million funding from the Scottish Government and Highlands and Islands Enterprise to develop the quay in Shetland. However, there will be other projects that we will want to support as well.

We are absolutely focused on the issue, which is demonstrated in the refreshed oil and gas strategy. I would ask Jenny Marra to engage with that constructively.

**Patrick Harvie (Glasgow) (Green):** Scotland is going to be dramatically more exposed to the risks from the inevitable decline in the fossil fuel

industry if we simply kid ourselves that it is not happening already. Is it not clear that we face a very simple choice: embrace the opportunities from decommissioning and accelerate activity in that regard as our principal focus, or see those jobs go to bidders from other countries, which will gain the international reputation of being world leaders in the industry?

**The First Minister:** I noticed Jenny Marra applauding a call for accelerated decommissioning of the North Sea, which seems a strange position to take.

I say to Patrick Harvie that I agree with what he said in the first part of his question. As I hope he heard me say to Jenny Marra, I think that we should embrace the opportunities of decommissioning. Where we differ is that I do not think that we should be seeking to accelerate decommissioning; I think that we should be seeking to avoid premature decommissioning.

We should also be doing what this Government has consistently done—[*Interruption.*]

**The Presiding Officer:** Ms Marra!

**The First Minister:** —which is invest in renewable infrastructure and renewable generation as well. We will continue to support the North Sea while also supporting, where and wherever we can, the transition to renewable capacity. I think that that is the right, balanced approach to take.

### Purchasing Managers Index

**6. Murdo Fraser (Mid Scotland and Fife) (Con):** To ask the First Minister what the Scottish Government's response is to the latest Bank of Scotland's purchasing managers index. (S4F-03231)

**The First Minister (Nicola Sturgeon):** I welcome the recent Bank of Scotland's purchasing managers index, which signals the continued expansion of the private sector in Scotland at the start of this year. It also highlights that the services and manufacturing sectors continue to be affected by the challenges that we have just been talking about with regard to the oil and gas industry and, indeed, by the global economic environment. That is why, in supporting the Scottish economy, we recently pledged £379 million of investment in Aberdeen and Aberdeenshire, and last week a further £12 million fund to provide financial support for people who are retraining or undertaking new education.

**Murdo Fraser:** I thank the First Minister for her response, but despite the positive gloss that she puts on it, the PMI report from the Bank of Scotland is just one of a series of reports recently that have had worrying news for the Scottish

economy. Yesterday, the Scottish Government's national account survey showed that Scottish gross domestic product per capita is now 1 per cent lower than in the rest of the United Kingdom, although it was 6 per cent higher two years ago.

The Scottish Government announced in its draft budget a doubling of the so-called large business supplement for non-domestic rates, which will hit 26 per cent of businesses in Edinburgh, 25 per cent in Aberdeen, 24 per cent in Inverness and 20 per cent in Perth. How will that £60 million tax raid on Scottish businesses help grow our economy?

**The First Minister:** The increase in the large business supplement is lower than it was in, I think, 2011. Reflected throughout our discussions has been, on one side, people wanting us to put up tax for basic rate income taxpayers and, on the other side, people wanting us to cut taxes for business. We will continue to take a sensible, balanced approach to our budget and to growing our economy, ensuring fairness for taxpayers.

Murdo Fraser puts forward in characteristic style the doom-and-gloom view of the Scottish economy. Of course, because of the global economic conditions, there is no room for complacency, but let us just look at the reality in our economy. The economy has grown for three years continuously; we have a higher employment rate than in the United Kingdom as a whole; employment is 67,000 above its pre-recession peak; we have a higher youth employment rate than in the UK; our female employment rate is the second highest in the UK; we are investing where our investment is required; and we are continuing to support our economy as it moves forward. I would hope that Murdo Fraser and the whole chamber would get behind this Government as it seeks to ensure that we continue to see growth in the Scottish economy.

**The Deputy Presiding Officer (Elaine Smith):** Before I move on to the next item of business, I remind guests leaving the gallery that Parliament is still in session. I would appreciate it if they would do so quietly and respectfully.

## Local Newspapers

### **The Deputy Presiding Officer (Elaine Smith):**

The next item of business is a members' business debate on motion S4M-15408, in the name of Graeme Dey, on the importance of local newspapers. The debate will be concluded without any question being put. I would be grateful if members who wish to speak in the debate could please press their request-to-speak button now.

### *Motion debated,*

That the Parliament celebrates the importance of local newspapers to communities across Scotland; believes that a well-resourced, diverse, free press is vital to democracy in Scotland and provides a type of coverage not available via other platforms; notes with concern the trading update made by Johnston Press on 19 January 2016 in which it states "a number of brands have been identified that are not part of its long-term future, as they fall outside its selected markets, do not match the audience focus, or do not offer the levels of digital growth sought by the Group. A process has been initiated to explore the sale of these assets to identified parties"; understands that the Press Gazette has published a Johnston Press classification of its titles, with its newspapers falling into four categories, uber, primary, core and sub-core, with Scottish titles including the East Fife Mail, The Galloway Gazette, The Glasgow South and Eastwood Extra, the Midlothian Advertiser, the Arbroath Herald, the Buchan Observer, the Carrick Gazette, the Deeside Piper, The Elton Times, the Hawick News, the Linlithgow Gazette, the Mearns Leader, the Selkirk Weekend Advertiser, The Buteman and Angus County Press Weekly, which serves Brechin, Forfar and Montrose, having been marked as being sub-core; notes that the Press Gazette has stated that Johnston Press has shed half of its journalists since 2009, and expresses concern at the decline in fortunes of traditional, local papers and the impact that this is having on journalistic employment.

12:32

**Graeme Dey (Angus South) (SNP):** I thank colleagues whose support for the motion has enabled us to have this debate today. The fact that 38 MSPs from across the political spectrum have supported it does, I suggest, endorse the motion's title, "The Importance of Local Newspapers". That expression of concern over the threat to the future existence or, at the very least, the future direction of a sizeable number of Scottish weekly titles stretching from east Fife to Ellon, Carrick to Carnoustie and Galloway to Glenrothes reflects the value that we all place on the history and traditions of the papers in question.

The *Arbroath Herald* in my constituency can trace its roots back to 1838. Just last week, with the passing of Arthur Binnie, we were reminded of the contribution that those papers have made to journalism not just in Scotland and the United Kingdom, but far wider. Arthur Binnie's main claim to fame may have been that he was the man who got the scoop on the discovery of the stone of destiny at Arbroath abbey following its liberation

from Westminster abbey in 1951, but in a distinguished career he went on to be instrumental in the founding in Wales of a training centre for journalists from third-world countries.

Local newspapers have done much to nurture journalistic talent down the years, so we permit their demise at our peril. Although circulation may be declining across the Johnston Press titles that are highlighted in the motion—declining, in part, as a consequence of cuts—the communities that are served by those papers still care about them, as is evidenced by events in Lanark. The *Carlisle Gazette* and the *Lanark Gazette* used to have offices in both Carlisle and Lanark. The former was closed last year, followed more recently by the closure of the office in Lanark. I understand that the depleted ranks of journalists are having to work from home. A local petition has been raised to get the Lanark decision reversed.

In signing the motion and debating the issue today, we are speaking for our constituents and sending a message to Johnston Press that we want our papers to survive, and that we will work with it to try to achieve that. Of course, that requires the company to be willing to engage and not to become defensive following coverage of its infamous labelling of a number of titles in the stable as “sub-core”, which is giving rise to concerns being expressed about what exactly that means for the future of those papers. We need clarity on just how many titles are affected and we need detailed information on reported plans to split the Scottish titles into four geographical groupings. We also want to understand why, while that doubt has been cast over the future of those titles and a reported 20 redundancies are being sought from the weeklies portfolio, the group is in advanced talks about buying *i* newspaper for a reputed £24 million.

Having aired the issue at First Minister's questions on 22 January, I wrote to Johnston Press seeking a meeting to discuss the future of the titles that are located in my constituency. In doing so, I raised the status of Carnoustie's *Guide & Gazette* and the *Kirriemuir Herald* because, although neither title had been listed as being “sub-core”, they are produced in conjunction with the *Arbroath Herald* and *Forfar Dispatch* using shared staff. That approach has been met with deafening silence, but I can tell Parliament that both are indeed on the sub-core list, which means that it now amounts to at least 23 Scottish titles. I say “at least 23” because, if the company forgot about the *Guide & Gazette* and *Kirriemuir Herald* or viewed them simply as editions of the named titles, who is to say that other Scots papers are not looked upon as sub-core, whatever that means and whatever implications it might have? Indeed, I understand that a similar situation may exist not far from Parliament: the *Linlithgow Journal and*

*Gazette* is on the list, but no reference is made to the *Queensferry Gazette* or *Bo'ness Journal*, which come from the same stable.

If we, looking in from the outside, have concerns about where this is headed, how must the journalists and other staff feel? It says everything about where the employees of the company are at that, on the back of highlighting the situation at First Minister's question time, I was contacted by two sets of staff who thanked me for what they saw as a welcome supportive gesture. One long-serving editorial staff member told me that he and his colleagues feared that his newspaper might be allowed to wither to the point at which the doors would be closed. One former editor of a number of titles within the group revealed to me that such had been the level of cost cutting that members of the public had wandered into the office just to check whether it was still open. The ending of window cleaning to save a bit of cash had left the outside of the building looking as if had been closed.

Up my way, we have seen the full gamut of scaling back. Photographers have been done away with and reporters have had taking pictures added to the demands that are made on them, along with feeding the web presence and videoing interviews. The unique identities of titles that reflected the communities that they served have been diminished by increasing components of the papers becoming common in design and content, which leaves a reduced proportion of editions carrying genuinely local content—the lifeblood of local papers.

I will sympathise with Johnston Press for a second. Regardless of the wisdom of some of the acquisition decisions that it has taken—most notably the Scotsman Publications group—times are tough for print media. Johnston Press is not alone in making the kind of cutbacks that it has made. Papers are trapped in a vicious circle in which circulation and advertising revenues drop, so they cut costs, which leads to a diminished product, so circulation and advertising revenue fall further—and on it goes.

That problem is industry wide and is not confined to the Johnston Press group, but the focus of the debate is on a stable of papers that, in my experience, continue to try and practise local journalism in the right way in the face of shrinking staff numbers, increasing demands being made of them and rock-bottom morale. The thing is, I like the kind of stuff that we get in such papers. I want to read about the good that is going on in our communities rather than the unrelenting negativity that seems to characterise much of the daily press. I am with the community organisations that look forward to seeing a pic or wee story about them appear in print.



Moreover, in the midst of all the challenges that they face, such papers continue to give youngsters a start and to train them properly. If there is a threat to the continuing existence of those titles, how diminished will the opportunities be for youngsters to forge a career in journalism? That matters. If the print media are to have a future and those papers are to survive in some form, we need young journalists coming through, especially when titles such as those that operate under the Angus County Press umbrella train their staff to do the job in the traditional way—as an old hack, I say that it is the right way. We must do whatever is possible to protect that.

My purpose in securing the debate was not to give Johnston Press a kicking, but to highlight the importance of local newspapers—a subject about which I have spoken previously in the chamber. The fact that the company has—it is claimed—shed around 50 per cent of the editorial posts that it had seven years ago makes it little different to many others, as, it is sad to say, does the reputed prospect of further job losses. The debate is about the big picture: the future of local papers that matter to their communities.

12:39

**George Adam (Paisley) (SNP):** I take the opportunity to thank Graeme Dey for bringing this important debate to Parliament. My colleague is quite right to highlight in his motion the importance of local newspapers to our communities.

It is concerning that publishers including Johnston Press are looking at the very existence of some of their titles, because we cannot stress enough how important local and independent newspapers are to our communities and to the local political process. Those papers report on community council meetings and find out and scrutinise what is happening in the local authority.

Paisley, too, has a vibrant local newspaper that has shadowed the expansion of our town and the difficulties and challenges that it has faced over the years. Graeme Dey's local paper started publishing in 1838, but since 1874—three years before the inception of my beloved St Mirren Football Club—the *Paisley Daily Express* has brought to the people of Paisley news of what has been happening in the heart of our town. You could say that it has brought us dispatches from the very centre of the universe.

The *Paisley Daily Express* has had to deal with the challenges of the modern world, including some of the issues that Johnston Press is facing at the moment, which my colleague Graeme Dey mentioned. At one time, the paper was printed, published and delivered in the town, for the town. In its current incarnation, it is part of the Trinity

Mirror plc group. Although it is headquartered in Glasgow, it still retains an office in Paisley, which is staffed daily by one of its journalists. That means that anyone can still pop in and talk to a journalist from the wee express.

The fact that reporters such as Bill Leckie—who has gone on to be a sportswriter for a national newspaper—started their careers in journalism at the *Paisley Daily Express* shows the paper's importance to the industry and to journalism itself.

I, for one, am extremely proud that we still have a local newspaper that brings buddies their daily dose of news and views. Local papers like the *Paisley Daily Express* come into their own when there is a local cause to fight for or a campaign to lead. Over the years, there have been many of those and the paper has faced up to that responsibility head on. An example of that is its current campaign to back the local council in its bid for Paisley to become the United Kingdom city of culture in 2021, which, as I have mentioned previously, has the hashtag #WhyILovePaisley. Members all know that I come to the chamber to tell everyone why I love Paisley and how important it is to me, but the fact that the paper has been very positive about Paisley's case to become the city of culture in 2021 and has pushed forward and directed the campaign shows how important it is to our town. It believes that year of culture status can be a regenerational tool and that we can use culture as part of the regeneration process. It is very progressive for a local newspaper to take such a positive route.

There are obviously also negatives with local newspapers. I had an uncle who used to love to get the paper on a Monday or a Tuesday to find out who had been in court. He wanted to find out what had happened and whether he knew anyone who had been there. That is the kind of thing that local newspapers report on. The big national titles will not report on such issues, which are important to people in the community.

In these challenging times, it is important to stay positive about Paisley. As part of its #WhyILovePaisley campaign, the *Paisley Daily Express* has regularly had positive stories. I have here a copy of a front page from the paper, which features a local business—the ice cream maker G Porrelli & Co Ltd—explaining why it loves Paisley under the headline “Stick up for our Town” and Gary Kerr, a local businessman, talking about a potential £40 million investment in a picture house and theatre. Those are examples of stories that local newspapers are good at. Such issues will not see the light of day in a national newspaper.

Not everyone is lucky enough to be from Paisley. Other local newspapers are not lucky enough to be the *Paisley Daily Express*, but for as long as I am Paisley's MSP and as long as the

*Paisley Daily Express* continues to service our great town, Paisley's collective voice will be heard.

**The Deputy Presiding Officer:** Thank you, Mr Adam. Happily, the motion was drafted widely enough for you to focus on Paisley. However, I remind members that we do not usually have props in the chamber.

12:44

**Claire Baker (Mid Scotland and Fife) (Lab):** I welcome Graeme Dey's motion for debate. It is clear from the number of MSP signatories that we recognise the challenges that the sector faces.

Local newspapers are important for coverage of local issues, for expression of local identity and for sharing of information. We all, no doubt, agree on the importance of good journalism and local papers. Graeme Dey gave a very good analysis of their value. However, the answers to the situation are not easy. Our media landscape is changing dramatically, and it presents challenges for many traditional outlets.

In the previous parliamentary session, I was a member of the Education, Lifelong Learning and Culture Committee, which conducted an inquiry into the local newspaper industry in Scotland. In evidence to that committee, the Scottish Daily Newspaper Society summed up well the importance of local newspapers when it said:

"local newspapers are integral to the communities they serve. Indeed, some go further by maintaining that local journalism is the bedrock of local democracy and public life. Certainly, there is no other part of the media providing the depth of coverage of local news and events in towns and villages throughout Scotland; reflecting the concerns of their communities; holding local government to account; or campaigning on local issues. They are the voice of their communities and, above all, are trusted."

However, even back then, it was clear that the industry was facing a precarious future. The committee's decision to take evidence on local newspapers resulted from reports that highlighted the difficulties. In particular, it was to do with the potential loss of advertising revenue. Those difficulties have only increased in the next six years—often in ways that were not foreseeable at that time.

Technology is undoubtedly changing the newspaper industry, and it will continue to have profound effects on the future landscape. Newspapers, from nationals to locals, have made the progression to online content while embracing the popularity of social media—they have broken news on Twitter and Facebook in attempts to direct readers to their websites.

When the committee's report was published, Facebook was steadily growing, but it had yet to reach the heights of today. Twitter was only four

years old, and it began to have an impact on politics and journalism really only in the run-up to the 2010 general election. It is now clear that technology and, to an extent, cultural changes are having an impact on an increasingly altered media landscape.

Despite the long-term acknowledgement of the difficulties that the industry faces, each news story of impending job losses in Scottish titles is unwelcome. Last month's news that Johnston Press had designated 16 local newspapers as "sub-core" came as a surprise to many people—not least the staff at the affected titles.

If we consider my region, we can see the types of changes in publications. It has not gone unnoticed that many local publications have slimmed in size in recent months, and that there is an increasing duplication of stories by the bigger newspapers and the smaller more localised ones. There are concerns that more local titles, such as the *East Fife Mail* and the *Glenrothes Gazette* will be phased out—Graeme Dey used the word "wither". We can see the changes in the type of coverage that those papers offer. In leaving out the smaller communities, it looks like papers will rely more on a bigger, more Fife-wide publication. That would be highly regrettable, because the local publications, which have professional journalists working on them, make a huge contribution to their communities.

In recent months, I have worked closely with the *East Fife Mail* on a campaign to stop antisocial use of quad bikes in the area, and on jobs for the area. That paper's coverage has been invaluable, and I thank it for its contribution to those campaigns. Through the coverage, I have been able to raise issues, including with the Government, put pressure on local agencies, and support the local community. The communities would be poorer without those titles, which have served them for many years.

I appreciate that these are difficult times for Johnston Press. Since 2009—around the time of the Education, Lifelong Learning and Culture Committee's report—the downturn has been severe. As has been pointed out, production staff have been lost—they are down from more than 1,000 to just 355. Graeme Dey made good points about young reporters and the opportunities that local papers give them. However, Johnston Press has also said that the audience has grown from just over 18 million to 27 million over the same period. That really comes from the increase in online readership, but it highlights the biggest struggle. News is now current, self-selecting, free, online and on our phones. How does a local publication survive in such times?

Graeme Dey is right that we need clarity and detailed information on Johnston Press's future

plans. There are also questions about why it is in negotiations with *i* newspaper—that news broke just today. I recognise that there are commercial interests and that newspapers cannot run without income, but loss of local titles and diminution of the professional journalism that they offer need to be challenged. We need to find ways to support them.

12:49

**Joan McAlpine (South Scotland) (SNP):** I draw members' attention to my entry in the register of members' interests, which shows that I am employed by the *Daily Record* newspaper, which is part of the Trinity Mirror group. In the past, I have been employed by Johnston Press as a columnist.

I congratulate Graeme Dey on securing the debate and associate myself strongly with his remarks and his motion.

I began my career on the *Carlisle Gazette* and was very disappointed to hear about events there and the closure of the office. I went on from the *Carlisle Gazette*, where I was employed for a summer, to join the *Greenock Telegraph*, which is one of the last surviving local daily newspapers, along with the *Paisley Daily Express*, which my colleague George Adam mentioned.

I grew up reading the *Greenock Telegraph* and at that time I think that they took copy from Reuters rather than from the Press Association. We got all the news from Greenock, Gourock and Port Glasgow—and from Senegal and different parts of the world that we would never otherwise hear about. That whetted my interest in the wider world, and perhaps steered me and others in a particular direction in terms of our careers.

I associate myself with the others' remarks that local newspapers act as barometers of opinion. Many of the stories that impact widely and are discussed in the chamber begin life in local newspapers, which act as a forum as well as a mirror for the communities that they serve.

Despite often being small in size, those communities are incredibly diverse and distinctive—I think of some of the newspapers that I most regularly have contact with in my South Scotland region, such as the *Eskdale & Liddesdale Advertiser*, which covers communities in Langholm, Canonbie, Newcastleton and Eskdalemuir. As Graeme Dey and others have mentioned, such communities, despite their small size, often have a great deal going on, with hundreds of voluntary groups. It is in local newspapers that those activities are publicised and recorded.

I praise the DNG Media Ltd group in the south of Scotland, which publishes the *Dumfries Courier*, the *Annandale Observer*, the *Annandale Herald* and the *Moffat News*. It is very important that it is an independent newspaper group. That independence means that it focuses only on local news and gives it a priority that perhaps papers that are owned by larger groups do not. For example, in papers that are owned by larger groups, the journalists are often encouraged to write the kind of stories that are picked up by the national titles. As Mr Dey said, the national titles often give a very negative slant in how they cover stories. DNG adheres to the principles of journalism that I was taught in local newspapers. A local newspaper should appeal to the whole community, whatever people's political views. It has to achieve balance as much as possible and not put a slant on the stories. Because DNG Media is independent and really values local news, it is looking at innovative ways to develop. It has launched its own website—[dng24.co.uk](http://dng24.co.uk)—and an app, which is very encouraging.

I support local newspapers. They are far from “sub-core”; they are the bedrock of our communities. I try to support my local newspapers through advertising my surgeries and vacancies in my office. I encourage others to do the same.

I praise the work that local newspapers do, not only in the communities that I cover, but across Scotland.

12:54

**Jamie McGrigor (Highlands and Islands) (Con):** I regret that I will have to leave the chamber before the closing speeches and apologise in advance for doing so.

I agree strongly with the motion that local newspapers are extremely valuable to constituents and communities across Scotland. They are also very valuable to politicians as a vehicle for expressing our sentiments and policies, and of course our photographs—where would we be without them? They are able to cover local affairs and issues in a level of detail that other media cannot provide and are often at the forefront of local campaigns on vital subjects. Local newspapers play a big role in supporting community cohesion and are important for public notices and as a platform for local businesses to advertise their goods and services.

Many of our local newspapers have been working in our communities for generations—some of them for centuries. The famous *Oban Times* of Argyll has distribution not only Highland-wide but internationally, within the Scottish diaspora. Next month, the *Caithness Courier* will

celebrate its 150th anniversary, having first been published on 31 March 1866.

Local newspapers are important in providing jobs to young journalists and trainees at the start of their careers. They provide a good training for journalists, who often move upwards to regional or national newspapers, or indeed other media forms. Many members of our esteemed parliamentary press corps started off on local newspapers, which provided them with an excellent grounding.

In the Highlands and Islands, we have some fantastic freelance journalists working for local, regional and national papers. I was delighted to see Oban-based Moira Kerr win the 2016 Diageo journalist of the year award at the recent Highlands and Islands press ball. She is a credit to her profession. Congratulations should also go to the *Strathspey and Badenoch Herald* for winning the newspaper of the year award for the second year in succession, and *Chatterbox*, which serves the Black Isle, for being named community newspaper of the year. Those are just a few papers in my region, the Highlands and Islands—I do not have time to name them all.

Graeme Dey is right to voice concern about the future of a number of local newspaper titles in the ownership of Johnston Press, given their possible sale to other parties. I note that the motion identifies *The Buteman* in Argyll and Bute in my region as a newspaper deemed “sub-core”. Many Bute residents would be surprised to hear that, as *The Buteman* has such a good reputation and is very much embedded in the community of that beautiful island. The idea of losing it is one that we can scarcely contemplate.

At the same time, I understand the economic realities and the financial pressures facing newspaper owners and publishers as reading habits and readership demographics change. More and more people choose to get their news online rather than by buying a newspaper, and local businesses choose to use one of the many other kinds of advertising that were not available just a few years ago. I think that most people my children’s age would go to news websites, Google or Twitter for their news and, instead of buying a local paper, would try to get local news there as well. In that context, I must mention *forargyll.com*, whose coverage of all the key issues in Argyll and Bute and insightful analysis makes it a popular news source. The site is run by Linda Henderson, who is a first-class journalist.

Changes in how we access news are a huge threat to the future of traditional local papers and indeed all printed productions. However, there will be opportunities for local newspapers if they can adapt and digitise services and make them user friendly for people of all ages. Some national

newspapers have achieved that. There is potential, therefore, but it takes investment from newspaper owners and publishers.

I restate the Scottish Conservatives’ full support for local newspapers and pay tribute to the efforts of all those journalists and local newspaper employees who work so hard to keep us informed each and every week.

**The Deputy Presiding Officer:** I note Mr McGrigor’s courtesy in informing the chamber that he cannot stay for the rest of the debate.

12:59

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** I, too, congratulate Graeme Dey on securing the debate. Although the motion refers to announcements by Johnston Press, it has a wider remit. Johnston Press includes a paper in my constituency, the *Midlothian Advertiser*. Local papers are all important in keeping my constituents and me informed. There is a range of them in my constituency; unlike my colleague George Adam, I do not just have one. I have the *Peeblesshire News*, which covers Peebles and Tweeddale west. The *Border Telegraph* and the *Southern Reporter* cover the central Borders, including the corridor of the A7 and the A68. There is the *Midlothian Advertiser* in the Midlothian part of my constituency, while the *Edinburgh Evening News* serves communities in Penicuik, Gorebridge and Newtongrange.

All those local papers are, for me, essential. They go into detail about controversial planning, whether schools are to close, the state of the roads, why a bridge is down if a river has overflowed, the announcements of hatches, matches and dispatches, who has been jailed, who has been fined—they make local justice public. They print all the wonderful photographs from all the local festivals. They even conduct campaigns, raise funds and tell everyone what local charities are doing. They also report on councils and community councils. They are not only embedded in the community, but are knowledgeable about the community.

When I first came to Parliament 17 years ago—as you did, Deputy Presiding Officer; how time flies—local papers were rich in staff with reporters, photographers and cub reporters who honed their reporting skill at the local press. Now, with 24-hour news on television and online, the national press’s *raison d’être* has really been challenged but local papers are not quite so vulnerable. They are vulnerable to losing advertising but not their reporting of news. They can take time over local stories and let something controversial run for weeks, not just churn it over. They sometimes

break national stories and give local reporters their break into the national news.

I am a reader and a contributor, through my comments in the press, press releases and fortnightly and monthly columns, and local newspapers keep me and my constituents in touch, while keeping me on my toes. They might not be as vulnerable as the nationals but they are vulnerable and must not be lost or diminished. They remain key to keeping politicians accountable locally and nationally.

Local papers are generally without party-political bias, which one cannot say about the national press. We will all rely on them in the weeks leading up to the Scottish parliamentary elections when they will carry our manifestos, hustings and so on. They are vital to democracy. To quote a Borders expression, they've aye been. We must make sure that they are aye gonnae be.

I will finish my short speech with two of my favourite headlines from two of my local papers when I lived in Galloway and the paper was the *Galloway Gazette*. One was a big banner headline, which said "Rammy at Whauphill". It was about two women who had a bit too much alcohol in them battering each other with their handbags—a wonderful headline. The other one was "The Tup That Wouldn't". The tup cost a fortune, but I am afraid that it turned out that it was not interested in the ewes. To prove that, the sheriff and the entire court went out into the middle of the field to watch the tup paying no attention to the ewes. Where else would we get such wonderful headlines that I can still recall to this day? I celebrate local papers and hope that local people will continue to buy them.

13:03

**The Minister for Europe and International Development (Humza Yousaf):** I thank Graeme Dey for bringing such an important motion to the chamber. It does not matter which part of the country we cover, from the north to the south or the east to the west, all our constituencies have a local paper, if not a number of them.

The local press is hugely important and the Scottish Government very much supports local news and papers. A number of the reasons why have already been mentioned, but I will reiterate some of them. The stories that we see in local papers often do not see the light of day nationally. I was interested to hear about George Adam's uncle looking out for whoever was being taken to court. I say that in the knowledge that he never saw his nephew on the front of those papers in any negative way. In my region, stories that happen in a big city such as Glasgow are often

missed by the national press because so many other things dominate in the city.

The point was well made by George Adam and other members that good news also gets a platform in local papers and we do not often see that in national papers. That can be anything from a local church group's bake sale raising money for Macmillan right through to a fantastic feat like a marathon run to raise money for another good cause. Many stories about good causes do not see the light of day but they can remind us that some good is happening in the world as well as the bad that we are often bombarded with.

Local newspapers give a real boost and lease of life to local campaigns on anything from planning for wind farms, which often invoke a lot of emotion, to the planning of incinerators and so on. Local campaigns are very much given a lifeline by local newspapers.

The point about training for journalists was well made by Joan McAlpine, Graeme Dey and Jamie McGrigor. I think that Jamie McGrigor used the phrase "our esteemed press corps in Holyrood", and of course I would concur with that description. Many journalists come through the ranks of local papers, where they are given the grounding that they need by doing the graft of local papers. Often they do not just write the stories but have to take the pictures and do everything else. That gives them a great grounding for national titles. I know that Joan McAlpine took that route and Graeme Dey wrote for a weekly newspaper. Although I did not write for a local paper, my dad still has the cut-out from the *Fraserburgh Herald* from the time when I was interning for one Alex Salmond and I got a piece in the press about a local curry shop that had come third in a national curry competition. It said: "Mr Sawhney's—The competition too hot to handle". At the age of 19 I was delighted with that headline.

We should mention that many small businesses cannot afford to advertise in national newspapers—not that it would make sense for them to do so. Having local papers in which to advertise can be a lifeline for them in these times, when profit margins are very tight. Indeed, local takeaways, convenience stores, shops and other services and businesses rely on the advertising and the spread that local papers give them.

What I think is most important about local papers—this is why the Johnston Press decision is deeply worrying—is that they hold us politicians to account, sometimes even more than national newspapers do. The Government gets inquiries from national newspapers coming in left, right and centre, but for those members who are not in government, be they in opposition or on the back benches, often it is the local papers that come in with inquiries and hold us to account. They ask us

our opinions on X, Y or Z issue that is happening locally, and force us to make a decision on those issues by using our sound judgment. That is true of not just MSP colleagues but local government councillors and MPs.

It goes without saying that often I do not agree with what is in the papers. Many stories are written in Johnston Press titles that I think are unfair to the Government or unfair to me personally, but frankly that is irrelevant. They are vital for a healthy democracy. Even though there are papers that might be biased against the Government or a particular political party, it is in all our interests to come together to defend them. That is why I am delighted that Graeme Dey's motion had the support of 38 MSPs from across the parliamentary chamber.

I accept that Johnston Press must face up to the economic realities. No newspaper has cracked how to make money off the internet. Even the newspapers whose websites are viewed the most will tell us that that only helps to subsidise the print editions and that at best they are breaking even. Even the newspapers with the very best websites, which have the most clicks per day, will tell us that that only helps them to break even.

Some of what Graeme Dey said in his opening remarks would be good advice for Johnston Press. Some of the issue is about tone. We understand the economic realities of what is happening, but a number of communities and a number of staff who work for its titles have been upset by the labelling of titles as "sub-core". What Graeme Dey said about engaging is incredibly important. All of us understand the financial circumstances that Johnston Press is under. We read about them and we hear about them when we meet with staff. Johnston Press should engage with MSPs and local communities. Let us see whether there is an alternative to the worst-case scenario, which would be closing down the offices.

Johnston Press and other newspaper groups have many opportunities in addition to the challenges that they face. As every member of the Scottish Parliament will recognise, there is a huge appetite for news, particularly post the referendum and particularly among young people, more of whom are going online to find out what is happening in their world. It would be a real shame if young people—or anybody, for that matter—knew everything that was happening in the home of Kim Kardashian but had no idea what was going on in their local community in Kirkintilloch.

**Christine Grahame:** I do not want to make an ageist comment, but a lot of elderly people do not go online, and they in particular rely on local papers.

**Humza Yousaf:** I accept and agree with that point, although I have many older family members who use the internet to get their information. That is not to say that people should not go online to look for news that is of interest to them, but it would be a real shame if that was to the detriment of enabling people to know what is happening in their local community.

The Government wholeheartedly supports Graeme Dey's motion. The local press and local newspapers are important for a variety of reasons that have been expressed in the debate, and I thank Mr Dey once again for bringing the debate to the chamber.

**The Deputy Presiding Officer:** That concludes Graeme Dey's debate on the importance of local newspapers. I ask members to note the earlier time of 2pm for returning to the chamber today.

13:11

*Meeting suspended.*

14:00

*On resuming—***Business Motion****The Deputy Presiding Officer (John Scott):**

Good afternoon. The first item of business this afternoon is consideration of business motion S4M-15609, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Community Justice (Scotland) Bill.

*Motion moved,*

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

Groups 1 to 4: 30 minutes

Groups 5 to 8: 1 hour.—[*Joe FitzPatrick.*]*Motion agreed to.*

## **Community Justice (Scotland) Bill: Stage 3**

14:00

**The Deputy Presiding Officer (John Scott):**

The next item of business is stage 3 consideration of the Community Justice (Scotland) Bill. In dealing with the amendments, members should have: the bill as amended at stage 2; the marshalled list; and the groupings. The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon, and the voting period for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate. Members who want to speak in the debate on any group of amendments should press their request-to-speak button as soon as possible after I call the group.

Members should be aware that we are very tight for time, so if you could limit yourselves to the essential matters when you rise to speak to amendments, that will be a great help—otherwise you will be here for much longer.

I refer members to the marshalled list of amendments.

**Section 1—Meaning of “community justice”**

**The Deputy Presiding Officer:** Amendment 1, in the name of the minister, is grouped with amendments 2 to 9, 26, 27, 10 and 11.

**The Minister for Community Safety and Legal Affairs (Paul Wheelhouse):** The amendments in this group refine the meaning of “community justice”. It is clear to me that we need to take a person-centred approach to improving outcomes for community justice, which means that there should be the widest possible scope with regard to the support that is offered to people who come into contact with the criminal justice system.

Amendment 2 will amend the definition of “community justice” to include helping people to access services that they will need on release from prison. As the new definition will include healthcare, subsection (2ZA) of section 1 will no longer be necessary and will be removed by amendment 7.

Amendment 1 will insert the word “relevant” before “general services” in the meaning of “community justice” in section 1(1), and amendment 6 will make the same change to section 1(2)(c)(ii). In consequence of those amendments, amendment 8 will make the same change to the definition of “general services” in section 1A.

Amendment 3, also in my name, will remove paragraph (e) from section 1(1). Paragraph (e) was inserted at stage 2 and amended the meaning of “community justice” to include

“designing, managing and arranging general services for persons identified as at serious risk of first time offending”.

I fully understand the good intention behind the provision and I thank Alison McInnes for highlighting an important matter. However, the bill does not cover primary prevention—that is, stopping people from offending in the first place. Primary prevention is being taken forward effectively by this Government through a range of other policies, for example on early years intervention, raising educational attainment, tackling youth unemployment, health and housing. Furthermore, we have a specific youth justice strategy, and good work is being done on diversion of young people from serious and organised crime and substance abuse.

There are also practical issues with the wording of paragraph (e) as inserted by Alison McInnes’s amendment, given the difficulties that are attached to assessing risk and identifying people who are at risk without stigmatising individuals. Any such system would have to be human rights compliant. I therefore urge the Parliament to support my amendment 3.

Amendment 4 will remove paragraph (f) from section 1(1). The paragraph, which was also inserted at stage 2, amended the definition of “community justice” to include managing and supporting persons who are covered by the definition

“in ways which take into account the safety of other persons in the community, including victims of offences and their families.”

I thank Margaret McDougall for highlighting the important issue of safety, and I reassure the Parliament that this Scottish Government is committed to reducing reoffending and the harm that it causes to individuals, families and communities. I very much recognise the concerns of victims about justice-related issues, but I think that the Victims and Witnesses (Scotland) Act 2014, rather than the bill, is the relevant legislation through which to address such concerns. To reassure the Parliament, I can say that we have worked with Margaret McDougall to ensure that there will be appropriate references to the needs of victims and their families elsewhere in the bill. Group 3 contains amendments in that regard.

Margaret McDougall’s stage 2 amendment also sought to bring within the scope of community justice such activity as is directed not at reducing future offending but at managing the risks to public safety that arise from having people with offending backgrounds in the community. That is not

appropriate in this bill. I therefore urge members to support my amendment 4.

Amendment 5 will amend section 1(2)(c) so that the meaning of “supporting” in the definition of “community justice” includes helping to access “emotional and practical support”, which references a provision that was inserted by Alison McInnes at stage 2.

Amendments 26 and 27 seek to amend the definition of “general services” in section 1A. I understand the reason for listing appropriate services—the approach was entirely well intentioned—but I want to refine the list that was added at stage 2 by Alison McInnes. I have discussed with Alison McInnes the reason why refinement is required.

Amendment 26 will remove “looked-after” from paragraph (d) of the definition in section 1A, so that it refers to services and support provided to all children rather than just looked-after children. The approach avoids making an implied link between looked-after children and offending behaviour. Some looked-after children do go on to offend, but there is no automatic link; the change avoids any such inference in the legislation.

Amendment 27 will amend paragraph (e) of the definition, building on the existing reference to alcohol and drug issues and drawing them into the broader spectrum of physical and mental health services. The wording reflects the fact that many individuals who are in contact with relevant services are no longer dependent on substances and might be in recovery.

In a similar way, I have sought to cover

“physical and emotional childhood and adolescent trauma”

as set out in existing paragraph (f), by reference to “physical or mental health”, which will be in amended paragraph (e). Proposed new paragraph (f) will provide a more general reference to “social welfare”, in recognition of the important role of social services in promoting the welfare of individuals in our communities. Proposed new paragraph (g) will make general provision for

“any other matter which does or may affect the likelihood of future offending by persons falling within”

the definition of “community justice”. That will ensure that the definition of “general services” is not limited to the services that are listed in paragraphs (a) to (f).

Amendment 9 is consequential, in that it will remove wording from section 1A that was added at stage 2, which will no longer be appropriate in light of the refinement of the definition of “general services” by amendments 26 and 27.

Finally, amendments 10 and 11 will amend section 1A(4), which sets out what, in the definition



of “community justice”, is meant by a “relevant finding”, to reflect that in certain circumstances an offence can be committed by omitting to do an act as well as by committing an act.

I move amendment 1.

**Alison McInnes (North East Scotland) (LD):** I will speak to amendments 3, 7, 26 and 27.

As the minister said, amendment 3 will remove a provision that I inserted by amendment at stage 2, which sought to focus attention on first-time offending. The risks of offending are clear and well documented, and I thought that my provision would ensure that services were not deflected from the area.

Nevertheless, and with reluctance, I accept the minister’s arguments on amendment 3, and I recognise that, as he said, there are a number of statutory requirements, in the context of early years, youth, health and housing, to tackle first-time offending. However, I seek the minister’s assurance that there will be clear links between community justice Scotland and other providers.

Amendment 7 will widen the provision of throughcare, which is helpful, although it will remove a reference to “continuity of health care”. I stress to the minister that continuity is important, and although I will agree to amendment 7 I hope that the spirit of what I intended by section 1(2ZA) will be carried forward.

Amendments 26 and 27 will amend the list of general services. When, at stage 2, I proposed the list of services that should be provided, I accepted that the minister might well want to amend the list slightly to make it comprehensive. I am content that he should do so.

**Margaret Mitchell (Central Scotland) (Con):** I oppose amendment 3. In the Scottish Government’s 2014 consultation, “Future Model for Community Justice in Scotland”, the definition of “community justice” was given as:

“The collection of agencies and services in Scotland that individually and in partnership work to manage offenders, prevent offending and reduce reoffending and the harm that it causes, to promote social inclusion, citizenship and desistance.”

However, in the bill as introduced the definition of community justice in section 1 no longer referred to the prevention of offending, which represented a major change. That was amended at stage 2 in response to widespread criticism of the omission from a number of organisations.

Police Scotland said:

“to be successful it is necessary to take a whole-system approach; it needs to be right from start to finish. That leads to the emphasis on prevention and early intervention.”—  
[*Official Report, Justice Committee*, 15 September 2015; c 44.]

Sacro said:

“there is no statement regarding prevention, public safety or community safety.”

Turning Point Scotland said:

“It is ... disappointing that the bill does not explicitly direct planning at both national and local levels to consider prevention especially within the wider context of the community planning process.”

Barnardo’s said:

“If we are to take a truly preventative approach to community justice, we must start at the beginning and focus on how to keep people out of the justice system and within their communities.”

Victim Support Scotland said:

“the definition does not allow for a greater focus on prevention and early intervention in line with the recommendations of the Christie Commission.”

I consider it a retrograde step and an opportunity lost that today the minister is seeking again to remove prevention and early intervention from the bill’s provisions. It is for that reason that the Scottish Conservatives oppose amendment 3.

**Elaine Murray (Dumfriesshire) (Lab):** I had concerns when I first looked at the Government amendments, but given that Alison McInnes, who brought the amendments to the committee in the first place, has been persuaded to accept them, we are prepared to accept them too.

However, I seek assurances from the minister that there will be sufficient focus on desistance. Ultimately, what every victim wants is that what they suffered does not happen to somebody else. Therefore, desistance and focusing on preventing people from becoming involved in the criminal justice system in the first place have to be our priority. I seek the minister’s reassurance that, if they are not on the face of the bill, that does not mean there will be any lack of focus on those issues in general policy.

**Roderick Campbell (North East Fife) (SNP):** I welcome the comments of Alison McInnes and Elaine Murray. I did not hear anything in Margaret Mitchell’s comments about the financial implications of the aspect she raised. I do not know whether she has any views on that, but we did not hear any.

**Paul Wheelhouse:** In response to Alison McInnes and Elaine Murray, I put on record my acceptance of the need for us to provide assurances to members, and I welcome their agreement to amendment 3.

In developing the national strategy and the performance framework, it is important that, as far as possible, we reflect the linkages between what we are doing in the secondary and tertiary prevention that the bill covers and the existing

strategies for primary prevention, such as the youth justice strategy and other measures including early years intervention.

I entirely agree with Elaine Murray that desistance is a priority. I commend the committee for its persuasion in including within the definition of community justice the point of arrest—although, of course, people are not yet offenders at that point, as they are still innocent until proven guilty. Through that change, we are in a position perhaps to prevent escalation of offending behaviour between the point at which someone comes formally into the purview of the courts and the point at which a disposal is determined. I hope that that is sufficient reassurance.

I reiterate that we will seek to make very explicit the linkages between the work that we are doing within the national strategy, the work of community justice Scotland and the existing strategies that cover primary prevention. I hope that that reassures members.

I regret that the Conservatives are not prepared to support amendment 3, but I acknowledge the points that Margaret Mitchell made and know that they are ones that she stands by.

*Amendment 1 agreed to.*

*Amendment 2 moved—[Paul Wheelhouse]—and agreed to.*

*Amendment 3 moved—[Paul Wheelhouse].*

**The Deputy Presiding Officer:** The question is, that amendment 3 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division. As this is the first division, I suspend the meeting for five minutes.

14:15

*Meeting suspended.*

14:20

*On resuming—*

**The Deputy Presiding Officer:** We will now proceed with the division on amendment 3.

**For**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Bibby, Neil (West Scotland) (Lab)

Brennan, Lesley (North East Scotland) (Lab)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dugdale, Kezia (Lothian) (Lab)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hilton, Cara (Dunfermline) (Lab)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kelly, James (Rutherglen) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMahon, Michael (Uddingston and Bellshill) (Lab)  
 McMillan, Stuart (West Scotland) (SNP)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)

Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scott, Tavish (Shetland Islands) (LD)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wilson, John (Central Scotland) (Ind)  
 Yousaf, Humza (Glasgow) (SNP)

### Against

Brown, Gavin (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Davidson, Ruth (Glasgow) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Annabel (West Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)

**The Deputy Presiding Officer:** The result of the division is: For 99, Against 10, Abstentions 0.

*Amendment 3 agreed to.*

*Amendments 4 to 7 moved—[Paul Wheelhouse]—and agreed to.*

### Section 1A—Interpretation of section 1

*Amendments 8, 9, 26, 27, 10 and 11 moved—[Paul Wheelhouse]—and agreed to.*

### Section 12A—Third sector bodies involved in community justice

**The Deputy Presiding Officer:** We move to the second group of amendments. Amendment 12, in the name of the minister, is grouped with amendments 13 and 22 to 24.

**Paul Wheelhouse:** My amendments 12 and 13 amend section 12A, which sets out what is meant by a third sector body involved in community justice. The amendments add to the definition of the third sector in section 12A by making clear what is meant by community justice services that are to be provided by third sector bodies that fall within that definition.

For the purposes of section 12A, community justice services are services that are provided to people covered by the definition of community justice in section 1(1)—

**The Deputy Presiding Officer:** Forgive me, minister. Can I seek a little quiet so that the minister can make his remarks, please?

**Paul Wheelhouse:** Thank you, Presiding Officer.

For the purposes of section 12A, community justice services are services that are provided to people covered by the definition of community justice in section 1(1)(b) and (d) and which involve managing and supporting those people with a view to eliminating or reducing reoffending. Community justice services are also to include services that prepare persons for release from prison or detention.

Amendments 22 to 24 make it clear that the services in which community justice Scotland will have a commissioning role are those that are provided to people who are covered by the definition of community justice. That is to contrast with the services that community justice Scotland will provide directly, which will be solely in respect of training and education for organisations that have a role in community justice.

Amendments 22 to 24 simply clarify that community justice Scotland will not provide services to the people who are covered by the definition of community justice. They underline the policy position that community justice Scotland's main role in commissioning will be to work with partners and the third sector to develop and take forward a strategic approach to commissioning. That will ensure an evidence-led and co-ordinated long-term approach to commissioning for community justice in Scotland.

I move amendment 12.

*Amendment 12 agreed to.*

**The Deputy Presiding Officer:** We move to group 3. Amendment 28, in the name of Margaret McDougall, is grouped with amendment 29.

**Margaret McDougall (West Scotland) (Lab):** I will give some background to amendment 29. In section 1, the reference to

“victims of offences and their families”

is not the same as a reference to third sector organisations that support victims and their families. It cannot be assumed that a single reference to victims will create enough of an imperative to ensure that third sector organisations that work to support victims—to ensure that their voices are heard at the local and national levels by community justice Scotland, community justice partners, community planning partnerships and those within the architecture of community justice generally—will be fully engaged in the planning and decision-making processes that are intended to take victims' safety into account.

It is vital that organisations that support victims are named in the bill as third sector bodies that must be consulted, and my amendments provide a lever to insist that that be done. The minister repeatedly mentioned victims during the stage 1 debate, but simply inserting the words

“such third sector bodies involved in community justice”

through various amendments and then defining

“A third sector body ... involved in community justice”

as one that

“represents or promotes ... other persons who are or may be affected by community justice”

does not adequately include organisations that support victims, or indeed victims individually or collectively. A blanket reference to “the third sector” does not explicitly include victims and victims organisations. The bill places a duty on various persons to consult

“third sector bodies involved in community justice”,

but it also gives them an opportunity to limit which third sector bodies they consult, as it qualifies the duty with the wording

“such third sector bodies involved in community justice as it considers appropriate”.

Unless victims organisations are explicitly mentioned, as they are under my amendment 29, the bill will give those with the duty a get-out clause to ignore victims organisations on the ground that they are not appropriate, or to use that ground after the event as an excuse to justify a lack of consultation.

Amendments 28 and 29 include that reference, thus making explicit and clear in the various planning and monitoring duties the obligation to have local structures and arrangements that involve both victims of crime and the organisations that support them.

Amendment 28 is essentially a technical amendment. I thank the minister for working with me to make amendments 28 and 29 acceptable to all.

I move amendment 28.

**Paul Wheelhouse:** I welcome the engagement with Margaret McDougall and am grateful to her for lodging her amendments. I hope that they are acceptable to the Parliament. The point that she raises about the important role of victims and their families is well recognised and I am grateful for her input at this time.

*Amendment 28 agreed to.*

*Amendment 13 moved—[Paul Wheelhouse]—and agreed to.*

*Amendment 29 moved—[Margaret McDougall]—and agreed to.*

### **Section 13—National strategy in relation to community justice**

**The Deputy Presiding Officer:** We move to group 4. Amendment 14, in the name of the minister, is grouped with amendments 15, 16, 18 and 19.

**Paul Wheelhouse:** My amendment 14 seeks to remove paragraph (c) from section 13(2), which provides that the national strategy in relation to community justice

“may contain such material in relation to community justice as the Scottish Ministers consider appropriate, including in particular—

(a) a statement of the aims of community justice,

(b) action that the Scottish Ministers propose to take, or consider that others should take, to achieve, or support the achievement of, those aims”.

Paragraph (c), which was inserted at stage 2, amends the list of the material that the Scottish ministers may consider appropriate for inclusion in the national strategy for community justice to include information about action that ministers are taking or propose that others take in relation to early intervention, diversion from prosecution and youth offending. I understand that the intention behind the amendment at stage 2 was to ensure that the national strategy covers early intervention to prevent offending and the other items that are listed.

At stage 2, I lodged amendments to broaden the definition of community justice to cover persons who have been arrested, which will ensure that support can be provided to persons at an earlier stage than the point of conviction. The definition also covers those who are 16 or 17 and are subject to a compulsory supervision order on the ground that they have committed an offence. Therefore, those persons are covered by the definition of community justice and will be reflected in the national strategy.

However, it is important to note that the bill is about planning for community justice for persons who have been, among other things, given an alternative to prosecution, such as diversion. Let me be clear that the bill does not provide for diversion. That is entirely a matter for the procurator fiscal, and it would not be appropriate for ministers to propose to take action, or to propose action that the procurator fiscal should take, in relation to diversion from prosecution.

14:30

I said at stage 2 that the drive in community justice to reduce re-offending was part of our wider

approach to promoting social justice and tackling inequality, which includes action to improve early years experiences, to raise educational attainment for all and to continue to promote the whole-systems approach to youth justice.

I gave the Justice Committee my assurance that the national strategy for community justice would, naturally, link with a range of Scottish Government strategies to ensure a joined-up approach. I reiterate that point from the debate on an earlier group. However, for the purposes of the bill, community justice stops short of including the matters that are described in paragraph (c) of section 13(2). Although they are clearly linked to community justice, the strategy is about community justice and not those matters.

For those reasons, my amendment 14 seeks to remove paragraph (c) of section 13(2) so that the content of the national strategy will be informed by the broader definition of community justice, which references diversion, early intervention and matters relating to youth justice. I urge members to support the amendment, with the reassurance that the linkages between primary prevention and the secondary and tertiary prevention that the bill covers will be established in guidance alongside the bill.

My amendment 15 seeks to amend paragraph (d) of section 13(2), which was inserted at stage 2 to specify that the strategy might include action that the Scottish ministers consider that others should take to facilitate access to housing services for people on release from serving custodial sentences.

I fully recognise that suitable housing as well as support to sustain a tenancy or owner occupation, where relevant, are vital to provide stability to people who have a history of offending. However, I also believe that access to other services—such as healthcare, welfare and employment assistance, to name but a few—is also vital in supporting people to desist from committing further offences. Therefore, amendment 15 replaces the specific reference to “housing services” in section 13(2)(d) with a reference to “relevant general services”. I have discussed that with Alison McInnes in advance of the debate.

Amendment 15 would mean that the national strategy may include material that relates to action that should be taken to facilitate access to relevant general services rather than just housing services. My amendment 16 then makes it clear that the term “relevant general services” has the same meaning as in section 1. As members will recognise, the new definition of that term includes housing, as we discussed in the debate on group 1. However, crucially, although that puts housing services into the bill, section 1 does not create a hierarchy of services.

For the same reasons, amendment 18 also replaces the specific reference to “housing services” in section 15(3)(a) with a reference to “relevant general services”. That means that the national performance framework may contain material regarding performance including, in particular, other indicators that may be used to measure performance to facilitate access to relevant general services rather than just housing services.

Amendment 19 again makes it clear that the term “relevant general services” has the same meaning as in section 1, which, as I just said, includes housing.

I hope that that reassures members.

I move amendment 14.

*Amendment 14 agreed to.*

*Amendments 15 and 16 moved—[Paul Wheelhouse] and agreed to.*

**The Deputy Presiding Officer:** We come to group 5. Amendment 17, the name of the minister, is grouped with amendments 20, 21, 25 and 25A.

**Paul Wheelhouse:** Amendments 17, 20 and 21 insert new subsections into sections 13, 15 and 21 respectively, which concern the national strategy, the performance framework and the guidance on community justice planning and reporting. The purpose of the new subsections is to ensure that the requirement to consult in each section is complied with even if the consultation begins or takes place before the relevant section is brought into force.

The amendments are necessary because much consultation has already taken place with stakeholders over the past 12 to 18 months. I wish to ensure that that extensive consultation can be taken into account in relation to meeting the consultation requirements that are set out in sections 13, 15 and 21. If the amendments were not agreed to, further consultation would be required, which would lead to a significant delay in the finalisation and publication of the national strategy, the performance framework and the guidance and would necessitate reinventing the wheel to a considerable degree. Further consultation would also create additional work for our stakeholders, who have already given generously of their time.

I ask members to recognise the extensive consultation activity that has already been undertaken with stakeholders and to support amendments 17, 20 and 21 to ensure that that work is taken forward.

I turn to amendment 25. Section 36 makes provision for commencement. Amendment 25 seeks to insert in section 36(1) a reference to

sections 1, 1A, 12(1), 12A(1), 12A(2), 13, 15 and 32 to provide that those sections will come into force on the day after royal assent rather than being commenced by regulations following the usual convention of waiting until two months after royal assent. It is not a request that I make lightly, so I will explain my reasons for making it.

The bill requires community justice partners to prepare a plan in relation to community justice for their area and to have regard to the national strategy, the national performance framework and any guidance that is issued by the Scottish ministers. Naturally, the community justice partners must also know who is to do the planning, whom to plan for and whom to consult.

To give the community justice partners the opportunity to comply with the requirement to produce a plan in spring 2017, it will be necessary to have the national strategy, the national performance framework and the guidance in place prior to that. The availability of those key documents in early summer will allow community justice partners to begin preparations to meet the planning duties that the bill places on them. The extensive consultation that has taken place means that the community justice partners will already be aware of the general content and direction, so nothing in those documents should be unexpected.

Accordingly, amendment 25 seeks to amend section 36(1) so that sections 13 and 15 can be commenced the day after royal assent. Sections 1, 1A, 12(1), 12A(1), 12A(2) and 32, which contain definitions that are relevant to the national strategy and the national performance framework, require to be commenced at the same time, so reference to those sections must also be inserted in section 36(1). I therefore urge the chamber to support amendment 25 to ensure that a smooth transition takes place.

Margaret McDougall's amendment 25A is consequential on her amendments 28 and 29. It seeks to amend my amendment 25 to provide that sections 12A(1) to 12A(2B) will be commenced the day after royal assent. That is necessary because the definition of a third sector body that is involved in community justice is relevant to the requirement in sections 13 and 15 to consult such bodies. I therefore support amendment 25A, thank Margaret McDougall for working with the Government on it and urge members to support it.

I move amendment 17.

**Margaret McDougall:** Amendment 25A supports the minister's amendments.

*Amendment 17 agreed to.*

## **Section 15—National performance framework in relation to community justice**

*Amendments 18 to 20 moved—[Paul Wheelhouse]—and agreed to.*

### **After section 18**

**The Deputy Presiding Officer:** We move to group 6. Amendment 30, in the name of Margaret McDougall, is grouped with amendment 31.

**Margaret McDougall:** The third sector plays an invaluable role in delivering vital services in relation to community justice, not only for victims and their families but for those who are convicted of an offence and their families, so I very much welcome the comment that the minister made about the sector at stage 2. He said:

"I fully recognise that the third sector is vital to the successful planning and delivery of effective and efficient services for individuals, and I am grateful for the positive contribution that the sector makes to community justice at local and national levels."—[*Official Report, Justice Committee*, 26 January 2016; c 2.]

Amendment 30 seeks to put in place a reporting mechanism whereby community justice partners must reflect and report on the actions that they have taken to facilitate the participation of the third sector and state which third sector bodies were involved in the development and preparation of the community justice outcomes improvement plan, in line with section 18(3). Amendment 31 seeks to ensure that, when a local improvement plan is revised, the same statement must be produced for that revised plan.

The intention of the amendments is to ensure that the good intentions in section 18(3) on participation of the third sector in community justice outcomes improvement planning are not lost in practice. Too often, the role of the third sector can be confined to service delivery but, more often than not, the sector has the skills, expertise and knowledge to contribute to the strategic development and planning of services as well as front-line delivery.

The amendments will ensure that community justice partners provide a statement to community justice Scotland on how they have fulfilled their duties to facilitate the participation of the third sector under section 18(3). If the statement indicates a deficiency in the participation of the third sector, I hope that community justice Scotland will use its powers under section 25 to rectify that. I believe that the amendments will strengthen the bill, introduce a necessary level of accountability for community justice partners, and ensure that the crucial role of the third sector in community justice planning is upheld.

I thank the Minister for Community Safety and Legal Affairs and his officials for their constructive

dialogue about the amendments, and I urge all members to support them.

I move amendment 30.

**Paul Wheelhouse:** I am grateful to Margaret McDougall for agreeing at stage 2 to work with me on amendment 30, which is important. I know that third sector bodies and, indeed, community bodies play an important role in community justice. It is therefore right that the community justice partners should not only enable their participation in the preparation of the community justice outcomes improvement plans but be required to evidence how that participation took place. I am content that amendment 30 makes it absolutely clear how important the third sector bodies' role in the preparation of the plans is.

I am very happy to support amendments 30 and 31, and I urge members to support them.

*Amendment 30 agreed to.*

### **Section 19—Review of community justice outcomes improvement plan**

*Amendment 31 moved—[Margaret McDougall]—and agreed to.*

### **Section 21—Guidance in relation to community justice outcomes improvement planning**

*Amendment 21 moved—[Paul Wheelhouse]—and agreed to.*

### **Section 26—Ability of Community Justice Scotland to develop and arrange services**

*Amendments 22 to 24 moved—[Paul Wheelhouse]—and agreed to.*

### **Section 30—Duty of co-operation**

**The Deputy Presiding Officer (John Scott):** We move to group 7. Amendment 32, in the name of Dr Elaine Murray, is the only amendment in the group.

**Elaine Murray:** At stage 2, I lodged a number of amendments that were proposed by the Convention of Scottish Local Authorities. They included an amendment to section 30 that required each local community justice partner to demonstrate co-operation with the other partners. At that stage, the minister recognised that section 20, on reporting on performance, did not require community justice partners to state how outcomes had been achieved, and he therefore amended that section to require the report to include activity undertaken by the community justice partners individually or jointly to achieve or maintain outcomes. As that amendment went some way to address the concerns that were expressed in my

stage 2 amendment, I did not press it and agreed to discuss with the bill team an amendment that reflected COSLA's principal concern that community justice services locally should be tailored to local need and should not be imposed by CJS.

Amendment 32 will amend section 30 to require community justice partners, in undertaking their duty of co-operation, to

"have regard to the desirability of community justice ... being best suited to the needs of"

local areas. That would mean that there would not be a one-size-fits-all approach imposed by community justice Scotland on local groups and that local community justice partners would have the flexibility to tailor the services that they offer to the needs of their area.

I thank the bill team and the minister for their consideration of how those concerns could be addressed in the bill.

I move amendment 32.

**Paul Wheelhouse:** I thank Dr Murray for agreeing to work with me on amendment 32, which seeks to ensure that, when community justice Scotland and the community justice partners are co-operating with each other, they do so having regard to what is best suited to or most appropriate for the local area. That is an important point that Dr Murray raised.

The new model for community justice is first and foremost a local model that places decision making with those who know their communities best and understand the problems that are unique to their area. That is why it is important that Dr Murray's amendment highlights the need for co-operation between community justice partners and with community justice Scotland to take account of what is best for the local area.

I support amendment 32 and urge members to support it.

*Amendment 32 agreed to.*

### **After section 32**

**The Deputy Presiding Officer:** We move to group 8. Amendment 33, in the name of Margaret Mitchell, is the only amendment in the group.

**Margaret Mitchell:** Although many of the amendments vastly improve the bill, certain questions and uncertainties remain about its provisions. Those include something as basic as the funding for the 32 sets of CJPs. In particular, at this stage it is not clear whether the Transfer of Undertakings (Protection of Employment) Regulations—TUPE—option is to be adopted for the staff previously employed in Scotland's eight criminal justice authorities to transfer into the new

model. Will the minister give a definitive answer on that point, as it would be unacceptable if those who are affected are still unaware at this late stage of what the future holds for them?

14:45

Furthermore, the bill is being introduced before the new penal reforms on reoffending, which the bill's model of community justice will be asked to deliver, have even been finalised. In addition, there is still some unease about the relationship between the centralised CJS and the 32 sets of CJsPs.

For all those reasons, and in view of the almost total lack of post-legislative scrutiny in the Parliament since its inception, it seems entirely reasonable and sensible to introduce the sunset clause that is proposed in amendment 33. The amendment sets out that the bill must be reviewed after five—and no more than six—years from the date of royal assent. Who knows? Perhaps at that point it will be deemed appropriate to add provisions that include prevention and early intervention.

I move amendment 33.

**Elaine Murray:** Amendment 33 seems to be the introduction of a sunset clause, repealing sections 1 to 32 of the bill after six years unless ministers have by regulation allowed the provisions to continue.

Although I share Margaret Mitchell's concerns about funding, I do not understand how the amendment would address her concerns about TUPE, because staff will already have been transferred at the point at which the provisions become law.

I do not understand where the drive for the amendment comes from. I do not recall any evidence at stage 1 suggesting that there should be a sunset clause, nor was there much evidence opposing the changes to the community justice system that the bill proposes. Most witnesses welcomed the bill; many felt that it could be improved, but it has been improved. It seems to be very odd to insert a section into a bill which would simply allow the community justice system to disintegrate after six years; it would not revert to the current arrangements and, even if it did, we have heard significant criticism of how community justice is working at present.

The bill provides for annual reports on the exercise of the functions of CJS, a national strategy and a national performance framework that must be reviewed within five years, and community justice outcome improvement plans that will be reviewed after the publication of a revised national strategy or framework. The bill

contains several opportunities for evaluation of whether they are working satisfactorily. Organisations such as Audit Scotland will be able to review the performance of CJS and the local organisations as it did the performance of CJAs. The Parliament's Justice Committee will be able to consider the reports and, if in future it is less burdened with primary legislation, it could conduct post-legislative scrutiny of the bill.

There is a place for sunset clauses in legislation, but Labour members do not think that this is one of them.

**Roderick Campbell:** I associate myself with the comments of Dr Elaine Murray. I, too, am baffled as to why there is an attempt to put a sunset clause in the bill at this stage.

**The Deputy Presiding Officer:** Could you direct your microphone a little better, Mr Campbell.

**Roderick Campbell:** Is that helpful?

There was no discussion of the matter at stage 1. Furthermore, Audit Scotland will want to look at the bill in the future and I cannot believe that any future Justice Committee will not review the whole issue of community justice.

On a small point of detail, the amendment refers to repealing sections 1 to 32. Section 31 abolishes the CJAs. No doubt there is a good explanation of what will happen if they are abolished by section 31 and then brought back into being by the amendment. Perhaps the member would explain the effect of that when she winds up.

**Paul Wheelhouse:** I, too, associate myself with Elaine Murray's remarks. I will cover some of the same ground.

I am disappointed to see such an amendment being lodged at this stage. The amendment would mean that the bill would be temporary in duration, which would create uncertainty for the very people providing community justice to whom Margaret Mitchell refers, and those affected by it, and would negate the extensive work by community justice stakeholders in shaping the bill that is before us today.

This sort of proposal is generally intended to ensure that new legislation is reviewed after a period of operation in order to assess whether it is having the intended effect. I have no argument with that principle. After all, it is standard practice to keep legislation under review. Elaine Murray referred to that on a number of occasions. However, to put such provisions in legislation is extremely rare. In the case of this bill, it is completely unnecessary.

As referred to by Dr Murray and Roderick Campbell, the bill has been subject to full parliamentary scrutiny, with a lot of evidence



submitted at stage 1 and full discussion at stage 2. It was not subject to any form of expedited procedure that would have prevented it from being scrutinised by Parliament in the normal way. In addition, no exceptional or controversial powers are included that would make it appropriate for the bill to be subject to review by Parliament in this way. There has been extensive consultation and a significant amount of collaboration with stakeholders, including COSLA and third sector organisations, both prior to introduction and during the bill's parliamentary passage. There will continue to be such collaboration to ensure that the new model works properly and the transition is as smooth as we can make it.

The Scottish ministers will receive regular reports from community justice Scotland, which will be a new partner in the justice board, and therefore ministers would be very aware of any problems with the operation of the legislation that might require their attention. Of course, the national strategy will be a live document, and annual reports to Parliament will keep Parliament aware of progress and any challenges that are emerging.

It is also worth noting that no comparable amendment was lodged at stage 2. The Justice Committee was, accordingly, not given any opportunity to consider it. Further, the substantial regulation-making powers that the amendment would confer have been nowhere near the Delegated Powers and Law Reform Committee.

The power in subsection (3) is particularly sweeping. In the event that the repeal in subsection (1) takes effect, all the machinery in the bill, including the existence of community justice Scotland, will be swept away with nothing to replace it. It is not clear whether the member intends that the pre-existing community justice arrangements would be revived or, if so, how they would be revived. Also unclear is the extent to which the member thinks that the power could be exercised to devise entirely new community justice arrangements. Either way, I regard this as a highly risky approach.

For all those reasons, I cannot support amendment 33. It is unnecessary and inappropriate in relation to the bill and could precipitate considerable problems by creating a vacuum. I ask members not to agree to the amendment and instead to trust Parliament to exercise its powers to review the effectiveness of legislation in the normal way.

**Margaret Mitchell:** Elaine Murray's point about TUPE is right—the sunset clause will not address that issue. I notice that the minister has failed to take the opportunity to give some reassurance on that point.

On the point about there being no discussion at stage 2 about a sunset clause, an amendment was passed by the Justice Committee at stage 2 to include prevention and early intervention. At stage 3, that has been removed. On that basis alone, it is sensible and reasonable to have a sunset clause to allow consideration of whether prevention and early intervention could be included.

In addition, there are still questions about basic funding. How will that pan out over the next five years? We know that COSLA is particularly unhappy about these provisions. Further, the bill as introduced puts in place a model to deliver penal reforms that have still not been finalised. A sunset clause would give us an opportunity to see how those penal reforms had bedded in.

I repeat the point about post-legislative scrutiny. It has not happened in the past 16 years and I have little confidence that it will happen in future. The amendment is a sensible mechanism to ensure that this very important piece of legislation can be reviewed and improved in future.

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

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Brown, Gavin (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Davidson, Ruth (Glasgow) (Con)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Annabel (West Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Brennan, Lesley (North East Scotland) (Lab)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)

Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dugdale, Kezia (Lothian) (Lab)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hilton, Cara (Dunfermline) (Lab)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kelly, James (Rutherglen) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMillan, Stuart (West Scotland) (SNP)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scott, Tavish (Shetland Islands) (LD)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)

Stewart, Kevin (Aberdeen Central) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wilson, John (Central Scotland) (Ind)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 12, Against 98, Abstentions 0.

*Amendment 33 disagreed to.*

### **Section 36—Commencement**

*Amendment 25 moved—[Paul Wheelhouse].*

*Amendment 25A moved—[Margaret McDougall]—and agreed to.*

*Amendment 25, as amended, agreed to.*

**The Deputy Presiding Officer:** That ends consideration of amendments.

## Community Justice (Scotland) Bill

### **The Deputy Presiding Officer (John Scott):**

The next item of business is a debate on motion S4M-15607, in the name of Paul Wheelhouse, on the Community Justice (Scotland) Bill.

14:56

**The Minister for Community Safety and Legal Affairs (Paul Wheelhouse):** I start by thanking everyone who contributed to the development of the Community Justice (Scotland) Bill, including members of all parties, all our stakeholders and, if I may, my bill team, of whom I am very proud.

I am particularly grateful to the stakeholders, especially local government colleagues, for their considered thoughts while the Government was shaping its policy and during Parliament's consideration of the bill. I welcome their broad support for the bill, and I believe that it reflects the wide-ranging and effective engagement that we have had in developing its key provisions, especially the new national strategy for community justice and the performance framework. Following enactment, we will continue that dialogue as we take forward implementation.

I am grateful to the convener, Christine Grahame, and her Justice Committee colleagues for their detailed scrutiny of the bill. Indeed, I was pleased to lodge a number of amendments at stage 2 in response to the committee's recommendations.

The bill will make positive changes to community justice. It comes at a time of broader reform in penal policy. Indeed, the bill and the new model for community justice that it establishes form a key part in delivering the Scottish Government's commitment to reducing reoffending and the harm that it causes to individuals, families and communities.

Central to reducing reoffending is actively addressing the underlying causes of offending behaviour. The new model presents a more holistic and collaborative approach to identifying priorities and planning the most appropriate interventions. Such an approach requires community justice partners to co-operate with each other, especially at a local level. The provision around co-operation was strengthened by the stage 3 amendment that Dr Elaine Murray and I worked on together, and I again thank Dr Murray for her contribution.

The model will be driven forward at local and national level by the common aim of securing better outcomes for people and communities

across Scotland. It is underpinned by a transparent and robust means of measuring and demonstrating progress in achieving those outcomes.

That transparency and clarity in delivering improved outcomes might in turn contribute to the Government's vision of a fairer justice system in Scotland that reflects the values of a modern and progressive nation in which prison sentences, particularly short-term sentences, are used less frequently, and where there is a stronger emphasis on robust community sentences. It is important that individuals are held to account for the offences that they have committed, but thereafter it is also important that they are supported to be responsible citizens and contributors to our communities.

At stage 1, the Justice Committee and stakeholders raised a number of important points relating to key issues such as early intervention, engagement with the third sector and governance arrangements. I considered those points carefully and proposed a number of amendments at stage 2 that have strengthened the bill.

At stage 1, the committee and stakeholders called for a stronger element of prevention and early intervention to be reflected in the definition of community justice to enable effective intervention to take place earlier, with the aim of reducing the likelihood of further offending. Evidence shows that diverting individuals away from the criminal justice system is an effective way of preventing further offending. That is especially true when the diversion is complemented by an intervention that is designed to address the underlying causes of offending behaviour.

I recognise that waiting until someone is convicted may be too late and would mean that we lose an opportunity to prevent offending behaviour from escalating. That is why, with the committee's support, we broadened the definition of "community justice" in the bill so that community justice services must be planned for people from the point of arrest onwards, rather than from the point that a conviction takes place, as had been set out in the bill at its introduction.

At stage 1, members and witnesses expressed a strong desire for prevention of further offending to be more strongly referenced in the bill, especially in the definition of "community justice". The new broader definition responds positively to those representations, too.

Prevention is central to our aim of reducing further offending. Every intervention, support or management is an opportunity to work with an individual to aid prevention. As we discussed earlier today, the bill does not cover primary prevention, which means preventing people from

offending in the first place, but I emphasise again the point that Alison McInnes made: primary prevention is being taken forward effectively by this Government through a range of other policies, such as early years interventions, raising educational attainment, tackling youth unemployment and our policies on health and housing. I am happy to reiterate that we will make sure that those policies are properly referenced in the guidance that will accompany the bill.

I will say a few words about the stronger provisions regarding the third sector that are now in the bill. At stage 2, I proposed and the committee agreed to a stronger participative role for the third sector—including victims organisations, as Margaret McDougall pointed out—in the planning of community justice, and in the preparation of key strategic documents such as the national strategy for community justice. That gives relevant third sector organisations stronger representation in the new model for community justice.

I fully recognise that the third sector is vital to the successful planning and delivery of effective and efficient services for individuals, and I am grateful for the positive contribution that the sector makes to community justice, at both a local and a national level, which I hope will be even greater in the future. I am also grateful to Margaret McDougall for working with me on framing the stage 3 amendment that provided that a statement of engagement is to be included when community justice partners are preparing their outcomes improvement plans. The statement will confirm that third sector bodies participated in the plan and confirm the efforts that community justice partners made to secure and facilitate the participation of third sector bodies and community bodies in their local area.

Margaret McDougall and I also worked together to amend the bill to make it clear that third sector organisations that represent victims and their families are to be consulted in the planning of community justice and on the preparation of key documents relating to it, where those organisations provide community justice services or perform an advocacy or advisory role. I trust that the committee and stakeholders will recognise the significant amendments that were made at stage 2 and stage 3 as being a positive response to the points that they raised with me and the committee.

I said earlier that being able to demonstrate to communities that better community justice outcomes are being delivered is a key part of the new model for community justice. Supporting the community justice partners in achieving those outcomes is one of the functions of the new national body, community justice Scotland. I

understand that there have been misunderstandings about the role of community justice Scotland, and, indeed, some fears that it will be a regulatory body or a body with the potential to acquire unlimited new powers with no check or brake on that. Let me allay those fears now and be clear about how community justice Scotland will work with community justice partners.

I emphasise that the model is a decentralised one that places decision making in the hands of local people and agencies who know their communities best. Having 32 sets of community justice partners boosts the potential for learning from shared good practice, as there is greater scope for innovation. It also provides transparency over performance and the achievement of improved outcomes. That is why having a national body with oversight powers will be an asset to the new model.

At its core, community justice Scotland is being established to provide leadership to the community justice sector, as well as to support partners and stakeholders to deliver better outcomes for community justice in Scotland. As part of those overarching aims, community justice Scotland has a function to provide assurance on community justice partners' progress towards national outcomes. To provide that assurance, community justice Scotland must be able to make recommendations to community justice partners, which will include promoting good practice and recommending specific action where progress towards an outcome is not being made.

The amendments that the committee agreed to at stage 2 reframed and expanded the provisions in the bill to make them clearer about the oversight powers that community justice Scotland will hold, especially in relation to its ability to make local improvement recommendations to community justice partners and national improvement recommendations to ministers.

In its stage 1 report, the committee said that if community justice Scotland

“does not have adequate powers of oversight to measure and drive forward improvements in performance, there is a danger that weaknesses in relation to accountability, strategic leadership and the ability to properly measure outcomes in the existing arrangements will persist.”

The amendments responded positively to that recommendation by providing clarity on the arrangements for oversight and performance improvement.

I will be clear about the roles of community justice partners and the Scottish ministers in performance improvement. The responsibility for resolving any local issues with planning or the quality of delivery, and for achieving progress against improving outcomes, rests with the

statutory community justice partners of each local area. Existing accountability lines for individual statutory community justice partners remain through the respective organisations.

If partners should request assistance on issues that they have not been able to resolve locally, community justice Scotland will be able to offer support and advice. Where there are persistent issues in achieving improved outcomes, community justice Scotland can make recommendations to the Scottish ministers. Recommendations could be made around the requirement for improvement plans; on the potential for specific multi-agency inspections; and in exceptional circumstances—I stress the word “exceptional”—to establish a rescue task group to work with the local partners. Recommendations at a national level can also be made. I expect that persistent issues will be the exception rather than the norm.

First and foremost, community justice Scotland is there to support partners, share good practice and champion the community justice sector, giving parity of esteem to custodial and non-custodial sentences. It sits alongside the community justice partners, not above them, and we do not see it as a regulator, nor is it intended to be.

In conclusion, the Community Justice (Scotland) Bill lays a firm foundation on which we will build a robust, transparent and inclusive new model for community justice in Scotland. The new model places decision making locally with those who know their communities best and who will be most affected by community justice issues.

I move,

That the Parliament agrees that the Community Justice (Scotland) Bill be passed.

15:06

**Elaine Murray (Dumfriesshire) (Lab):** On behalf of Scottish Labour, I thank the clerks, the witnesses, the legislation team, Scottish Government officials and the minister for their contributions to the development of the bill since it was introduced last year.

The bill has changed considerably since its first draft. Many of the suggestions that the Justice Committee made in its stage 1 report were taken on board by the Scottish Government, and others were successfully pressed by Opposition members at stage 2.

The original definition of “community justice” was generally considered to be too narrow as it was restricted to people who had already offended, and it focused on the prevention of reoffending rather than the prevention of offending. The majority of witnesses at stage 1 felt

that that was a missed opportunity and that the definition should also include desistance, prevention and early intervention. Scottish Labour members were pleased to support stage 2 amendments that included bail conditions, community disposals, post-release control and persons identified as at serious risk of first-time offending.

The latter aspect was introduced as an amendment from Alison McInnes that, despite the Government’s reservations about including it in the bill rather than in other strategies, found favour with the majority of committee members.

Alison McInnes was also successful in placing in the bill some of the support services that should be offered where appropriate, including housing services. That was proposed by Shelter, whose prison advice project, which supports offenders in Perth, Aberdeen and Inverness during and after their sentences, demonstrates the effectiveness of housing support in the prevention of reoffending. I had some concerns about the Government’s stage 3 amendments that changed some of that, but I accept that the amendments that were agreed to this afternoon have altered and tidied up the wording of the stage 2 amendments and that the policy intention remains and the bill is therefore enhanced.

Community justice will work only if the community and the judiciary believe that it is an effective, successful and appropriate alternative to imprisonment. In particular, it is important that victims of crime, when a community disposal is given, know that due consideration is given to their views and needs and that the disposal is not some sort of soft option. Communities and victims also need to know that they will receive respite from the offending behaviour of those individuals.

My colleague Margaret McDougall has been determined to ensure that victims’ interests are specifically mentioned in the bill, and she is to be congratulated on her success in working with the Government to ensure that amendments reflecting the concerns of organisations such as Victim Support and Scottish Women’s Aid have been successfully introduced to the bill today, in addition to the amendment that she persuaded the committee to accept at stage 2, which will ensure that the management and support of offenders must be undertaken with regard to the safety of others in the community.

At stage 2, the Convention of Scottish Local Authorities expressed a number of concerns regarding how the proposals would impact on local government; whether the reporting mechanisms would be overburdensome; whether the funding that is available is sufficient to ensure that the new community justice partnerships work effectively; how councils would be involved in the national

assurance process; the relationship between community justice partners and the community planning process; and possible conflict between the national commissioning that is undertaken by community justice Scotland and the local community justice partnerships.

Those aspects were the subject of a series of stage 2 probing amendments lodged in my name, and I hope that the discussion at committee, and the subsequent discussions that I believe have taken place between the minister and COSLA, have allayed most of those concerns. That said, I think that the majority of committee members remain of the opinion that sufficient resources must be allocated to local partnerships to enable them to fulfil their duties, and I urge the Government to ensure that funding is monitored and any shortfalls rectified. I should also say that I am pleased that one of my own proposals that made it, albeit in altered form, into an amendment in my name—amendment 32—was agreed to by the Parliament this afternoon.

At stage 1, the committee heard evidence that the term “offender” could be considered as stigmatising, although it was not clear at that stage how that could be avoided. The minister reflected on the matter and introduced at stage 2 amendments that sought to remove the term and which replaced the word “reoffending” with “future offending”, thereby including people who at the time of engagement with community justice services have not been convicted of an offence. The minister made the same point again at stage 3 when he said that in our system people are innocent until proven guilty and should not be treated as guilty, even if they need to engage with community justice services. Such engagement will obviously be extremely important for, say, those on remand.

This is a short stage 3 debate, partly because there was so much agreement on so many of the issues raised at stage 1 and partly because of the agreement that was achieved at stage 2. However, the brevity of today’s debate does not reflect the importance of the matters that we are dealing with. We in Scotland and in the UK generally are overreliant on prison to deal with offending behaviour. We lock up a greater proportion of offenders; we lock them up for short periods during which rehabilitation and purposeful activity are difficult to achieve; and we often turn offenders out on to the streets to offend again.

Of course, victims and communities often want perpetrators of crimes to spend time in prison, sometimes to gain respite from offending behaviour and sometimes because of the lack of confidence in the alternatives to imprisonment. The eight community justice authorities established under the Management of Offenders

etc (Scotland) Act 2005 did not succeed; indeed, the Angiolini commission on women offenders and Audit Scotland identified problems in the system, particularly the lack of strategic leadership, accountability and capacity. The new structure must be able to rectify those deficiencies.

If community disposals are to be used more successfully, their effectiveness and robustness must be clearly demonstrated. Community disposals must work for victims and communities as well as those who are or who might be involved in offending behaviour, and there is still a job to be done to raise not only people’s understanding of but their confidence in community disposals. That work is now being progressed, as it needs to be.

The bill is intended to address the criticisms made of the 2005 act. During its passage through Parliament, its scope has been widened considerably; the role played by the third sector has been explicitly recognised; and the types of support that can prevent offending and reoffending have been cited in greater detail. I also note that members of the Justice Committee have received information on the development of the draft guidance, the national strategy and the national performance framework.

Given the amount of movement on and the improvements made to the bill, I do not particularly want to end on a sour note, but I think that there are still issues to address about the funding of local community justice projects. This week, the Justice Committee was advised that 12 projects supporting new or enhanced community justice services for women had twice been allocated one-off funding—most recently £640,000 that had been transferred from the Scottish Prison Service—because they had found it difficult to secure full local funding.

Although the Angiolini commission recommended that enhanced community justice services for women should be sustained locally, it is not at all clear how in the current financial circumstances these projects or the wider community justice services will be sustained financially. I want to put that point into the discussion, because it would be extremely unfortunate if all our good intentions foundered on lack of funds.

15:14

**Margaret Mitchell (Central Scotland) (Con):** I welcome this stage 3 debate on the Community Justice (Scotland) Bill, the final version of which is quite different from and a great improvement on the version that was presented at stage 1. The credit for that is largely due to the witnesses and stakeholders whose evidence proved invaluable in

helping the Justice Committee to amend the bill as it progressed through the legislative process.

The bill was introduced against a background of severe criticism of the current model from Audit Scotland and the commission on women offenders. The criticisms highlighted the model's limited impact on rates of reoffending; inconsistent service provision across Scotland; a lack of nationally agreed measures to assess performance; and an absence of strategic leadership and accountability.

Although the committee was told at stage 1 that the bill was merely enabling legislation, it soon became apparent that its provisions are more far reaching. They include provisions to define the parameters of community justice and to abolish the eight community justice authorities—perhaps the minister will address the Transfer of Undertakings (Protection of Employment) Regulations in that respect in his closing remarks. The bill creates community justice Scotland as the overarching national body that is charged with monitoring the delivery of improved outcomes and it delegates the local planning, delivery and monitoring of services to the 32 sets of community justice partners.

The bill paves the way for significant reforms to the community justice system. However, a key element that initially was noticeably missing was a focus on prevention and early intervention. Furthermore, the third sector expressed serious concerns that it risked being marginalised by the proposed new structure.

Stage 2 amendments from the minister, and particularly from Alison McInnes and Margaret McDougall, addressed those criticisms, resulting in a much improved piece of legislation. Early intervention was incorporated in the meaning of community justice, while the interests of victims of offending behaviour were acknowledged in the bill, which was a welcome addition.

However, the amended provisions have been modified today and, sadly, those in relation to prevention and early intervention have been removed completely. Despite the extensive feedback from stakeholders including Police Scotland, Sacro, Barnardo's Scotland and Victim Support Scotland, the Scottish National Party Government has rejected a holistic approach that encompasses early intervention and prevention. Many justifiably argue that that is a lost opportunity.

At stage 1 there was significant discussion about the relationship between the new body—community justice Scotland—and the 32 sets of community justice partners. Originally the model was presented to the Justice Committee as non-hierarchical, but during the scrutiny of the bill, it

became clear that the relationship was indeed hierarchical, which risks putting in statute a top-down approach to community justice when decisions should be taken at a local level on the basis of local need. However, assurances have been given about the flexibility that each of the 32 sets of community justice partners will be afforded. That issue is important, as is the funding that will be allocated to the partners, which remains unclear.

The original intention was for the bill to tackle reoffending alone and serve as a de facto vehicle for the Scottish Government's penal reforms, but the consultation on those proposed reforms has just been concluded and the responses have still to be analysed. Again, there is uncertainty as to how the proposals will pan out.

Given those unanswered questions and uncertainties, it did not seem unreasonable to insert a sunset clause. That would have made the new model for community justice subject to post-legislative scrutiny five years after royal assent, once any further changes to the criminal justice system and the penal system in particular had bedded in. It would also have ensured that the important stage 2 amendments that remain part of the bill were kept under review and properly monitored. I regret that that proposal was not supported at stage 3.

Nonetheless, there have been radical changes to the bill that mean that it now properly includes the third sector. Crucially, the changes recognise the importance of housing and homelessness services in helping to reduce reoffending by covering those issues in the bill. I confirm that the Scottish Conservatives will support the bill at decision time.

15:19

**Roderick Campbell (North East Fife) (SNP):** It is perhaps worth reflecting on the history of the bill, which was born from the commission on women offenders report in particular, and also the Audit Scotland report, as Margaret Mitchell mentioned. It is appropriate that we are debating the bill in the same week as we heard the justice secretary give a further progress report on the implementation of Dame Elish Angiolini's recommendations and make an important announcement on Cornton Vale. Community justice Scotland might not be quite the body that Dame Elish anticipated and it might not be able to commission, provide and manage adult offender services, but we should remember that there was insufficient support for a national model at the consultation stage.

We should also remember that improved outcomes require local input. I believe that

encouraging a presumption against shorter sentences is very much at the forefront of Government thinking, along with keeping women out of prison. We heard important evidence about the prison estate for women in committee this week.

In the committee, we heard a lot of evidence at stage 1 about the importance of alternatives to prosecution. Community justice must offer a credible alternative to the criminal justice system. We need to build on initiatives that work already and encourage local initiatives, while recognising the need for outcomes to be monitored at a national level and evaluated in a consistent manner.

As is well known, the bill does not cover primary prevention—that is, stopping offending in the first place—but I am heartened by the minister's comments on the link between primary, secondary and tertiary prevention being covered in guidance. Of course, the bill covers subsequent behaviour, and its success will be measured by the extent to which it prevents future or further offending.

The relationship between community justice Scotland and community justice partners is important, but I am not sure that we can glean much from the bill as to how that will work in practice, other than to stress that it is meant to be non-hierarchical. There must be reports, but community justice Scotland will certainly miss a trick if it becomes bogged down in annual reports, as Dame Elish Angiolini hinted when she gave evidence to the committee at stage 1.

Whether the bill will succeed in reducing a cluttered landscape appears arguable. I have come to the view that, given the number of parties that are involved in community justice, that is quite problematic. However, community justice Scotland needs to establish a rapport with local community justice partners, to demonstrate leadership and to offer appropriate assistance and advice. There should be a relationship based on mutual support to achieve agreed outcomes.

I hope that the new set-up will recognise the important role of the third sector, and I welcome the Government's responsiveness at stage 2 and earlier this afternoon. We need to ensure that the promised national strategy is developed with full input from not only the third sector but local government. It would be good to allay the concerns of COSLA, if at all possible, about what the new set-up will involve.

The new strategy needs to improve public understanding and, as Alison McInnes indicated at stage 2, it is also important to improve access to services such as housing. Discouraging reoffending will be made all the more difficult if

there are inadequate attempts to reintegrate people in the community.

It will no doubt be argued that, for the new arrangements to succeed, they must be adequately resourced. I agree but I hope that, over time, significant resources that go into the prison system can be diverted for better use in community justice.

This is an important bill. I wish it well on reaching the statute book and I congratulate the Government, stakeholders and other members in the chamber on the work that they have undertaken to make it the legislation that it is today.

15:23

**Margaret McDougall (West Scotland) (Lab):** I am particularly pleased to be taking part in the stage 3 debate on the bill because this is the first bill that I have seen through from start to finish since joining the Parliament in 2011. As such, it gave me a great sense of achievement to have my amendments supported today.

I thank the clerks and everyone who gave evidence to the committee, which helped to deliver what I hope is a strong and robust piece of legislation. I particularly thank Scottish Women's Aid, Victim Support Scotland and Barnardo's Scotland for their support with lodging my amendments. I also thank the minister and his legislation team for working with me on my amendments since stage 2 to find a form of words that was acceptable to all concerned.

I am grateful to the Justice Committee for agreeing to my amendment 95 at stage 2. Amendment 95 ensures that, when a prisoner is being released, the safety of other persons in the community, including victims of offences and their families, is taken into account.

At stage 3, the purpose of my amendments 28 and 29 was to place a specific reference to victims, communities and families in the bill. Amendments 30 and 31 were intended to ensure that the third sector is properly represented, consulted and engaged with by community justice partners when the partners prepare their plans and that the methods and outcomes are reported to CJS, which will comment on them and take action if required.

All those amendments had wide-ranging support from various organisations and stakeholders, including Women's Aid, Victim Support, Shelter and the community justice forum. I am happy that the Scottish Government supported them today.

Some issues that were raised during evidence still need to be addressed, and one is the funding of third sector organisations. As I said during the



stage 1 debate, we should be moving away from annual funding to a three-year model to allow for continuity and sustainability for the third sector organisations that provide many of the community justice services. That would reduce uncertainty and allow for planning for staff and service users. As the stage 1 committee report stated, those concerns have existed over a number of years, but no action has been taken. Perhaps the Scottish Government can confirm today whether the issue is anywhere near being resolved.

I am still concerned about the level of transitional funding to implement the bill. It is £1.6 million over the next three years, split among the 32 local authorities, which might not be enough to support the changes. That is even more crucial now that we know that local authority budgets are being cut again.

If community justice partners are to succeed in achieving their outcomes, they must be properly resourced, as my colleague Elaine Murray pointed out. Given that I raised the issue during the stage 1 debate, I ask the minister again whether he has considered the availability of resources for community justice partners to deliver the proposals in the bill.

I am happy to support the bill at stage 3, and I thank the Parliament for supporting my amendments today. With the passing of the bill, we will need to take a serious look at how we deliver community justice under increasing financial pressures. I am also keen that we find a solution to secure longer-term funding for the third sector.

15:27

**Alison McInnes (North East Scotland) (LD):** It is almost four years since the commission on women offenders published its report. Of its 37 recommendations, only one gave me serious pause for thought: that on setting up a national community justice service. Such centralisation seemed contrary to the rest of the report, which emphasised a tailored, community-based response.

Community justice services are—rightly—part of the local government family. The development of close links between criminal justice services, youth justice, social work, housing, education, drug and alcohol services and so on has meant that progress has been made on tackling the root causes of crime. I was concerned at the outset that such a change would be expensive and disruptive and would lead to the loss of integration with other local services.

I understood the frustration that led to that recommendation being made; indeed, I shared much of it. The commission's report described the

lack of opportunity for strategic leadership and accountability in the delivery of offender services in the community. It described the short-term funding and the difficulties in measuring impact, as well as the inconsistent service provision across Scotland. It told us that the interventions that are delivered in prison often cease at the gate.

Nevertheless, it quickly became clear that that was the one recommendation that did not carry broad support across the sector. Consultations on the proposal faltered repeatedly, which resulted in a number of iterations. Progress has been slow. When the bill was finally introduced, I was anxious that the proposals were perhaps a compromise too far.

We have heard a lot over the past few years about the cluttered landscape in the community justice sector. At stage 1, there was some scepticism as to whether the bill would do anything to tackle that. During the passage of the bill, however, the minister listened to those concerns, and his stage 2 amendments largely dispelled my fears. His note on the draft guidelines, which we received earlier this week, starts to fill in some of the detail.

I am pleased that the stage 2 amendments that I lodged were largely accepted by the Government in the spirit in which they were intended. Throughcare from prison into the community needs to be as seamless as possible. I am particularly pleased that I have been able to widen the definition of general services to include specific provision of appropriate housing.

This week, the Justice Committee took evidence on the Government's progress on implementing Elish Angiolini's proposals. It was heartening to sense that we might finally be at a turning point in bringing about progressive reform. Notwithstanding the tone of COSLA's letter today, I hope that the bill will foster a renewed drive for reform among all the community justice partners.

Many of the judiciary have, until now, been reluctant to use community sentences properly. It is to be hoped that community justice Scotland holds the key to unlocking greater confidence in community-based services and innovative approaches such as restorative justice.

Alongside the bill, we need to be ambitious about extending the presumption against short-term prison sentences. I have no doubt at all that, for many offences, prison is rarely the right answer. It is far better for community-based schemes to be the option of choice. Having offenders contributing locally, making reparations and doing work in the community that challenges and changes them for the better is a positive and constructive way of making amends, but it also ensures that offenders pay the penalty without

getting caught up in the prison cycle. I believe that well-resourced and well-structured programmes increase public protection, bring down the rate of reoffending and repay the damage done by crime in a way that custodial sentences cannot.

The Government must ensure that community-based reparations are properly resourced and rigorously assessed. I urge the minister to ensure that the experience and expertise that exist in the community justice authorities are, as far as possible, harnessed as we move forward. I echo Margaret Mitchell's comments about TUPE. If it was possible for the minister to consider the TUPE arrangements again, I would be grateful.

When the Liberal Democrats responded to the report of the commission on women offenders in 2012, I said that we would work with the Government to realise the goal of reducing reoffending. I noted that we would be in for a marathon rather than a sprint to the finishing line but that, ultimately, the prize would be worth it. That remains the case.

15:31

**Gil Paterson (Clydebank and Milngavie) (SNP):** It is a pleasure to speak in this stage 3 debate on the Community Justice (Scotland) Bill. Being a current member of the Justice Committee, I have seen the bill make its way through Parliament at all stages and I have heard from fellow MSPs, Government ministers and, of course, groups and organisations that have an interest in the bill.

I see from the policy memorandum that the aim of the bill is to

"help create a stronger community justice system based on local collaborative strategic planning and delivery, with national leadership, support and assurance".

It is on that basis that I will speak today.

The new model for community justice includes national leadership and oversight, and support for community justice services by a new body to be called community justice Scotland, and involves local strategic planning and delivery and monitoring of services by groups of community justice partners in each of Scotland's 32 local authority areas, with Scottish ministers being responsible for a number of matters, including a national strategy and national performance framework for community justice.

Specifically on the local element, I feel that the new model for community justice achieves an appropriate balance between strong national leadership to drive forward improvements in outcomes, and local flexibility and planning in delivery of services. The new model places decision making locally with the people who know

their communities best and who will be most affected by community justice issues. That means that local leadership and ownership of community justice are vital for the new arrangements' success.

Community justice Scotland will provide leadership and strategic direction for the community justice sector and will promote best practice. The bill clarifies the relationships that will be in place locally and between community justice Scotland and partners including the police, the Scottish Prison Service and the national health service. That will help partners to prepare for their roles and to understand key processes.

I understand that the responsibility for resolving any local issues rests with the local statutory community justice partners. However, should partners request assistance on issues that they have not been able to resolve locally, community justice Scotland will be able to offer support and advice.

The strength of the new legislation lies in ensuring that those who have paid their debt to society have the support in place to become valued members of the community.

Audit Scotland stated that there is an urgent need for a more strategic approach to planning, designing and delivering services at national and community justice levels. There are many different bodies involved in the planning, design and delivery of services for offenders—that range of bodies creates a complex landscape. The new model in the Community Justice (Scotland) Bill brings coherence to the cluttered landscape of criminal justice by providing for strategic direction, strong leadership and an holistic and collective approach to planning, reporting and commissioning of services.

I welcome the Scottish Government's commitment to reducing re-offending and securing better outcomes through community justice services, and that it is working in partnership with organisations and communities to reduce re-offending and deliver better outcomes for offenders and communities. The Scottish Government has a clear vision for fairer justice, with Scotland moving towards being a society in which those who have been through the justice system, having paid their debt to society, can realise their aspirations and be supported to be active and responsible contributors to our communities as fellow citizens. The Community Justice (Scotland) Bill will help to achieve that vision, so I commend to Parliament the bill and the Government's amendments.

**The Deputy Presiding Officer (Elaine Smith):** We turn to the closing speeches. I call Margaret Mitchell, who has five minutes, please.

15:36

**Margaret Mitchell:** Although the Scottish Government's amendments at stage 2 have done much to improve the bill, I consider it an opportunity lost to have removed from its scope the amendment that would have ensured early intervention and prevention. The minister attempted to give assurances to the Justice Committee that the Government is tackling primary prevention through its policies on early years provision, on raising educational attainment, on tackling youth unemployment, on health and on housing. However, that approach ignores the views of people on the front line, including Police Scotland, which advocated an holistic approach. Chief Superintendent Grant Manders said in evidence last September that

"for all this to be successful it is necessary to take a whole-system approach; it needs to be right from start to finish. That leads to the emphasis on prevention and early intervention ... For me, successful community justice is a whole-system approach. It would be nice if some of the language, experience and good practice were encompassed in the language of the bill."—[*Official Report, Justice Committee*, 15 September; c 44, 45.]

Sadly, despite the importance of early intervention in identifying people who are at risk of offending and in helping to prevent them from pursuing a life of crime being accepted wisdom, the Government has chosen to reject that holistic approach, which would have helped to improve the success of early intervention initiatives.

Consequently, the omission of prevention from the bill's provisions represents an opportunity lost for it to become a vehicle to address groups including young carers who, due to their caring role, sometimes miss school or further education studies, which can have an impact on future employment and career prospects. Although the new Carers (Scotland) Bill addresses some of the problems, during a recent visit to the young carers centre in Falkirk I was reminded by people who support young carers that there are still young carers who leave school without qualifications or training but who have immense caring responsibility on their young shoulders. As the Carers Trust explains, that in turn means that for those young people there is

"a greater danger of developing mental or physical health issues and a higher likelihood of offending and becoming involved with the justice system."

So, although I welcome what the Scottish Government is doing with primary prevention across the different portfolios, I do not believe that it has to be an either/or approach. Instead, by expanding the bill's scope, the Government could have complemented and strengthened work that is already being carried out. Crucially, that would have provided young carers and other organisations access to another funding stream to

sustain tried and tested work, rather than requiring additional funding—I think that that addresses a point that was made by Roddy Campbell.

So, there remains a question mark over the broader and longer-term implications of the bill. In the absence of a sunset clause, it will be incumbent on Parliament in the next session to monitor the bill's impact closely.

Notwithstanding those comments, the bill that is before us today is, as I stated at the outset, much improved from the version that the Justice Committee scrutinised at stage 1. The new provisions seek to implement many of the recommendations that were made by Audit Scotland, the commission on women offenders and a range of stakeholders. The recognition of the importance of housing and the vital role that the third sector plays in tackling re-offending are particularly welcome. The Scottish Conservative Party will support the bill at decision time.

15:40

**Graeme Pearson (South Scotland) (Lab):** I am grateful for the opportunity to contribute to the debate. First of all, I will allude to a number of the key points that were raised during the earlier stage 3 amendments debate. Alison McInnes, Elaine Murray and others made the important point that dealing with offending begins long before an offence or a crime is committed, and the minister acknowledged that that was a well-made point. Indeed, we must hold on to the need to join up the system that lies behind the bill.

Margaret Mitchell quite properly raised the issue of TUPE, as well as the need to ensure that resources are available to those who will implement the legislation. Although Labour members were unable to support the inclusion of a sunset clause, its not having been agreed to by implication places an additional responsibility on the Government to ensure that the fears that have been expressed in Parliament today are without foundation and that, as we go forward, a sunset clause would be redundant.

I want to comment on the minister himself. Today he has again demonstrated his ability not only to hear Opposition parties' amendments, but to respond to them—quite idiosyncratically, in my experience of this chamber—in an effective way that does not scupper progress. I commend that approach to other members of the Government. It would be a refreshing way forward.

Roderick Campbell in the stage 3 amendments debate touched on the new set-up that we are discussing. Under the bill, eight CJAs will be replaced by 32 community justice partnerships—one per local authority. A national organisation—community justice Scotland—will be established

with powers over performance, promoting improvement and so forth, and the Scottish ministers will be required to publish a community justice strategy. Nevertheless, when we look at the experience of reforming emergency services, we see that such reform will demand a great deal of attention from the minister and officials. From this day forward, they will need to ensure that the relationships are productive, that the method by which the various organisations are wedded works and that, at the end of the day, those to whom we seek to provide solace—the communities that we serve—see an alternative to prison that works and shows value for money. That important responsibility lies ahead for the minister and the Cabinet Secretary for Justice in a new Government.

However, we know that the eight CJAs did not work; indeed, we know that, other than the chairs of the CJAs, it is difficult to find anyone in Scotland who thinks that they worked. In that circumstance, it is all the more important that the local community networks, the authorities and others contribute positively and honestly. If the set-up does not work, it must be fixed and not left for another five years to soldier along at public expense, and to the detriment of the very people whom we seek to protect—those who may offend in the future. Let us ensure that we deliver.

COSLA made important comments in its briefing before our debate today about governance, which is an aspect that let down the emergency services reform. It mentioned the lack of effective governance—the lack of an expectation that meetings would take place and that designated chairpersons would accept the responsibilities that they were given and ensure that relationships worked in the 32 local authority areas.

Also, in my time on the Justice Committee we saw a great deal of duplication of effort in commissioning of functions, with organisations bumping into each other, competing over the same turf, spending the allocation of public money to their groups but not delivering additional value. Therefore, the comment in COSLA's briefing about commissioning functions and the need to ensure local prioritisation is important, so I was pleased to hear the minister give full force and strength to that in his opening speech.

The final aspect on which I will comment is the ability of the third sector to play its part. As other areas of public life are, the third sector is under stress. There is no point in trying to engage with that sector and to expect it to pull its weight alongside public authorities unless we are willing to offer it the support that it needs, and to give it access to public sector relationships to the full. Various organisations, including Victim Support Scotland and Scottish Women's Aid, spend as

much time on trying to get funds so that they can do the work as they do on the work itself.

I join Margaret McDougall in thanking Victim Support Scotland and Scottish Women's Aid for the contribution that they have made to the debate. Having watched the bill going through its various stages, I am grateful to the clerks and to the members of the Justice Committee, because their work, in conjunction with the minister's, has produced a bill that is a great deal healthier than it was to begin with. The bill drafters have, as usual, worked like Trojans to produce something that looks as though it makes sense. I hope that the Government will be able to enforce it in a way that we will all be able to applaud in the years ahead.

15:47

**Paul Wheelhouse:** I am grateful to members for their contributions to the debate. The thoughtful nature of the speeches from around the chamber marks the way in which the committee and other members have engaged in developing the bill. I agree with members that it is a stronger bill now than when we started. That is a tribute to everyone's work.

As Dr Murray stated, the brevity of the debate is an inaccurate measure of the bill's importance. I fully agree with her that it has profound implications for the delivery of justice in Scotland. As I said in my opening remarks, the bill has enjoyed strong cross-party support from the start. It is clear that there is a great deal of interest in community justice across the chamber, and I welcome Margaret Mitchell's comment that the Conservatives will support the bill.

In responding to members' comments, I will focus on a number of key issues. I will start with the biggest issues, which relate to TUPE and funding, and then cover the rest as we go on. I apologise to Margaret Mitchell for not addressing those issues in my earlier remarks.

The Scottish ministers are satisfied that the bill does not create a Transfer of Undertakings (Protection of Employment) Regulations situation for community justice Scotland. The functions of the CJAs will not transfer to community justice Scotland when it is established, so the employees of CJAs will not automatically move to community justice Scotland under the operation of TUPE or the Cabinet Office statement of practice. Whether TUPE would apply to the transfer of CJA employees to local authorities will be a matter for local authorities as potential employers to consider.

The no compulsory redundancy policy to which a number of members referred applies to staff of bodies that are covered by the public sector pay policy. CJAs were established as new local

government bodies to facilitate the co-ordinated delivery of community justice services by local authorities across local authority areas. As CJAs are local government bodies, their employees are not subject to the public sector pay policy or the no compulsory redundancy policy.

However, my officials are working with the CJAs and local authorities to ensure that staffing arrangements at the community justice authorities are managed to minimise as far as possible any job losses when CJAs are disestablished and that, where that cannot be avoided, staff will be appropriately compensated. We have been considering closely the terms and conditions to ensure that everybody receives fair treatment in respect of those matters.

**Margaret Mitchell:** Is it possible that there could still be some compulsory redundancies?

**Paul Wheelhouse:** I will happily come back to the member on that. Detailed negotiations are taking place at local level, and there are different policies in place across the eight different CJAs. I will respond to the member after the meeting, because there are sensitivities around the negotiations with employees.

I turn to transitional funding and the longer-term funding position. Ensuring that partners build their capability and capacity to work together to achieve improved outcomes is critical to a successful transition to the new model for community justice, so the Scottish Government has established a transition workstream and a post in COSLA is leading on that. To support the workstream, a working group meets regularly and is taking forward much of the work plan for transition. The group has representation from the Scottish Government, community justice partners, people with convictions, COSLA, CJAs, community planning partnerships and the third sector.

A wide range of transition work has been done so far. Indeed, I spoke at a national event for stakeholders at Murrayfield last autumn, where 120 people from all over Scotland gathered to discuss the common outcomes and national strategy for community justice.

At the end of January, one of the key milestones for CPPs was the preparation of transition plans. The transition plans are focused on the structures, governance and resource arrangements that the partners intend to put in place to implement the new model locally. The plans also set out each authority's plans for engagement and involvement with the third sector, service users, people with convictions and communities on local arrangements, planning and delivery in 2016-17. That preparation work will help community justice partners to prepare their first community justice plans by January of next year. I am pleased to say

that nearly all the plans have been shared, and comments will be provided with a view to further supporting a successful transition.

On resourcing, to help build capability and capacity locally, transitional funding of £1.6 million has been paid for 2015-16 and confirmed for 2016-17. That money is split equally, with each CPP receiving £50,000. I have encouraged COSLA and its members to supply us with evidence of how it is using that transitional funding, as that will reveal whether there are any bottlenecks or constraints that we can help to address. I invite them to do that, because it is important that we know whether they are experiencing problems in meeting expectations with the resources that we have provided. We have a one-year funding settlement this year, but after the election whichever Administration is in place will have the opportunity to take a longer-term view in light of the next spending review. Our intention is for the funding to be available for three years, commencing in 2015-16 and ending in 2017-18, but that position will be reviewed following the election.

The third sector also has an important role to play in the planning, delivery and evaluation of community justice and has been granted transitional funding of £50,000 per annum for three years through the criminal justice voluntary sector forum. Again, that is subject to the outcome of the next spending review.

As far as the on-going funding for community justice partners is concerned, the Government's position is to consider and reflect on the evidence on how the three-year transitional funding is being used. I picked up the fact that members across the chamber want to ensure that we help the third sector in particular to deal with the year-on-year chase for funding, and we are looking to review that as part of the review of section 27 funding. A technical advisory group was established to consider the work of developing a new formula for section 27 funding to replace the current one. A move from an annual system of funding to a three-year funding model is one of the issues that are being considered by the main funding group. The advisory group reported to the main funding group in December, and following discussion between the Scottish Government and COSLA recommendations will be made to the joint Scottish Government-COSLA settlement and distribution group. It is intended that the new funding formula for section 27 will go live in 2017-18. We are looking at the context of three-year funding cycles in that discussion.

I turn to other points that were made. Alison McInnes, Elaine Murray and Graeme Pearson all spoke about the need to give the judiciary and communities confidence in community sentences.

Community justice Scotland has a particularly important role to play in leading on the preparation of evaluation evidence, disseminating that evidence and giving confidence to all parties that community sentences have an effective outcome and can be more effective than custodial sentences in driving further improvement in that area.

I thank Graeme Pearson for his potentially career-limiting remarks on my engagement with Opposition members in the chamber; I am very grateful for his kindness.

To pick up on Alison McInnes's point, I have very much tried to reflect the spirit of the amendments that were lodged and to ensure that we did not lose anything that was good in them in trying to tidy up the wording.

I thank Margaret McDougall again for raising the issue around victims and families. That was, of course, supported across the committee. That was an important intervention, and I hope that it will help to strengthen the bill and build buy-in from wider communities for the bill and its intentions.

The intention is certainly to continue to review the implementation. I assure Graeme Pearson that, if I am fortunate enough to have a role, the Government will take very seriously its responsibilities to ensure a smooth transition. My successors will certainly do that if I do not have a role.

I take the point about the marginalisation of primary prevention. I understand that Margaret Mitchell made a sincere point, and I hope that we can in due course convince her and others who are concerned about that matter that, through the guidance and the work through the justice board in ensuring that community justice Scotland works alongside other partners, how secondary and tertiary prevention work alongside primary prevention strategies such as the youth justice strategy will very much be looked at. Obviously, the justice board has a key role in ensuring the implementation of that strategy.

I certainly agree with Roderick Campbell, Alison McInnes, Graeme Pearson and Gil Paterson on the need for community justice Scotland to develop a rapport, to take a strategic view, to lead in a strategic way, and to provide advice and support where they are needed and when they are requested. I very much hope that that model will develop.

I welcome the support for the bill's objectives from across the chamber. The bill provides the legislative basis for the new model for community justice in Scotland and establishes a new national body—community justice Scotland; places specific duties on statutory partners regarding the achievement of community justice outcomes; and

introduces a national strategy and an outcomes, performance and improvement framework. It is a good bill, and members can be satisfied about the role that the committee and the chamber have played in making it strong.

The bill brings together a number of elements, but what we are really talking about is addressing the underlying causes of offending behaviour in a strategic and collaborative way so that people who have committed offences are supported, as Gil Paterson and others have said, to be responsible contributors to our communities. That, in turn, makes our communities safer and stronger. That is what matters to me, and I am sure that that is what matters to members across the chamber. I therefore urge members to support the bill so that we can begin the work to deliver its objectives of reducing future offending and making our communities safer.

## Burial and Cremation (Scotland) Bill: Stage 1

### **The Deputy Presiding Officer (Elaine Smith):**

The next item of business is a debate on motion S4M-15608, in the name of Maureen Watt, on the Burial and Cremation (Scotland) Bill.

15:57

**The Minister for Public Health (Maureen Watt):** I thank the Health and Sport Committee, the Local Government and Regeneration Committee and the Delegated Powers and Law Reform Committee for their detailed consideration of the Burial and Cremation (Scotland) Bill and for supporting its general provisions. I have written to each committee to respond to their recommendations. I want to use this opportunity to explain how I have responded to some of those recommendations and to impress upon members the value of the bill.

The Local Government and Regeneration Committee suggested that the bill lacks ambition. I disagree with that view. The bill is an important one that will make valuable and much-needed improvements to the way in which burial and cremation are carried out in Scotland. The current legislation is over 100 years old—indeed, the current burial legislation dates back to 1855—and it strains to meet current expectations.

Few of us wish to think about the subject matters that the bill deals with, but they affect all of us at some point. When we need to arrange a funeral, it is essential that processes are easy to understand, consistent and reliable, and we need to know that our loved ones will be treated respectfully and with dignity. The current system does not ensure that that is necessarily the case, and the bill will rectify that.

There are a number of problems with the current system. There is a lack of consistency in some important processes, and those processes can be complicated and difficult to understand at the best of times, let alone when dealing with the loss of a loved one. There can also be a lack of clear information given to the person who is making the funeral arrangements. Lord Bonomy's infant cremation commission identified all too clearly the potential impact of these problems. The steps that are taken in the bill will help to ensure that such failings can never occur again.

The Health and Sport Committee's report made a number of recommendations to further improve the processes that are set out in the bill, and I thank the committee for the rigour with which it has considered the bill. In my response to the committee, I confirmed that I will accept many of

its recommendations, and I believe that the bill will be stronger for that.

In setting out what will happen after a pregnancy loss, the bill ensures that the woman who has experienced the loss is at the centre of the decision-making process. I intend to lodge stage 2 amendments to further support an even more person-centred approach to deciding what should be done with the remains of a pregnancy loss. That will ensure that no woman is ever rushed into making a decision and will provide extra flexibility where a woman needs more time to decide what she wants to happen.

I will also lodge amendments to improve the process following a post-24-weeks termination. Although such situations are relatively rare, it is important that there is a consistent approach in which a woman is given clear options and is supported to make a decision that is right for her. I will also lodge amendments to protect the woman's medical confidentiality in that situation.

The Local Government and Regeneration Committee expressed concerns about the bill's lack of provision regarding the siting of crematoriums. Many people who gave evidence to the committee believed that the bill should replicate the existing minimum distance provision in the Cremation Act 1902, which prevents a crematorium from being built within 200 yards of a house without the consent of the householder. I do not believe that including such a provision in the bill is necessary.

The location of new crematoriums, as well as other developments close to existing crematoriums, is rightly a matter for the planning system. Matters to do with emissions from crematoriums are regulated by the Scottish Environment Protection Agency. Those two regimes provide appropriate levels of control over the location and operation of crematoriums. An additional distance restriction set out in the bill would have no function that is not already provided for by one or other of those regimes. I therefore do not believe that there is any particular benefit to the inclusion of a minimum distance in the bill.

In my response to the Delegated Powers and Law Reform Committee, I indicated that I have accepted many of its recommendations. In particular, the committee was keen that the bill itself said more about what might be done with ashes, rather than leaving that to secondary legislation. I accept the committee's view about the importance of that, and I intend to lodge amendments to strengthen the bill's position on what crematoriums and funeral directors may do with ashes, particularly where they have not been collected by the family as arranged.

The committee also raised concerns about setting out particular offences in secondary legislation. I have reviewed that approach and I am able to confirm that I will bring forward a number of amendments to remove offences that would have been set out in regulations. However, I believe that in some instances the approach remains appropriate.

All three committees commented on the approach to the inspection regime that is set out in the bill, as well as the potential licensing of funeral directors. The bill sets out significant detail about inspection and the role of inspectors. That includes inspectors' duties, sanctions against poor practice or breaches of regulations, reporting arrangements and accountability.

I intend to lodge an amendment that will help to clarify the inspection function further on the face of the bill, but it is right that the framework for inspection is set out in the bill while the detail of the day-to-day operation of the scheme remains for secondary legislation. The bill places ministers under an obligation to consult stakeholders before making regulations about inspections, and those regulations are in turn required to be approved by the Scottish Parliament, using the affirmative procedure.

There was also a collective view that more details of the proposed licensing scheme for funeral directors should be set out in the bill. I do not think that that would be the right approach. The bill sets out the key principles of a licensing scheme, including that a funeral director will require a licence to operate, if a licensing scheme is indeed established. Details of the operation of the scheme will be prescribed in regulations, and the bill sets out what such regulations may cover.

At the moment, there is not enough evidence about the industry as a whole to say with certainty that licensing is required or what form a licensing scheme would take. Although we have heard accounts of poor practice by funeral directors, I believe that most companies provide a good service. Nonetheless, I am keen that standards are improved throughout the industry and that meaningful sanctions can be taken in response to poor service and bad practice. That is why I intend to use inspectors appointed under the bill to review the industry and make recommendations about the need for licensing and how licensing could most effectively operate. Although that may delay the implementation of a licensing scheme, I believe that that is the way to ensure an effective licensing scheme that will support consistent high standards across the industry.

I look forward to hearing the contributions of members.

I move,

That the Parliament agrees to the general principles of the Burial and Cremation (Scotland) Bill.

16:06

**Duncan McNeil (Greenock and Inverclyde (Lab)):** I begin by thanking the many stakeholders who submitted evidence on the bill, particularly the parents who generously shared with the committee their difficult experiences of losing a baby or a pregnancy. The evidence greatly assisted us with our deliberations and our understanding of the issues—that is reflected in our stage 1 report.

The loss of a baby is one of the most heartbreaking things that can happen to a parent. The excitement and anticipation of family renewal and a new birth turn to shock, grief and trauma. Add to that the experience for a parent of not knowing what happened to their baby's ashes and there is a long-lasting and devastating impact on those affected. The bereaved parents who shared their views with the committee sent a clear message: the bill must ensure that the poor practice of the past never happens again.

The bill's policy memorandum states that its purpose

"is to provide a modern, comprehensive legislative framework for burial and cremation."

The evidence that we received welcomed the bill's intention and the committee supports its aims.

A key purpose of the bill is to give effect to a number of recommendations that were made by the burial and cremation review group and the infant cremation commission. We therefore examined how the bill addresses circumstances involving pregnancy loss and the loss of a baby. We made a number of recommendations to the Scottish Government in our stage 1 report about strengthening the relevant provisions in the bill. I welcome the minister's confirmation that she will introduce stage 2 amendments to address many of our concerns. Time does not allow me to address all the recommendations, so I will instead focus on a couple of the key issues. As my speech will use the terminology of the bill, I apologise in advance if my use of that terminology causes anyone distress.

A key objective of the bill is to establish a clear and unambiguous understanding of "ashes". It defines "ashes" as not including metal and defines "cremation" as

"the reduction to ashes of human remains by the burning of the remains and the application to the burnt human remains of grinding or other processes."

We agree with that definition, which accords with the infant cremation commission's recommendation. The Stillbirth and Neonatal



Death Society UK also considered that the definition matched the understanding that many parents have of ashes.

However, stakeholders from the cremation industry raised concerns about the definition of cremation in the bill. They explained to the committee that the term “cremulating” was preferable to the industry. The committee also heard concerns that certain faith groups and nationalities do not wish burnt human remains to be cremulated. Their evidence made it clear to the committee why the terminology in the definition must be clear and accurate, and I seek clarification from the minister that the guidance for cremation professionals will ensure that, when appropriate, they must explain the process of cremulation to the bereaved so that they can make an informed decision about whether to proceed.

The bill provides for a number of different timescales in which women are invited to consider what arrangements to make after losing a pregnancy. We have called for the statutory timescales for decision making and the disposal of remains that are in the bill to be made more flexible. That is essential to allow women to make their decisions as quickly or as slowly as they wish.

Although we welcome the Scottish Government’s confirmation that it will consider amending the bill at stage 2, I seek clarification from the minister about the range of factors that she considers will enable health authorities to delay the disposal of remains after the end of the six-week period, such as when a woman is waiting for welfare payments or for a social fund funeral payment, or she remains incapacitated.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** It has occurred to me that there is in a tiny proportion of cases the perinatal death of the mother. Has the point been made that such rights might also be extended to the father in those very limited but critical circumstances?

**Duncan McNeil:** That is not something that we looked at particularly, but the member has made a good point. The minister is here and she might wish to consider that further.

The committee also welcomes the provisions in the bill that set out who may make arrangements for burial and cremation following the loss of a child; they might cover the issue of the mother’s death that Stewart Stevenson brought up. However, we are concerned that the approach might not be suitable for women who undergo a medical termination after 24 weeks when the laws of confidentiality might preclude relatives from being contacted or when the woman has no family or her family is unwilling to make arrangements. I welcome the minister’s confirmation that the

Government is considering amendments to address that, but I would welcome more information on the terms of those amendments.

In summary, we welcome the policy intention of the bill and agree to its general principles. However, the bill must be strengthened to ensure that previous poor practices never arise again.

16:13

**Kevin Stewart (Aberdeen Central) (SNP):** As convener of the Local Government and Regeneration Committee, it is my job to share with members the main points that arose during my committee’s scrutiny of the Burial and Cremation (Scotland) Bill at stage 1. Our locus was primarily the processes that support burial as an option for the future, and some discrete areas relating to cremation, including the siting of crematoria. We also considered the proposals on inspection and licensing of the funeral industry. An additional area of focus for us, although it is not directly addressed by the bill’s provisions, was funeral costs, which are sometimes referred to as funeral poverty.

Before I cover our deliberations in more detail, I record the committee’s support for the general principles of the bill. There is no doubt that the bill is required in order to modernise the archaic legislative framework.

To assist us with our scrutiny we sought the views of people who work in the funeral industry, and we heard from a diverse stakeholder group, including the Muslim Council for Scotland, the Commonwealth War Graves Commission, Citizens Advice Scotland and the Scottish Prison Service. We received a total of 33 responses to our call for evidence and we thank all those who shared their views with us. Interestingly, there were no responses on the generality of the bill and its impact on them. We found that surprising, given the bill’s potential to impact on everyone. As the oft-quoted Benjamin Franklin said,

“In this world nothing can be said to be certain, except death and taxes.”

Why the lack of engagement? We believe that it was due to the lack of detail in the bill. How can members of the public or stakeholders be expected to comment on the policy if they cannot comprehend how it will work in practice? We have requested more detail on three key areas: the management of burial grounds scheme, the independent inspection regime and the proposed licensing scheme.

The bill’s principal aim is to modernise the legislative framework. As we have heard, the existing legislation that we have to deal with and update is quite old. We have an industry that is steeped in tradition, which is not necessarily a bad

thing. However, funeral businesses, just like other businesses, have to operate and compete in the modern digital world. Electronic record keeping is no longer a nicety—it is a necessity. Disappointingly, the bill has fallen short of requiring electronic record keeping, so we recommend that that be remedied.

The bill largely preserves the existing approach—albeit with some modifications to bring the legislation into the 21st century. We believe that the bill could fundamentally change how the funeral industry operates, and by doing so send a clear signal on service standards and costs. As we have heard, the bill is a response to poor historic practices in the funeral industry.

Although we welcome the introduction of the inspection regime, we consider that the package of measures in the bill can be strengthened through swift introduction of licensing. Licensing will ensure that certain standards have to be met, and it will mean that we do not have to rely on existing voluntary schemes and codes of practice that have no effective sanctions for non-compliant businesses.

Licensing also has the potential to address rising funeral costs. Funeral industry figures reveal healthy profits and a sector that is continuing to grow. The figures for one company, Dignity plc, show that, for crematoria, underlying profit as a percentage of revenue was 53 per cent in 2014. Revenue from funeral services was £184 million and underlying profit was 36 per cent. Meanwhile, Fraser Sutherland of Citizens Advice Scotland told us that in 2014-15 it had a 35 per cent increase in the number of clients who were concerned about funeral issues and affordability, with the average cost of a funeral now being £3,550.

The cost of funerals can vary from street to street in a single town. We consider that a licensing scheme has the potential to require the funeral directors to display tariffs. That, we believe, would make it easier for people to make an informed choice at what is an extremely emotional time for a bereaved family.

Costs across local authorities vary widely, too. The Western Isles Council charges £694 for purchase of a lair and internment, whereas East Dunbartonshire Council charges £2,785. We found that the reasons for that are varied and complex, but cross-subsidy of other services could be a factor. We welcome the Scottish Government's commitment to requiring local authorities to publish their costs online, as some do currently. We also thank the Scottish Government for providing the committee with an update on its review of funeral costs and its development of a successor benefit to the Department for Work and Pensions funeral payment.

In the short time that I have left, I will touch briefly on sustainability of burial grounds. Reuse of lairs is essential if burial is to continue as an option in the future. It will be for burial authorities to make best use of the new powers. We welcome the ending of the sale of lairs in perpetuity and consider the introduction of a new limit of 25 years in the first instance as appropriate.

In conclusion, we support the general principles of the bill and look forward to the Scottish Government addressing the technical points that we have raised.

16:20

**Jenny Marra (North East Scotland) (Lab):** I rise to open for Scottish Labour, which will support the general principles of the bill at decision time.

The legislation that has been in place for burial and cremation is outdated now. As the minister said, the previous legislation that was passed on the subject was the Burial Grounds (Scotland) Act 1855. This is our chance to update our law and guidance for all those involved, including funeral directors, local authorities and the industry of burial and cremation.

The act of burial or cremation is such an important time in many families' lives, following the sad loss of a loved one. It is important in our civilised society that we get those things right. The bill comes at an appropriate time because we know that, in recent years, we have not always done so. Just last year we heard about the tragic case of Ciaran Williamson, an eight-year-old boy who was crushed and killed by a gravestone that fell on him as he played with his friends in Craigton cemetery. That tragedy is unfortunately not an isolated incident—a teenager was trapped and injured by a gravestone in the same graveyard five years previously, and it is estimated that there are more than 20,000 stones that are damaged, unstable and potentially hazardous in graveyards throughout Scotland. I am sure that every MSP in the chamber has only to think of their own constituency and local community where gravestones are starting to crumble and fall, posing a hazard.

The bill comes at a time when we need to manage burial grounds better, and we have the chance to redesign the supply of burial space and put in place licensing codes of practice and regulation. The cases of children and young people being hurt by gravestones are concerning, as many of our burial sites have fallen into disrepair. In Burntisland, a 900-year-old church was granted funding from the Heritage Lottery Fund to preserve the church itself and the graveyard, and the rich cultural heritage that the area holds. Our graveyards can be our heritage. In

Dundee, the Mains castle graveyard in Caird park was falling apart in 2013, and it took historians and local groups to highlight not only the danger that the crumbling stone posed, but the need to preserve local social history and local records.

The bill will support burial authorities in managing and maintaining graveyards. At present, there is no single source of guidance, and there is a lot of uncertainty about what can be done and by whom. We know that, after about 25 years, many graves are unfortunately no longer visited. If friends and family are no longer visiting the graveside to see the damage that weather and temperature have done to stones and memorials, we need another authority to step in to ensure that sites are safe and well maintained.

Space is becoming an issue for some local authorities, particularly in the islands. Available land for burial is decreasing, so we need to ensure that we have a long-term sustainable plan for burial grounds, including and maintaining the option for burial.

I turn to funeral costs, which Kevin Stewart and the minister have addressed. The cost of a funeral, as we all know from the very good work that CAS does and from our surgeries and representations from our constituents, is a worry for many families throughout Scotland. Figures from the accounts of Dignity, the large American company that owns many of our crematoria, show that between 2010 and 2014 its profits increased by 34 per cent. In Scotland, there are more than 1,000 funerals a week, and as Kevin Stewart has pointed out, the average cost of a funeral is £3,500. Some families have to resort to payday loans to pay for the funeral of a family member, and at a time of grief and loss, that is a huge burden on those who are already suffering from the worry of finding that money. Many families simply do not have it, and some have had to resort to the indignity of unmarked graves. By encouraging openness and transparency with regard to the true cost of funerals, we can begin to challenge that situation and ensure that every family is treated with dignity and fairness.

Just last week, Citizens Advice Scotland called on the Scottish and United Kingdom Governments to support those who are struggling to pay for funerals, and I welcome the Scottish Government's decision to speed up its decision on funeral payments and meet the target of processing applications within 10 days. I have heard first-hand accounts of delays in DWP decisions on such applications, which lead to great stress about meeting funeral payments, so I look forward to the outcomes of the Scottish Government's forthcoming national conference on funeral poverty and its consideration of the funeral

bonds scheme, which I am sure could be a help to many people.

I thank the Health and Sport Committee in particular for its scrutiny of the very sensitive issue of baby ashes and crematoria. Scottish Labour welcomes the fact that the bill will complete 25 of the infant cremation commission's 64 recommendations, and I thank the committee convener, Duncan McNeil, for speaking in detail and very sensitively about the issues that were raised. What happened with infant ashes should never be allowed to happen again, and we must ensure that women are at the centre of decisions that are made at what is a very difficult time. I welcome the minister's commitment to lodging amendments at stage 2 to give women the time to make decisions after pregnancy loss.

I see that I am out of time. I will close my remarks there, Presiding Officer.

**The Deputy Presiding Officer:** I can allow you a few more seconds.

**Jenny Marra:** I will continue with my remarks in my closing speech. Thank you.

16:27

**Nanette Milne (North East Scotland) (Con):** There has been a general welcome for the Scottish Government's intention in the bill to

"create legislation which is fit for twenty-first century Scotland",

because much of the law governing burial and cremation dates back well over 100 years and is increasingly unfit for purpose in today's society.

As we know, the Health and Sport Committee, as the lead committee for the bill, focused on the bill's proposals for the burial and cremation of babies, foetuses and early products of conception. It will be appreciated that this is a very sensitive area, particularly in light of the major emotional trauma suffered by many parents who a few years ago became aware that they were unable to trace what had happened to the remains of their offspring after cremation. Those people, who are still very much affected by what happened, are concerned to ensure that the same does not happen to parents in future.

Being very mindful of how people felt, we did our best to take evidence as sensitively as we could. To that end, we received some evidence anonymously via email and telephone, and we had a very worthwhile private meeting with a number of bereaved parents, who contributed significantly to our understanding of the issues to be considered. The committee clerks were very sensitive in their approach to witnesses, and I, too, want to thank them for their painstaking work on

the bill. I also thank all the witnesses, particularly those who were personally affected.

In my opening speech, I will focus on the burial and cremation issues that are dealt with in the Health and Sport Committee's stage 1 report, while in my closing speech I will take a broader look at the bill. Although Scottish Conservatives will support the bill at stage 1, we have a number of concerns that I hope will be resolved by amendment at stage 2. In saying that, I appreciate the minister's intention to lodge several significant amendments at that time.

The discovery in 2012 that cremation authorities in Scotland had different practices for the recovery of ashes from the cremation of babies, and the severe distress that that discovery caused bereaved parents, led, as we know, to Dame Elish Angiolini's report on practice at Mortonhall crematorium and the establishment of the infant cremation commission chaired by Lord Bonomy, which examined the policies, practices and legislation related to the cremation of babies in Scotland and which reported its findings in 2014.

As Jenny Marra said, the commission made 64 recommendations, including on the appointment of an inspector of crematoria. It is expected that the bill will complete 25 of the commission's recommendations, the majority of which are focused on providing a more constant and robust process for applying for the cremation of babies, fetuses and pregnancy loss.

A voluntary code of practice on baby and infant cremations was published last December, and the bill will make the code binding on relevant authorities in the funeral industry.

A key part of the bill is the definition of "cremation"; in particular, a definition of "ashes" will be key in order to establish a clear, unambiguous understanding of what is meant by the term. Lord Bonomy recommended that it should mean

"all that is left in the cremator at the end of the cremation process and following the removal of any metal",

and the bill defines the term within the context of Lord Bonomy's definition.

It is now expected that ashes will be recovered in most circumstances following infant cremation; if not, that will be investigated by the inspector of crematoria.

The historical practice by some cremation authorities of disposing of ashes without the knowledge or consent of bereaved parents has had a devastating and long-lasting impact. It is such an important and sensitive issue that the committees looking at the bill think it crucial that the Government's policy on that should be set out clearly on the face of the bill, and that any aspect

of the policy that is subject to subordinate legislation should be subject to the Parliament's affirmative procedure. The Government's commitment to amend the bill to that effect is welcome.

I do not have time to go into detail on all the other provisions of the bill, but I will touch on one or two. In relation to the disposal of pregnancy loss, it is clear that there needs to be a more sensitive and systematic approach across Scotland, treating the mother with dignity and understanding, and setting out clearly to her the various options available, as well as giving her time to come to terms with her loss. Likewise, with stillbirth and neonatal death, there is a real need for better engagement with bereaved parents, support in making arrangements for burial or cremation, and help with form filling at a time of distress and high emotion.

Application forms for burial and cremation need to be clear, sensitive and easy to understand if bereaved parents are to be expected to complete them. The development of statutory application forms is welcome, although I appreciate that there are some differences of opinion regarding the detail that are yet to be sorted out.

As I have tried to indicate, there are very real sensitivities around the issues that were discussed by the Health and Sport Committee in relation to the disposal of the remains of babies, fetuses and early products of conception. The bill goes some way towards ensuring that past bad practice will not recur, although it will need to be refined as it goes through the next stages of the Parliamentary process. I look forward to the minister's stage 2 amendments.

I will finish at this point because, as I said at the outset, I will deal with some other aspects of the bill in my closing speech.

#### **The Deputy Presiding Officer (John Scott):**

We now move to the open debate. Mr Don will speak on behalf of the Delegated Powers and Law Reform Committee.

16:32

#### **Nigel Don (Angus North and Mearns) (SNP):**

As you say, Presiding Officer, I speak in my capacity as convener of the Delegated Powers and Law Reform Committee. The committee has continuing concerns about the bill and accordingly agreed that I should contribute to the debate.

I begin by welcoming the Scottish Government's willingness to respond to many of the committee's comments on the bill. The committee raised concerns about the number of delegated powers in the bill relative to its size and considered that more detail should be set out on the face of the

bill. Furthermore, the committee was concerned about a number of delegated powers in the bill that permit the creation of criminal offences in regulations. It encouraged the Scottish Government to revisit each of those powers to determine whether the offence could be included on the face of the bill, rather than in subordinate legislation.

The committee also commented on the selection of the negative procedure for a number of delegated powers, which was justified by the Scottish Government on the basis that consultation requirements would provide additional scrutiny. The committee did not agree that the presence of consultation requirements was an appropriate justification for selecting different parliamentary procedures. We are therefore pleased to see that the Scottish Government has been willing to commit to amend the bill to respond to almost all those concerns.

Section 65(1) of the bill provides that

"The Scottish Ministers may make a scheme for the licensing of funeral directors' premises",

and section 66(1) provides that

"The Scottish Ministers may by regulations make provision for or in connection with"

such a scheme. I welcome clarification from the Government that it is now intended that a licence will be required by each funeral director rather than for the premises. Nonetheless, our concern is that the bill proposes to set out in secondary legislation an entire licensing regime for individuals who carry out business as funeral directors. In its report, the committee recommended that such a licensing regime should be set out more fully on the face of the bill, rather than being delegated in its entirety to subordinate legislation.

The Scottish Government's response to the committee's report expresses an intention to continue to provide for the licensing scheme in regulations and suggests that that will enable the licensing scheme to be developed on the basis of recommendations from inspectors and allow for consultation with funeral directors. In essence, the Scottish Government is not able to set out its policy on the licensing of funeral directors on the face of the bill, as that policy is yet to be fully developed. The committee finds that unsatisfactory. I note the earlier comments from Kevin Stewart on behalf of the Local Government and Regeneration Committee that that committee, too, would like a lot more detail.

The matter is important and will clearly have a significant impact on individuals operating as funeral directors. The approach also clearly contrasts with the approach that has been taken in relation to so many other licensing schemes,

including most recently the scheme for the licensing of air weapons, where more detail regarding the operation of the licensing regime was set out in primary legislation.

The committee recognises that there is room for some matters of detail around the licensing scheme to be left to secondary legislation, but it considers that the majority of those matters should be set out on the face of the bill, given their significance. Those people who will be covered by the licensing scheme should be able to understand that scheme, and members should be able to understand the nature of the licensing scheme that they are being asked to agree to.

I note the minister's earlier comments but reflect that section 61, which is about inspections, is still very general in its terms, simply saying that

"Ministers may by regulations make provision for or in connection with ... inspections of burial grounds ... crematoriums and ... funeral directors".

We could still do with some detail as to what that is going to mean.

The committee asks the Scottish Government to reflect again on its approach to the licensing scheme and strongly advocates that it include more detail of the scheme on the face of the bill.

The committee will be interested to hear the Scottish Government's further reflections on the matter and in light of those further thoughts we intend to return to the issue.

16:37

**Dennis Robertson (Aberdeenshire West) (SNP):** I found the meetings of the Health and Sport Committee on the bill difficult because we were talking about something that is quite close to me as an individual and as a parent. What I found difficult was how emotive it was. Those giving testimony at committee were very brave because it is difficult to talk about the pain of loss without being emotive.

I think that the bill is going to go a long way towards ensuring that parents who, in the future, experience loss, including loss in early pregnancy, which the bill encompasses, will have the support and the knowledge that they need.

I find the term "disposal of remains" very difficult—it is difficult to say, even. There must be a better phrase or a better way of talking about it. I think that the minister referred to giving a woman who has experienced pregnancy loss time to choose what to do. Maybe that is a better way of talking about it.

A lot of positive things came out of the evidence sessions. I was gratified to hear the funeral directors themselves coming together and

acknowledging that things could be better. Standardising the forms will help bereaved parents. The last thing that a bereaved parent requires is a form to fill out—a form that they might find extremely difficult to complete. One of the things that we discussed in committee was that funeral directors themselves can help in such areas—that came out very powerfully. They deal with such situations on a regular basis, so they can take the bereaved parents through the form. I absolutely agree that the bereaved parents will have to sign the form to ensure that the information on it is correct, but funeral directors' sensitivity and respect give comfort to bereaved parents at a time of great loss.

The bill contains many areas that require tightening up. I congratulate the minister on saying that she will lodge various amendments at stage 2. To me, that shows a Government that is listening not just to the committee's needs and Lord Bonython's recommendations, but to the needs of the grieving parents who came and gave evidence to the committee. I congratulate the minister on her sensitivity and her respect for the people who came to the committee and aired their views regarding their loss. I look forward to going over some of those aspects at stage 2. In saying that, I am sure that I will still find it incredibly emotional.

The bill requires to be passed.

16:42

**Lesley Brennan (North East Scotland) (Lab):**

Very few of us plan and discuss our intentions for when we pass on or, importantly, how we will pay for the arrangements. My own parents are an exception—they have even picked their hymns. They were concerned about the cost of their funerals, and they bought funeral plans in 2010. I realise, however, that many people who do not have savings simply cannot afford to put money aside for a funeral. There is strong evidence regarding funeral poverty. I am in contact with the Dundee pensioners forum, and I am learning from its members' experiences.

I welcome the Scottish Government's announcement that it is to host the first national conference to tackle funeral poverty, but I feel that the minister has missed an opportunity to address the issue of funeral poverty in the bill. Even the Government consultation document failed to grasp the issue, by just focusing on local authorities publishing fees online and cost recovery, rather than the full cost of funerals.

The bill also ought to address the national assistance duty. A good friend of mine works full time but in a low-paid job and, about a year ago, he was consequently not eligible for a social fund funeral payment and could not afford to bury his

mother. Due to the shame that he felt, he did not disclose that until a few months afterwards. He felt a huge amount of guilt and shame at not being able to mark his mother's life in the way that he wanted. He realised that he could not afford the cheapest funeral at the local funeral directors, and he did not know what to do.

My friend spoke to a bereavement counsellor, and it was only during his fourth visit that the counsellor mentioned the national assistance funeral scheme. He was not aware that local authorities had a duty, but would perform it only if nobody would claim—so he did not claim his mother's body. Although he was grateful for the scheme, he felt the stigma of his mother being buried in what is colloquially known as a pauper's grave. He did not know that he could have attended the burial.

In its consultation response, the Scottish working group on funeral poverty stated:

"the National Assistance funeral system is fundamentally not working and needs serious reform."

A number of local authorities noted in their consultation responses their difficulties with the national assistance scheme and stated that people are getting in contact with them because of their families' financial difficulties. I strongly urge the minister to consider the issue and perhaps lodge an amendment at stage 2 to ensure that the bill goes further than the current commitments and fully addresses funeral poverty.

I turn to the proposal to reuse graves. I understand the pressure on burial grounds, I appreciate that land is a finite resource and I note that Angus Council's submission says that 25 to 30 per cent of lairs that it has sold have not been used. However, an analysis of the consultation responses shows that only 37 per cent of respondents were in favour of the proposal. I think that the convener of the Local Government and Regeneration Committee noted the low level of engagement on the topic; in total, there were only 180 consultation responses.

The financial memorandum is disappointing, particularly in the context of local government cuts, because it overlooks the impact on local government.

I fully support Nigel Don's recommendations, which were discussed at the Delegated Powers and Law Reform Committee.

16:46

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I congratulate Lesley Brennan on what I thought was a thoughtful and informative speech, to which I listened with interest. I enjoy having her sit with me on the Delegated Powers

and Law Reform Committee, where she makes a significant contribution.

There are a number of things in the bill that are extremely interesting. I will start with the issue of the licensing of undertakers. My personal experience of undertakers is that they are people who, on the occasions on which I have had to engage their services, have behaved with absolute sensitivity and have done an absolutely excellent job. In one particular case, the circumstances were particularly delicate and difficult, and I thought that they did well.

Jenny Marra mentioned the Burial Grounds (Scotland) Act 1855. I think that all the provisions of that act are no longer current. I am not a legal eagle who is qualified to say that, but that is certainly what legislation.gov.uk says. However, it is not clear what has happened to many of the duties. It looks as though they have been supplanted and distributed across the legislative canon.

When the civil registration of births, marriages and deaths started in Scotland in 1855, and for quite some time after, the undertaker certified on the death certificate where the burial had taken place. Of course, that predated cremations so perhaps things were a little bit simpler then, but that means that some of the information about burials is available on the “Scotland’s People” website, which is run by the General Register Office for Scotland and provides information on births, marriages and deaths and other subjects that are of interest to genealogists and legal researchers. With that in mind, it strikes me that it might be a good idea for section 10 of the bill, on burial registers, to be constructed in such a way that local authorities would be able to use the General Register Office for Scotland as the publisher and custodian of the information on burial registers that the act will require to be prepared. A lot of the infrastructure is already there, and things could be arranged so that the requirement that people in the local area could still get free access could be met—I will not engage in the details on that.

However, I have a wee concern about publishing the details of where burials are, because the requirement does not appear to be time limited. There are some extremely old graveyards, and we might be creating a duty for some local authorities that it is almost impossible to deliver. Across from the back of the Parliament, we have the New Calton cemetery, which has been on the go for a couple of hundred years. Even the book of monumental inscriptions that the Scottish Genealogical Society has produced—it is a register only of gravestones, not who is buried where—runs to more than 100 pages of quite small print. I do not know what the state of the

records on burials is, but I think that there are significant issues associated with that.

Sections 16 to 19 address private burials, which is good, but we must be careful to ensure that local authorities have a duty to act timeously in this area. I have personal experience of a friend who wanted a private burial. He knew that he was dying, but it took a year to arrange his private burial and he was clinging on at the end to ensure that he got it. That was partly down to SEPA rather than the local authority. There are genuine difficulties that I do not offer a solution to.

On section 12, the right to a lair is for someone resident in a council area. We might look at extending that slightly because I think that it is much more important to consider the person who died in that regard. The relatives might all live a long way away but might want to bury the deceased in the community in which they died, for the benefit of friends in that community. I think that there is a wee issue there.

16:51

**Malcolm Chisholm (Edinburgh Northern and Leith) (Lab):** The Health and Sport Committee focused in particular on the provisions relating to pregnancy loss, stillbirth and infant loss, and heard a great deal about the poor practices of the past, which the bill must ensure are kept very firmly in the past. I thank everyone who gave evidence to us, particularly those parents who had suffered a terrible loss. I also want to mention not just those who gave evidence on the record but the several parents from SANDS Lothian whom I found extremely powerful and helpful in a private meeting that they had with three committee members.

We can try to emphasise with parents in those situations of loss, but we cannot know how it feels, which is why we must listen very carefully to what they say. One of the key points that came across in the meeting with SANDS Lothian was the importance of training for staff, because so much depends on that. Particularly after the loss, what the staff say to the woman affected is absolutely crucial. SANDS Lothian parents also emphasised the importance of developing specialist roles in midwifery, maternity and bereavement services, which I found very powerful evidence.

Like the others who gave evidence on the record, those parents were very concerned about the issue of ashes. I think that most of them agree about the definition in the bill, but one important point that came across from several of the parents is that we must ensure that it says on the statutory application forms for carrying out a burial that there is an expectation that ashes will be recovered. People were concerned that the policy

memorandum emphasised that they might not be recovered—that was another key point that came across.

People also said that it was important to set out policies on the disposal of ashes. I think that the minister said that an amendment would come forward on that. I wonder whether there could be something in the codes of practice about processes and equipment in crematoriums so that we have the best possible procedures to ensure that the maximum amount of ashes are recovered.

On what happens on pregnancy loss, I was glad to hear the minister say that the woman would be at the centre of decision making. We as a committee were concerned about the timescales for decision making. I heard the minister say that there could be more time if circumstances allowed, but I hope that the flexibility will also allow less time. We heard that some women, for personal or cultural reasons, might want to make a definitive decision in a much shorter period than the seven days that are prescribed as the minimum period in the bill. I think that that is an important point.

In terms of the death of a child or infant, or a stillborn child, we should remember that that includes medical terminations after 24 weeks. I was glad to hear the minister say something that I think means that she is committed to achieving confidentiality in those circumstances, which is an issue that we were concerned about. NHS Lothian was concerned about the assumption of private family responsibility in those situations and said that that is not what happens in practice. It is important that the woman is supported in that situation, too, in terms of decision making and arrangements.

There was quite a lot of discussion about the statutory forms for carrying out a burial. I think that most of the people giving evidence thought that there should be different forms for different circumstances. The committee was concerned—perhaps the minister could refer to this in her winding-up speech—that there should not be an offence for helping someone to fill in a form. However, clearly it should be an offence if misleading or incorrect information is given.

We made the recommendation that the licensing of funeral directors should be on the face of the bill, but I imagine that because of the timescales that will not be possible. However, Willie Reid, who gave very powerful evidence, was very strong on the need for the licensing of funeral directors and emphasised that the register should be kept in electronic form.

As I said at the beginning, let us make sure that the poor practices of the past are consigned to the past as a result of the passing of the bill.

16:55

**Willie Coffey (Kilmarnock and Irvine Valley)**

**(SNP):** Burials and cremations might not be the most eye-catching subjects that we deal with in the Scottish Parliament, but they are a vital part of everyday life. It is fair to say that their rising cost is becoming a concern for the public. Outside of perhaps buying a house or paying for a wedding, paying for a funeral or a cremation is probably the next highest-cost item a family may face in their lives.

The industry is making handsome profits—they are up by 32 per cent to £85 million. Although the bill does not provide the power to intervene in the consumer market and regulate funeral directors' service charges, it perhaps offers some hope for families in some local authority areas who pay incredibly high prices for lairs and for family interments in comparison with others.

As the convener of the Local Government and Regeneration Committee noted, we heard that the cost of buying a lair and paying for an interment service in the Western Isles is about £700, while the cost in East Dunbartonshire is nearly £2,800. I do not make that point to single out and criticise East Dunbartonshire; rather, I do so to bring it to the Scottish Government's attention that such wide variations exist. If we can influence that through the bill, I hope that we will do so.

As a few members have said, the overall costs of the average funeral service are about £3,000. However, when the costs of providing a reception and buying a headstone are added on, the cost for families can rapidly increase beyond that. It should be no surprise that Citizens Advice Scotland told us that there has been a 35 per cent increase in the number of people seeking help with funeral issues and affordability.

I know that our Government is doing what it can through the use of the social fund to help families who are in difficulty, and I hope that the review of funeral costs being undertaken by the Cabinet Secretary for Social Justice, Communities and Pensioners' Rights will make further progress. The UK Parliament might also want to look at the escalating costs of funeral directors' services to see whether regulation of the industry is required.

The Local Government and Regeneration Committee had pretty clear views on the issue of proximity—how far a crematorium should be from housing developments. We considered that the 200-yard distance should be maintained. It should also apply both ways, so that new housing cannot encroach within that distance of an existing crematorium. I understand that the Government's view is that that is best left to local planning authorities, but I hope that any guidance notes that



accompany the bill will at least express the opinion that the distance should be observed.

During the bill's consideration in committee, I raised the issue of how record keeping might assist families who are keen to know as much as possible about their family history. From time to time, I visit Kilmarnock cemetery, where I occasionally come across headstones on which the names may—or may not—be connected to my family. It may come as a surprise to most people—although not to my colleague, Stewart Stevenson, who is sitting to my left—that there is no information to directly link a person who is buried in a cemetery in Scotland with the national death record to tell us who that person was.

As the generations move on, the risk is that the link will be broken completely, with no one surviving who can connect one with the other. I am really pleased that the Scottish Government will see whether burial and cremation records can be linked directly to the national death records for the first time in Scotland. That would be a simple but great step forward that would help current and future generations to be more certain about their family's history in the communities where they lived.

The bill modernises aspects of the burials and cremations service and introduces modern and consistent practice where it can. Some key issues for the public remain—principally the rising costs of funerals, cremations and associated services. I hope that, when the bill comes back to us at stage 2, it will address those concerns in so far as our powers allow us.

16:59

**Nanette Milne:** We have had a useful discussion of the bill, and there is clearly support across the chamber for its general principles. I will touch on the Local Government and Regeneration Committee's stage 1 report, which considered the parts of the bill other than those that relate to pregnancy loss, stillbirth and infant loss.

I note the committee's criticism of the bill as lacking ambition and its comment that a considerable amount of the policy remains to be developed and included in subsequent regulations, which makes detailed scrutiny difficult. However, there is broad support for most of the proposals.

There is agreement that all burial authorities, including private companies, should be placed under the same duties and have the same powers. However, it is uncertain whether the bill will assist with improvement in the management of burial grounds, particularly in relation to safely securing headstones and memorials. I note the recommendation that the bill should be amended

to require a management scheme for burial grounds. The proposed measures to alleviate pressure on burial grounds by changing practice in relation to the purchase and use of lairs appear somewhat more controversial and will clearly require further discussion as the bill proceeds through Parliament.

The proposed duty on burial and cremation authorities, health boards and private healthcare providers to prepare records and maintain such records indefinitely, in the context of making arrangements for the disposal of pregnancy loss, is an important part of the bill. The consensus is that, in the 21st century, those records should be in electronic form. Although the Scottish Government agrees that that should be the ultimate aim, it is unwilling to require electronic records at present because, in the diverse funeral industry, there might not yet be adequate computerisation.

I agree with people who feel that, in the modern world, electronic records should be required. I would support a stage 2 amendment to that effect that allowed a transitional period, to ensure consistency and accuracy in the industry.

Given that, at present, funeral directors do not require any particular qualifications to set up a business or any inspection of their premises before they can work as funeral directors, I agree that, to ensure best practice, a licensing scheme is needed to cover the operation of funeral directors and their premises. The Delegated Powers and Law Reform Committee and the Local Government and Regeneration Committee are right to call for a requirement to make a licensing scheme for funeral directors to be put in the bill and to call for such a scheme to be implemented without delay.

I note the provision for ministers to issue codes of practice and to consult on draft codes of practice. I also note the Government's commitment, which the committee welcomed, to amend the bill to require the approval of Parliament before any draft code can come into effect. However, I acknowledge the industry's concerns about legislating for codes of practice instead of defining and introducing a new, separate code of standards that would run parallel to that of the National Association of Funeral Directors. That is because of the likely impact on funeral costs, which are already a significant issue for the increasing number of people who find that they are unable to meet such costs. More work is clearly required on that serious issue and on the transparency of funeral costs, albeit that the bill is not the vehicle for addressing those matters.

Legislation to modernise the law on burial and cremation is long overdue, and the bill deals with important and sensitive issues that have caused

great and long-standing distress to many bereaved people. It is time that we had modern statutory provision for burial and cremation in Scotland. I agree with witnesses that the bill supports the objective of providing a modern and comprehensive legal framework, but a number of important provisions need clarification and amendment if we are to ensure, in so far as is possible, that previous poor practices are never repeated.

I look forward to further discussions at stage 2. In the meantime, I reiterate that Scottish Conservatives will support the general principles of the bill at decision time.

17:03

**Jenny Marra:** This has been a good debate with a thorough airing of some issues. The bill covers a wide variety of issues for Parliament's consideration. I will touch initially on one that has not been discussed at length in the debate but which constituents have raised with the Scottish Labour Party and which is worth touching on: exclusion zones around crematoria.

The bill leaves that matter as part of the local authority planning process, and we very much agree with that decision. However, we have had representations from constituents on exclusion zones and on how proximity to crematoria can affect people, families and their properties. Nevertheless, we agree that the appropriate place for such decisions to be made is in the local planning process, which considers all local matters.

As someone who was involved in local issues to do with the baby ashes situation and as a Health and Sport Committee member, Malcolm Chisholm raised the important issue of training for staff who consult women who have lost babies or suffered pregnancy loss. That was an important point to make that is worthy of consideration. He also mentioned the importance of codes of practice in crematoria and the need for standardisation of those codes across the country. In addition, he raised the issue of licensing funeral directors.

Nigel Don made an important point about the number of delegated powers that are contained in the bill and the fact that more detail should be on the face of the bill. I trust that the minister will look at the Delegated Powers and Law Reform Committee's recommendations, which she may take up at stage 2.

Kevin Stewart made the point that local authorities should have to publish their costs. We agree that that would be a useful way to proceed, and I am glad that such a provision is being included in the bill.

In their interesting speeches, Willie Coffey and Stewart Stevenson considered the possibility of burial and cremation records being linked to national records. We know that Scotland has a genealogy industry and that there are opportunities for people from America and Canada to come here to trace their ancestry. At a recent family funeral, there was an interesting discussion about which cemetery in Glasgow a great-grandfather was buried in, how such information can be obtained, how the internet and national records can be used to do that and where people should look. That elucidates the point that Willie Coffey and Stewart Stevenson made: there is an opportunity for business and for considering our social and cultural history, so the linking of records should be explored.

My colleague Lesley Brennan commented on funeral poverty. She is right that the bill does not address the issue, which we might come back to in the next session of Parliament. She spoke movingly about her friend's situation on the death of his mother and made the point that the bill does not really deal with funeral poverty.

We very much welcome the fact that the Scottish Government has committed to holding a conference on funeral poverty, but perhaps the minister could reassure us that she has considered everything that she can do legislatively to regulate costs and the industry and has concluded that she does not have the powers for such regulation. I would be interested in hearing whether she thinks that there are opportunities to regulate the industry and costs. That might be a bold decision but, given the extent of funeral poverty in Scotland, we must look at the issue. I would be interested in her reflections on the matter.

17:09

**Maureen Watt:** I am grateful to parliamentary colleagues for their contributions to what has been an extremely useful debate. I welcome members' recognition of the need to modernise the legislation in this area and I agree that the bill is important and will make positive changes.

I will consider carefully ahead of stage 2 all the points that have been raised today. It is clear that we will need to consider further some of the issues that have been debated, but I am pleased that there appears to be general support for the bill.

In opening the debate, I said that few of us relish talking about the subjects that the bill covers, but the issues are ultimately unavoidable. The average person organises no more than two funerals in their lifetime, and when we are called on to arrange the funeral of a loved one, very few of us have much experience to draw on, and we

are rarely in the frame of mind to deal objectively with the planning and execution of the funeral process, which is sometimes complex and bureaucratic.

It is therefore important that the processes involved are as simple and straightforward as possible. It should be easy for those who are making the arrangements to understand the options that are available and what will happen to their loved ones' remains. We should be able to rely on professionals throughout each stage of the process to give us clear, reliable and honest advice and to treat the deceased with respect. We should feel that we have been able to choose a dignified funeral.

It has become apparent that, in too many cases in recent years, those expectations have not always been met. The bill will change that by creating a robust and responsive system for burial and cremation that will support consistent high standards throughout every part of the process. The comprehensive modernisation and improvement of burial and cremation that the bill will bring about will create a system that is suitable for 21st century Scotland.

I am grateful for the points that members raised. Strengthening what happens with regard to pregnancy loss was raised in most contributions. I have said that we want to introduce as much flexibility on timescales as possible. Under current guidelines from the chief medical officer, the timescale is around six weeks, but we will introduce flexibility so that health workers and others who are involved will be very understanding about what happens. Throughout the process, we must be conscious of the fact that the woman's wishes are paramount; that there must be confidentiality in what happens; and that, if the woman does not want to make any decisions, she should decide who will make decisions on her behalf.

I was interested in what Duncan McNeil said about cremulation. It is not a very nice word and I will look to see whether there is another way of explaining what is meant by it.

I assure Malcolm Chisholm and others that I am very concerned about the recovery of ashes. I specifically went to the back stage of a crematorium to see how remains were laid out in trays and the ashes recovered to the full extent to meet parents' wishes.

I was interested to hear what many members said about record keeping. On reflection, I will ensure that electronic record keeping is in the bill, as long as we give sufficient time to funeral businesses that are not currently in a position to be able to take that on board.

I heard what members said about the licensing regime. The last thing that any of us would want to do is to set up a licensing scheme that means that further costs are passed on to those who are arranging a funeral. That is why I have said that the inspectors whom I or my successor will have the power to appoint under the bill should be able to give me or my successor guidance on what is required. We do not really have an overview of how well the funeral industry works. We hear about some cases in which it has not worked well at all; on the other hand, many members have said that they have been pleased with the service that funeral directors, whether large or small organisations, have given them.

It is important that we take stock of the situation across the whole industry and the whole country and that we take advice from the inspectors who will be in post to provide that. Already, the inspector of crematoria is in post and advice from that person is being taken on.

Also on licensing, through the bill, we can make sure that we are more open and transparent about the costs attributable to local authorities, which are often put onto the total cost of funerals, so that people know where those costs come from.

Jenny Marra mentioned crushing by falling headstones. The section in the bill about the reuse of lairs and bringing old burial grounds to life again is one of the ways in which we can ensure that those kinds of situation do not occur.

There is some misinformation about the reuse of lairs. It is not intended to reuse a lair unless it has not been used for at least 100 years. On the number of burial grounds where that might be viable, there are only a hundred or so lairs that have not been used for more than 100 years. It is not about reusing lairs that are still being visited or that have been used more recently than 100 years ago.

Of course, we will listen to organisations such as the Commonwealth War Graves Commission and, if they have any concerns, lairs will not be reused. However, reusing them is a way of revitalising old burial grounds and helping to preserve the history of those places.

Nigel Don pointed out that the bill is too bureaucratic in relation to secondary legislation. I have taken much of that on board. Some of the ideas on statutory duties that were initially in the bill will be taken out, some will be simplified and some will be put on the face of the bill.

Dennis Robertson spoke about the standardisation of forms. When I was in front of the committee, there was perhaps a misunderstanding. Of course, funeral directors and others will help applicants with the forms but it is the applicant who remains responsible.

I say to Lesley Brennan that consumer protection is reserved to Westminster and my colleague Alex Neil is taking forward the devolution of powers from the DWP to see what he can do to address funeral poverty.

The bill will overhaul the legal framework for burial and cremation to create a modern and robust system that will address current shortcomings. At the heart of the bill is modernisation of the legislation governing burial and cremation—that is what we want.

The bill will significantly improve procedures for burial and cremation and provide a system in which the public can have confidence. By strengthening the legislation, we will create a strong legal framework, establishing consistency and quality throughout the system.

I will look at what can go on the face of the bill and what will still require to be in secondary legislation. The bill is the result of collaboration with a wide range of stakeholders, and that will continue to be our approach as regulations and guidance are developed.

I believe that the bill will ensure that burial and cremation procedures are suitable for the needs of modern Scotland, and I call on Parliament to support the bill.

**The Presiding Officer (Tricia Marwick):** That concludes the stage 1 debate on the Burial and Cremation (Scotland) Bill.

## Scottish Rate of Income Tax: Resolution

**The Presiding Officer (Tricia Marwick):** The next item of business is a debate on motion S4M-15497, in the name of John Swinney, on the Scottish rate resolution.

17:20

**The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney):** I welcome the opportunity today to propose the first ever resolution in respect of the Scottish rate of income tax. This new power represents an important step in Scotland taking greater responsibility for our own financial affairs and being able to exercise those responsibilities within the context of the budget process. I welcome the opportunity that this power gives for real debate about issues that are of vital importance to the people of Scotland.

Parliament is aware that the rate that we set through the Scottish rate resolution is vital in determining the funding that will be available to support the Scottish budget for 2016-17. Stage 2 of the Budget (Scotland) (No 5) Bill was completed yesterday; agreeing the motion today will allow the bill to progress to stage 3, after the brief February recess.

If passed, the Scottish rate will come into effect from 6 April and will apply to the non-savings and non-dividend income of Scottish taxpayers. We need to set a Scottish rate because, on the same date, the United Kingdom Government will switch off 10p in every £1 of income tax in Scotland, thereby reducing our funding by £4.9 billion. For the first time, therefore, as part of the Scotland Act 2012 powers, we are required to set a rate for Scotland.

It is important that, unlike the other tax powers in the Scotland Act 2012, the Scottish rate of income tax is not a fully devolved tax, but remains part of the UK income tax system, so its collection will be delivered by HM Revenue and Customs, as income tax is now. The preparations to enable that to be taken forward have been the subject of extensive involvement of HMRC, in dialogue with the Scottish Government, to ensure that the necessary arrangements are in place. They have been lengthy preparations to ensure that, on 6 April, we have in place the operational arrangements to ensure that tax can be collected and utilised to support public services.

**Willie Rennie (Mid Scotland and Fife) (LD):** I have listened to what I would describe as the cabinet secretary's very managerial presentation of the issue. This is an historic moment. We have

an urgent financial situation. Does the cabinet secretary not feel embarrassed that he is not seizing the opportunity to put a penny on income tax to invest in education?

**John Swinney:** I thought that it might be helpful if I shared with Parliament the fact that, when we are changing tax arrangements, we have to ensure that we have the detail correct and that we have done the preparatory work to ensure that we can collect the income tax. That does not bother Mr Rennie, because he would penalise low-income households. It should matter to the Labour Party, though, because although it is trying to avoid penalising low-income taxpayers, it will end up doing so as a consequence of its lack of attention to detail.

**Bruce Crawford (Stirling) (SNP):** If it is such “an historic moment”, as Willie Rennie pointed out, why are there no other Liberal Democrats here to share it?

**John Swinney:** Not for the first time, Mr Crawford has made a graceful intervention in a parliamentary debate.

For the benefit of Mr Rennie’s historical records, I did say in my first paragraph,

“I welcome the opportunity today to propose the first ever resolution in respect of the Scottish rate of income tax.”

I have been responsible for many historic things in this Parliament, not least of which has been the introduction of the first Scottish taxation in 300 years—the land and buildings transaction tax. I was the author of the historic concordat with local government, of which I am very proud and of which I remain an ardent supporter in every respect. Here I am for my hat trick, delivering the historic introduction of the Scottish rate of income tax.

Today, I ask the Scottish Parliament to agree—

**Neil Findlay (Lothian) (Lab):** Will the cabinet secretary take an intervention?

**John Swinney:** Oh, well! I am delighted to offer Mr Findlay an opportunity to speak in Parliament. It will be interesting and, no doubt, fruity.

**Neil Findlay:** Oh. Come on now, John.

“I view the Scottish rate of income tax as a progressive power ... Clearly, people on higher incomes will pay comparatively more than people on lower incomes.”—*[Official Report, Finance Committee, 13 January 2016; c 40.]*

Does the cabinet secretary stand by those remarks?

**John Swinney:** Mr Findlay must spend all his time working out how to sit on the back benches hurling abuse at people left, right and centre. He does not pay attention. Of course I stand by those remarks, but I am not prepared to add to the

burden on low-income households that are wrestling with difficult decisions. It is not really any more terribly complicated than that.

If I can, I will now get around to the historic moment. On this historic occasion, I am asking the Scottish Parliament to agree a Scottish rate of income tax of 10 pence. In short, Scottish taxpayers will see no increase in their income tax next year. That is the right decision that takes into account the challenges that are faced by members of the public and the fact that the power, were we to exercise it, would require us to increase income for every band of taxation, which would put a disproportionate burden on the incomes of low-income households. I am not prepared to do that as part of this year’s budget.

Today’s decision comes ahead of any powers that we might get from the Scotland Bill that is being considered by the United Kingdom Parliament. As we have previously announced, we will set out by the end of the parliamentary session how we will use the further income tax powers in the Scotland Bill. Before then, we must resolve the fiscal framework. I remain focused on delivering a framework that is fair for Scotland, fair for the United Kingdom and faithful to the conclusions of the Smith commission. I will not agree to anything that fails those tests.

The setting of the Scottish rate of income tax is inextricably linked to the structure of and measures in the budget. From when I made the 10p proposal in the draft budget, my main priority has been to protect our lowest-income taxpayers at a time when household budgets are tight. Despite Westminster’s cuts, the budget that is before Parliament includes record funding for our national health service, protection for front-line policing, protection for college budgets and significant investment in education, including higher education.

We have proposed what I accept is a challenging but fair settlement for local government, that delivers £250 million of new investment in health and social care, protects high quality school education, maintains teacher numbers and continues the freeze in the council tax. In a move that I hope all parties across the chamber will welcome, it will also deliver the living wage for care workers. Those actions and many of the other measures that are supported by this year’s budget will help to grow our economy, reform our public services and, crucially, protect household incomes.

At the heart of the debate on the Scottish rate of income tax has been the Government’s decision to act to protect the incomes of the lowest-income taxpayers, who would be directly attacked by any move to increase the rate of taxation from 10p to 11p. After a week of debate and consideration of

the issue, I hope that this afternoon will be the moment when the Labour Party sets out for us the basis on which it thinks and is confident that it can deliver some form of protection for low-income taxpayers as a consequence of its decision to increase the Scottish rate of income tax. If the rebate that the Labour Party has talked about is a tax relief, it falls outside the powers of the Scottish Parliament in relation to income tax as conferred by the Scotland Act 2012. If it is a social security payment, it will be outside Parliament's competence as defined in the original Scotland Act 1998. There are therefore significant legal questions that have to be addressed by the Labour Party in the contributions that Labour members are going to make in Parliament this afternoon.

Secondly, there is a question about whether the rebate could reach members of the public and whether the Labour Party has allocated sufficient resources to cover that. The estimates that I have done show that 1 million taxpayers, workers and pensioners could be eligible for the £100 rebate, which would therefore cost £100 million. That is more than the Labour Party says it has allocated for that particular challenge.

Thirdly, the Labour Party must tell us how much the rebate would cost to administer. It costs more than £40 million to administer council tax reduction and housing benefit in Scotland; the Labour Party believes that the rebate can be administered for £1 million. That tells us how much detail the Labour Party has gone into on the issue. The only conclusion that I can draw is that it is unlikely that anyone would receive the rebate that Labour is talking about. It is a posturing intervention from the Labour Party—it is not a credible plan for Government and it comes from a party that is not even fit to be in office.

It is crystal clear that when it comes to the taxation of newly qualified nurses, newly qualified teachers, police officers, firefighters, office workers, bus drivers and shop workers it is not the wealthy whom Labour is targeting. Labour is targeting working people who are busting a gut to make ends meet. This Government will not punish those individuals.

Our budget is designed to support the creation of a strong and sustainable economy, to reform public services and to tackle economic inequality. Our commitment to maintain the Scottish rate of income tax at 10p in the pound enables us to give support to individuals to do exactly that. It is a budget that mitigates the worst impacts of the UK Government's welfare cuts and austerity agenda, because it includes £38 million for the Scottish welfare fund, up to £343 million for the council tax reduction scheme and £35 million to ensure that nobody pays the bedroom tax. It allocates

£33 million to raise attainment, funds 600 hours of free childcare for all three and four-year-olds and vulnerable two-year-olds, and invests more than £1 billion in higher education. It increases the resources that are available to national health service boards and invests an additional £250 million in integrating health and social care services. It protects family budgets by freezing the council tax for the ninth year in a row, and provides meaningful pay rises for our lowest-earning public sector workers, including through our commitment to the Scottish living wage.

That is the difference between this Government and the parties that argue for a tax increase: we want to give low-paid people a pay rise, and those parties want to give them a tax rise. This Government is on the side of working people and is supporting them in their efforts to make ends meet in their households. We will not increase their taxes; we will invest in public services and protect household incomes.

I move,

That the Parliament agrees that the Scottish rate of income tax for tax year 2016-17 is 10%.

17:32

**Jackie Baillie (Dumbarton) (Lab):** Today, this Parliament makes a decision for the first time about the Scottish rate of income tax. Real financial responsibility has come to the Parliament, and with it come real choices that speak to who we are and what we value. Today we have a choice: we can choose to use our powers to end Tory austerity and invest in our country's future, or we can choose to do nothing and preside over hundreds of millions of pounds of cuts. We choose to use our powers.

This is something that Nicola Sturgeon used to believe in. She used to say that more powers meant fewer cuts, but now her Scottish National Party Government will vote with the Tories to continue the cuts. It could be so different. If we choose today to reject the do-nothing proposal before us and instead say that we want to set the rate of income tax just a penny higher than George Osborne does, we would stop not just council cuts but cuts in this year's Scottish budget altogether. We can increase it in real terms by more than £100 million.

I have heard SNP members ask why we are being asked to pay for Tory austerity. Talk about missing the point. We are being asked to pay not to have Tory austerity.

What about the cuts to come in years 2 and 3? They are hidden from sight because John Swinney does not want to tell us how bad it will be, but make no mistake about it: if the SNP votes for the status quo tonight, the cuts for 2016-17 will be as

nothing in comparison with the future—and they will be John Swinney's cuts.

**Kevin Stewart (Aberdeen Central) (SNP):** Will the member give way?

**Jackie Baillie:** I will give way in a minute.

I have heard extraordinary claims from Scottish National Party members—including Kevin Stewart—in the past few days, denying that the cuts are being made at all. The First Minister said that it is reprofiling, Kevin Stewart said that spending is increasing once we strip out the technicalities, and John Swinney said that it is simply an accounting change. It is not reprofiling or a technicality, and it is not an accounting change. These are cuts, started at Westminster and continued by the SNP in Scotland.

**Kevin Stewart:** I remind Ms Baillie that Labour MPs trooped through the lobby in the House of Commons to vote for austerity. She mentioned the status quo, but her backing of the status quo with the Tories is one of the reasons for the mess that we are in now.

**Jackie Baillie:** I simply say to Kevin Stewart that, when the cuts hit his constituents in Aberdeen, they will not be a technicality. When he votes with the Conservatives tonight, we will be absolutely clear about whose side he is on.

I am holding up a document that members may recognise from earlier today. Let us look at John Swinney's own council: SNP-controlled Perth and Kinross. I am holding up the budget documents, which I am sure he has had time to read. On the council's agenda are cuts to childcare; cuts to early years teachers; cuts to maths and English teachers; cuts to the range of subjects that pupils can take; cuts to local charities that help children; and cuts to the supply teaching budget so that, if teachers are off, classes will need to be cancelled and schools may even need to be closed. That is the reality of cuts in SNP-controlled Perth and Kinross.

**John Swinney:** What Jackie Baillie has got there is the work of council officers—[*Interruption.*]

**The Presiding Officer:** Order.

**John Swinney:** The Labour Party guffaws, but that is what is called detailed work. Where is the detail from the Labour Party on implementing its tax proposals? Will we get any of that from Jackie Baillie today?

**Jackie Baillie:** Do you know what is fascinating about that? It is a typical SNP distraction from the pile of cuts—[*Interruption.*]

**The Presiding Officer:** Order.

**Jackie Baillie:** From the pile of cuts. Look at them! [*Interruption.*]

**The Presiding Officer:** Order. Let us hear Ms Baillie.

**Jackie Baillie:** From the pile of cuts that are proposed in the cabinet secretary's own backyard.

The cabinet secretary might not listen to me; I understand that. However, a raft of experts, from David Bell to the Institute for Public Policy Research, have told him that he does not need to cut, and that there is a fair alternative. If he will not listen to them, or to me, will he at least listen to those who are being affected by cuts in his own local area?

John Swinney says that he is concerned—of course he is—about the £19 a year that low-paid workers would pay in extra tax. Can he tell me how much extra a year council tenants in his local area will pay as a result of the cuts that his local council has proposed? No, he cannot—there we go. It is £73 a year, so it is the poorest, the youngest and the oldest—indeed, anyone who uses public services—who will suffer because of John Swinney's refusal to use the powers that he has.

On Radio Scotland—

**John Swinney:** Will the member give way?

**Jackie Baillie:** I will bring in John Swinney in a minute. On Radio Scotland, he suggested that the poorest would face double the extra tax paid by the richest. Let me just remind members of that. He said:

"for an individual who is on the national living wage ... the amount of tax that they pay would increase by 5%"—

we heard that from the First Minister earlier—

"But somebody earning £200,000 would see the amount of tax they pay increase by 2.6%".

I will take an intervention from John Swinney now, if he can tell me what those figures are in cash terms.

**John Swinney:** Jackie Baillie should be able to work that out for herself. The issue—[*Interruption.*]

**The Presiding Officer:** Let us hear the Deputy First Minister.

**John Swinney:** The issue that matters is the impact on the pay packets of individuals, and that impact will be disproportionate on low-paid individuals in society. Can Jackie Baillie not understand that point?

**Jackie Baillie:** I absolutely can, and I suggest that the cabinet secretary calms down, because what I have to say is worth listening to. For the low-paid worker—[*Interruption.*]

**The Presiding Officer:** Order!

**Jackie Baillie:** They do not want to hear this, Presiding Officer, which is why they shout louder.

I think that this is instructive. For the low-paid worker, the 5 per cent figure represents £19 a year; for the person on £200,000, it is an extra £2,500 a year. That is 132 times more than what the low-income taxpayer would pay. I have to say, Presiding Officer—*[Interruption.]*

**The Presiding Officer:** Order, Mr Swinney.

**Jackie Baillie:** For someone on a six-figure salary to tell low-paid workers that he is protecting their incomes when he is really protecting his own is just plain wrong. This is a progressive power—John Swinney said so himself. Our £100 payment, which is deliverable and affordable, protects the low-paid and makes things fairer. *[Interruption.]*

**The Presiding Officer:** Order! Let us hear Ms Baillie.

**Jackie Baillie:** I know that there are SNP MSPs who believe that this is the right thing to do, and I ask them to search their conscience and think of the opportunities that children will miss out on, the thousands of jobs that will be lost and the impact on the future prosperity of our nation. It sometimes seems that when the SNP decides how to vote on something, the only reason that really matters is whether Labour supports it. We have seen that with tax credits; we even saw it this week with organ donation, and that is truly depressing.

I implore the Scottish Government not to let personalities and politics get in the way of doing the right thing today. I ask members to reject this motion, reject the hundreds of millions of pounds of cuts that it lays at the doors of our schools and choose the alternative of investing in our children and the future prosperity of our country.

17:42

**Gavin Brown (Lothian) (Con):** At the risk of being accused of giving a managerial contribution, I want to start by saying that I think that we should pay tribute to all the work that has been done by the Scottish Government and HMRC over the past couple of years since the passing of the Scotland Act 2012 to ensure that we are in place and ready for the devolution of income tax, at least in part, on 1 April. A huge amount of work has been done by both sides. They have tackled it very successfully and it shows what can be done when everyone puts in the right amount of effort to do the best thing for Scotland.

It is refreshing, though, to get back to some of the bread-and-butter issues of politics. It is like going back to the good old days of 2007 to 2011, when the Conservative Party and the SNP were good friends and worked together to do the very best for Scotland. I am extremely heartened by the

passionate defences that Nicola Sturgeon and John Swinney, despite the political pressure and the challenges that both have faced over the past week or so, have given both at First Minister's questions and just a few moments ago. I do not think that I have ever heard Nicola Sturgeon or John Swinney be quite as passionate about any political issue as they have been in opposing this awful tax increase that has been put forward by the Labour Party and the Liberal Democrats.

**Lewis Macdonald (North East Scotland) (Lab):** In light of what the member has just said, will he concur with the impression that I have formed that the script being followed by Mr Swinney and Ms Sturgeon is all but identical to the words that David Cameron spoke last week in the House of Commons about this policy?

**Gavin Brown:** I am almost in danger of agreeing with the Labour Party, which makes this a very unique debate. At the end of the day, we seem to have some kind of new taxpayers alliance between the Conservative Party on this side of the chamber and the fiscal conservative party taking up the bulk of the middle of the chamber. That has to be good news for a progressive, competitive and outward-looking Scotland, which is entirely what is required.

We did not reach that view lightly. Tax-cutting instincts were gnawing away at me and Murdo Fraser and we gave serious consideration to proposing a tax cut. Having reviewed all the evidence that came to the Finance Committee and having listened carefully to a number of witnesses, we have settled on the view that it is correct to keep tax at the same amount. We will take great pleasure in voting alongside the Government come decision time to keep tax exactly as it is.

Although I was hugely impressed by the contribution of Ben Thomson, who argued for a 2p tax cut and was extremely persuasive, the consequences of paying for that tax cut—his suggestion was to increase council tax—were politically unpalatable at that time. There were others who suggested a tax increase—NHS Health Scotland, Lucy Hunter Blackburn and one or two others. However, by far and away the largest number of contributions, and ultimately the most persuasive, were those who said that the tax should remain the same. They were concerned about acting too quickly, about complexity for employers and about the mobility of labour at a time when the economy is in recovery mode. For all those reasons, and all the points put forward by various witnesses, we firmly believe that the correct decision is to keep tax the same.

I want to throw out a serious challenge to the Labour Party, because if we are going to propose tax changes, particularly in very short order, creating a new tax policy over the course of a



weekend, there are serious questions that need to be asked. What behavioural analysis has been done by the Labour Party on the implications of a tax increase across all the bands in just a few weeks' time? There will be economic consequences. For example, if high earners alter their behaviour, we could face a challenge—we only have 11,000 additional rate payers in Scotland. If there were some kind of shift by even a small percentage of those taxpayers, there would be a big impact on the overall tax take.

We looked at the matter carefully, and at paragraph 43 of our report, the Finance Committee concluded:

"The Committee recommends that it is essential that future decisions on taxation policy are fully informed by relevant behavioural analysis."

That recommendation was unanimous and was not a decision taken lightly. I ask those in the Labour Party who have yet to speak in the debate or who are making closing speeches what behavioural analysis has been done. Do they think that they would get all the £490 million that they suggest or will they only get a smaller fraction, which would mean that the sums do not add up? One of the Scottish Parliament information centre papers included a suggestion—it was not the original work of SPICe—that the impact of a 1p change in either direction would be £345 million, rather than the £490 million that has been suggested. If that turned out to be correct, it would create a hole in Labour's budget.

We oppose such an increase in principle. We do not think that hard-working people in Scotland should be paying more in tax than those in the rest of the UK. We think that that would put an additional burden on people, particularly those on the lowest incomes, which would present a challenge, not just to those individuals and their families, but to the economy and the wellbeing of Scotland as a whole. We think that it sends out entirely the wrong signal to the world that, having been given a tax power, the first thing that we do—in an almost unthinking fashion—is to put that tax up.

For all those reasons we reject the proposals put forward by the Labour Party and their friends in the Liberal Democrats. We support the position taken today by the Scottish Government. When it comes to decision time, we will be supporting the income tax rate resolution.

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

17:49

**Mark McDonald (Aberdeen Donside) (SNP):** My colleague Bruce Crawford pointed out that, despite Willie Rennie saying that this is a historic

occasion, no other Liberal Democrats have come to the chamber—it appears that they decided to go home to their constituencies and prepare for dinner.

Willie Rennie said earlier today that the First Minister should get on the phone to Aberdeenshire Council to address education spending. Perhaps he should get on the phone to the council because, as the council's leader informed me today, the Liberal Democrats submitted a motion for the budget that would have resulted in £430,000 less from the administration budget being spent on education.

**Members:** Oh.

**The Presiding Officer:** Order.

**Mark McDonald:** Willie Rennie, that great defender of education, should consider that.

**Alex Salmond (Aberdeenshire East) (SNP):** Did I hear that correctly? Is Mark McDonald saying that Willie Rennie was complaining about the education budget while his colleagues in Aberdeenshire Council were proposing to spend less on education? Even by Rennie's standards, that is incredible.

**Mark McDonald:** I can only refer to what is in the budget spreadsheet that was sent to me today.

I received another piece of information today. My constituency office was in receipt of a letter from Kezia Dugdale in which she made a personal appeal to me ahead of today's debate and pointed out that she believes that the estimated cuts to Aberdeen City Council are £14 million. I therefore looked back at *The Press and Journal* of 25 January, which announced to a fanfare that Aberdeen City Council had managed to come up with £20 million of savings in just one week. Indeed, council leader Jenny Laing said that crucial services such as schools, housing and care homes would be protected along with jobs. She said:

"Our finance team have also told us that we can save money by looking closely at our departmental budgets. We also believe that we can mitigate cuts to services by looking at non-critical areas of spending."

There we have it—the council is able to make £20 million of savings without having to touch the front-line services or jobs that the Labour Party tells us are the only things left to find savings in.

The Finance Committee undertook a great deal of consultation on the Scottish rate of income tax. At no point in that process—not in the taking of evidence, the discussion of the report or the voting on the report—did the Labour Party indicate that it supported a change to the SRIT beyond it being set at 10p. Only two days after the SRIT recommendation was put in the report, the Labour Party changed its position. Either it did not know

what its position was going to be when it agreed to the report or it was simply misleading us during that process.

We have not yet heard at any point in the process how the rebate would work—in nine minutes of exposition, Jackie Baillie failed to outline how it would work. The detail matters. It matters to people who are being told that they would be protected from a tax increase by a rebate to know how they could claim that rebate. Would there be data sharing between HMRC and councils? What would the cost of that be? Would people have to present payslips in order to receive the rebate? Would there have to be means testing? What would happen if people's tax codes changed during a financial year or if people received overtime payments beyond their salary?

All those details are important; all those details matter. The simple fact is that, when the people of Scotland look at the Labour Party, they see right through it.

17:53

**Willie Rennie (Mid Scotland and Fife) (LD):** This is a truly historic day—it is a hat trick for Mr Swinney, but there is an utterly miserable response. The language that has been adopted by Mr Swinney and his back-bench colleagues is similar to the language that is adopted by those on the right. “Tax is theft” was almost the language that was being adopted.

The only people in the chamber who have been happy this afternoon are the Conservatives, who clapped enthusiastically throughout Mr Swinney's speech. When Gavin Brown was speaking, SNP members were squirming, because he eloquently set out how the two parties are coming together in a taxpayers' alliance.

**Mark McDonald:** Will Mr Rennie take an intervention?

**Willie Rennie:** Not just now.

If we look at the facts, we see that John Swinney is adopting many of the tax policies that George Osborne has adopted. In fact, John Swinney is undercutting George Osborne in many areas. We have heard about income tax today, where John Swinney is matching the chancellor down to the last penny, but he is also matching the chancellor on second homes and undercutting the chancellor on air passenger duty—

**Mark McDonald:** Will the member take an intervention?

**Willie Rennie:** Not just now.

John Swinney is undercutting the chancellor on the council tax. Even George Osborne is allowing the council tax to go up, but not John Swinney. I

was expecting a condemnation from Gavin Brown on that front.

The SNP is not living up to this truly historic day. It is a great opportunity to address the urgent financial position that we face.

**Mark McDonald:** Will the member take an intervention?

**Willie Rennie:** Our councils face a £500 million cut, but the SNP is not doing a single thing. SNP members sit down and take no opportunity to change the climate at all.

**Mark McDonald** *rose—*

**The Presiding Officer:** Mr McDonald.

**Willie Rennie:** The SNP has powers that it has argued for decades for. Throughout its existence, its members have been living for this day, and what do they do? Absolutely nothing. How disappointing, how despondent and how miserable is that?

Although, on this historic day, there is greater flexibility for John Swinney to do as he wishes with the amount of money that we are spending, he imposes a vicelike grip on local authorities, with £408 million of fines.

**Mark McDonald:** Give way.

**Willie Rennie:** That is £408 million of fines if authorities do not obey John Swinney right down to the last penny. A £1 increase in council tax would result in £408 million of fines. Although he has greater flexibility, he is tying down local authorities.

**Mark McDonald:** Will the member give way?

**Willie Rennie:** No.

I will move on to the progressive aspect. It is clear that John Swinney is so desperate to do nothing that he is spinning a story about the tax. If we compare this year with next year, we see that, thanks to the tax thresholds going up, somebody who is on £100,000 will pay 30 times as much as somebody who is on the median wage pays.

**Mark McDonald:** Give way.

**The Presiding Officer:** Mr McDonald, the member is not giving way.

**Willie Rennie:** Thirty times as much seems progressive to me. Someone would have to earn more than £19,000 to pay any extra money next year compared with this year.

Under the proposal for the penny for education—money hypothecated for education—the richest 12 per cent of people in this country would pay 42 per cent of the extra revenue. That seems pretty progressive to me, and I would have

thought that a party that claims to be progressive would adopt that policy, too.

The SNP ignores the social benefits of the £475 million investment. It is almost as if the investment would go into a black hole and nobody would benefit from it, whereas there would be an expansion of nursery education, a big boost to the pupil premium, the reversal of cuts to colleges and the stopping of cuts to schools.

**The Presiding Officer:** You need to close, Mr Rennie.

**Willie Rennie:** That would have a transformational effect. Today we should be enjoying and celebrating the fact that we can undo the damage, but SNP members sit and do absolutely nothing.

**The Presiding Officer:** I remind all members that they have four minutes.

17:58

**Neil Findlay (Lothian) (Lab):** Throughout the history of the Labour movement, socialists, trade unionists, co-operators and others have campaigned for and delivered or helped to deliver publicly funded services that are paid for collectively through taxation, so that those without the wealth and power to buy services privately can access quality education, housing, social services and so on. However, those services are under all-out attack, through a combination of Osborne and Cameron's grinding austerity and John Swinney's austerity plus.

Despite being named UK council of the year in 2006, my council—West Lothian—has, under the cabinet secretary, suffered consecutive cuts amounting to £100 million. It makes me want to weep when I see what has been done to public services across Scotland, with 60,000 job losses and no partnership action for continuing employment—PACE—team or task force sent in to help the council staff who are losing their jobs.

Education, social work and environmental services are all being cut. Only last week, we saw the nauseating spectacle of the education secretary posing for photos in a library in the same week as she voted for another £500 million of cuts, which will inevitably mean that many libraries will close.

As politicians, we have a decision to make. Do we sit back and do nothing while we watch lifeline services being cut, or do we do something about it? This Parliament was not established just to pass on bad decisions from elsewhere; it was established to be a bulwark against them and to enable parties to work together to protect and improve our services, not make them worse.

In the circumstances that we have witnessed, there is a political choice to be made. The choice is between more austerity and more cuts to vital services, with the low paid and the poor suffering most—and, as Angela O'Hagan told the Welfare Reform Committee, women being disproportionately affected—or taking action and using the powers of the Parliament.

We have made our choice. We have chosen to say that there should be an increase in taxation of 1p. That is not only a progressive move but a redistributive move. As the IPPR has said, under the proposals, the poorest 30 per cent of households would see increases in income, with the richest paying significantly more than now. It has also said that, in Scotland, matching the UK Government's tax plans would reduce tax for the rich but not for the poor. Scottish Government ministers, realising that they are on the wrong side of the argument, have resorted to scare tactics, with talk of tax bombshells and tax grabs—language that is straight out of Tory headquarters.

The public services are the services that civilise us as a society.

**Stuart McMillan (West Scotland) (SNP):** Will the member give way?

**Neil Findlay:** No, thank you.

They are the services that educate our children, care for our elderly, look after the vulnerable and keep our streets clean. I find it utterly immoral that politicians on six-figure salaries mislead and scare the poor and low paid into believing that they would be worse off when not only would they be financially better off but their families' lives would be better, too, as a result of improved services.

It is the double standards that make things worse. Although the SNP rightly demands no detriment in the negotiations over the fiscal framework, it imposes detrimental cut after cut on local government.

**The Presiding Officer:** You need to wind up, Mr Findlay.

**Neil Findlay:** If the cabinet secretary wants proof that he is on the wrong side of the argument, he need only look at the grinning faces of Murdo Fraser, Alex Johnstone and Ruth Davidson as we vote tonight, when the SNP will join the Tories in putting the knife into more local government jobs.

18:02

**John Mason (Glasgow Shettleston) (SNP):** It is an honour to speak in the first debate that is actually setting the SRIT.

As has already been said, the Finance Committee spent a lot of its time during the budget study this year considering the Scottish rate of

income tax. As I said in the budget debate, I come at this issue from the position of someone who would like more taxation powers to be available to this Parliament in order to provide better public services and to help reduce the gap between the rich and the poor.

It is worth looking at the current income tax rates in the UK and Scotland—and let us remember that national insurance contributions are effectively an income tax, although they get less publicity. At the bottom end, we go very quickly to paying 20p income tax plus 12 per cent national insurance, which is 32 per cent in total by the time we get to £11,000. Meanwhile, people at the top pay 45 per cent income tax and 2 per cent national insurance, which gives 47 per cent. Therefore, our whole income tax system goes from 32 per cent at the bottom to 47 per cent at the top, so we have a pretty hopeless and non-progressive system to start with.

It seems to me that, if we had control of income tax and national insurance, we could and should have a much more progressive system, which could perhaps start at 10 per cent at the bottom and go up to something like 60 per cent combined tax and national insurance at the top.

Right now, however, we face a decision for just one year: 2016-17. Should those who work for low wages, already taxed at 32 per cent—the marginal rate—have to have their taxes increased to 33 per cent? I think not.

The Finance Committee considered whether we could raise the SRIT. The first question was whether the SRIT was progressive. I continue to believe that it is progressive.

**Lesley Brennan (North East Scotland) (Lab):** Will the member take an intervention?

**John Mason:** No.

The reality is that it is not progressive enough. Clearly, a lot of people on low incomes would be hit hard.

That point came up at the Finance Committee and the Scotland Bill Committee in 2011 or thereabouts, when we asked Conservative and Liberal Democrat ministers whether they would allow us the powers to make a more progressive tax system, and they absolutely refused. It is, therefore, a bit rich for the Liberal Democrats to tell us to do something about it.

We have the Labour and Lib Dem proposal to raise tax by 1p. I think that the Lib Dems had at least thought about it before they spoke about it. Certainly, Labour did not mention that proposal at the Finance Committee, as has been said. On the surface, it seems attractive that we could get another £400 million or something like that. Labour suggests a rebate of £100 for those at the lower

end, but we still do not have answers to the questions about the practicalities of that. Could the local authorities handle that system? What would the cost be—£1 million or £40 million? We do not know. Would those who needed most help be properly targeted and receive the money? Or would there be the same kind of bureaucratic burden as there was with pension tax credit, where a third of people missed out on what they were entitled to because of the horrible system involved? In addition, would such payments themselves be taxable?

There might be answers to those questions, but neither the Finance Committee nor, I suspect, anyone else has looked thoroughly at them because they were not raised before. The Scottish Trades Union Congress and other witnesses at the committee supported keeping the Scottish rate at 10p. I think that one of the reasons for that is that we should be getting more powers in a year's time.

**The Presiding Officer:** You need to bring your remarks to a close.

**John Mason:** The question is not whether we are stuck with the SRIT for ever and ever but whether we can live with it for a year, until we get proper, decent powers that allow us to be more progressive as we go forward. I would like to make income tax more progressive and raise the rates for those who can afford to pay, but the powers that we have for this year are just too blunt and there is too much risk of damaging those at the bottom.

18:06

**James Kelly (Rutherglen) (Lab):** There is no doubt that this is a debate in which there are real choices on the table. When we vote at half past 6 tonight, we can vote to pass on £500 million of spending cuts to our local councils and communities, or we can go down the alternative route of the Labour option of protecting public services, investing in education, investing in young people and supporting our communities.

Not only has the SNP's response to that option been disappointing, but the quality of SNP members' debating points has been very poor. We have seen the SNP scare machine in full operation, and at the front of that machine has been Nicola Sturgeon at First Minister's question time. She has repeatedly put out the myth that people on low pay of £11,000 would be adversely affected by the Labour policy, but that is simply not true.

**Clare Adamson:** Will the member take an intervention?

**James Kelly:** No.

We need honest debate, not dishonest facts like that.

**Mark McDonald:** I am always grateful for debating tips from James Kelly. In the spirit of honest debate, can he explain in detail in his last two and a half minutes how the rebate system would work? Those low-paid people to whom he is promising it deserve that at the very least.

**James Kelly:** The thing about the SNP—*[Interruption.]*

**The Presiding Officer:** Order. Let us hear Mr Kelly.

**James Kelly:** The thing about the SNP in this discussion is that it is all about how it is too hard, and that we are too wee and too small a Parliament. Where is the SNP's ambition? Why does it not stand up to the issues? *[Interruption.]*

**The Presiding Officer:** Order.

**James Kelly:** When it comes to half past 6 tonight—

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** How will the rebate system work?

**James Kelly:** When it comes to half past 6 tonight, Mr Stevenson should think of the class assistants in his constituency who will be out of a job, the teachers who do not have the photocopying facilities for the kids and the parents who are watching the investment being drained away from their schools, and see whether he can discover the backbone not to support the SNP motion.

**Clare Adamson:** Assuming that the whole idea is legal and that it can be delivered for one fortieth of the cost of other similar exercises, and assuming that Labour is in the unlikely position of being able to deliver the policy, will James Kelly give a guarantee to the people on lower incomes on how long it would take to get the rebate from the point at which they would apply, given that there is no infrastructure in place? What are the lowest-paid people in society and those who are most likely to be dealing with their finances day to day to do in the months that it would take for the Labour Party to implement a 5 per cent slash in their income?

**James Kelly:** Thank you very much for your speech, Ms Adamson.

**Members:** Where is the answer?

**The Presiding Officer:** Order. You need to bring your remarks to a close, Mr Kelly.

**James Kelly:** Let me make this point after that speech. The policy will benefit those on the minimum wage—

**Members:** How?

**James Kelly:** —by £81 a year and those on a living wage by £51 a year. It will help the very low paid in our communities; it will help our councils, teachers, parents and pupils. It will invest in their future. I ask members to make sure that they vote down the SNP motion.

18:10

**Patrick Harvie (Glasgow) (Green):** What a day for the Parliament's sound system to be on overcharge. It has not helped the atmosphere in the chamber.

Many points have been made about the historic nature of the decision that we are about to make—the Parliament's first decision on substantive tax powers. I am afraid that I just do not buy that. Since 1999, this Parliament has had the ability to make tax policy at local level to provide for local services but we just have not used it. Session after session, we have been deadlocked for one reason or another.

Since the first session of Parliament, the Greens have been advocating radical changes to local tax policies. Even in the 2011 election, when we saw the Tory cuts coming down the line and John Swinney came to us all and said, "Look, we'll have to implement a public sector pay cap, because the alternative is to lay people off", we were willing to say, "Let us raise revenue and let us do it at the local level." I am pleased to see that other parties are now saying that it is time to raise revenue. I still say that we must be willing to raise revenue if we want to protect our public services and the people who deliver them from those cuts.

We must continue to make the case for doing that at local level. We have seen a continued constraint—an ever-tightening grip—of national tax policy against the local flexibility that used to exist. Just as we predicted in 2011, fees and charges now represent a larger proportion of local council income than the council tax, which is the least progressive way of funding those services. That approach is going to be continued.

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

**Patrick Harvie:** I am afraid that I do not have time.

In the 2016-17 budget, the Greens are advocating a tax-raising package roughly equivalent to what the Labour Party believes that it could put forward. We proposed, through an amendment to the Land Reform (Scotland) Bill, to raise revenue from derelict and vacant land. The minister told us that that could be done with existing legislation, so let us get on with it.

We also propose unfreezing the council tax and using the council tax multiplier to ensure that high-value properties, which are undertaxed, pay their

fair share. The consequence would be that lower-value properties would end up paying less. That is the better way to raise revenue and to protect public services.

When Kez Dugdale spoke eloquently about the value of education in this week's Labour Party debate, she cited the views of Stiglitz and Piketty, both of whom have advocated that wealth taxes must be part of our tax base. I am afraid that to continue the council tax freeze and raise income tax would narrow the tax base on income rather than on wealth, as well as shifting further from the local to the centre. That is the wrong direction to take it.

Doing nothing is not the only alternative to an income tax rise of a penny in the pound as the Labour Party and the Lib Dems suggest. The Greens have proposed radical and local alternatives that would raise the revenue that we need.

If two things were different, I would be at least willing to look at the income tax proposal. If I was convinced, after listening to everything that I have heard, that we could have in place a system for delivering the rebate in a little more than six weeks and for the start of a new financial year, I might be willing to listen.

**The Presiding Officer:** You need to bring your remarks to a close.

**Patrick Harvie:** If I was convinced that there was a means of preventing very high-income individuals from dodging the taxes, I might be more willing to listen.

I am not convinced that that those two criteria have been met. Therefore, I continue to say that we must raise revenue at the local level and include revenue raising from property wealth, not just from income.

18:14

**Gavin Brown:** It has been an interesting debate. We have had some pretty woeful and dreary speeches from the Labour Party and the Liberal Democrats, who are just determined to increase the tax burden on the people of Scotland. We have also had some excellent speeches from SNP members, who advanced some good solid Conservative values and analysis.

Mark McDonald—I had not realised that he is quite so right of centre—told us how easy it is to make £20 million-worth of savings in a council over a week without hitting front-line services or jobs. I look forward to having a cup of coffee with him later to discuss how we can do a bit more of that in councils up and down the country.

**Mark McDonald:** I would not wish to take the credit because that great “right of centre” rhetoric about how easy it was to make £20 million of savings was not mine: it was the rhetoric of the Labour leader of Aberdeen City Council.

**Gavin Brown:** That is the first time in Mark McDonald's life that he has not wanted to take the credit. I suspect that it is also probably the last. I congratulate him on that.

I thank John Mason for his speech. He rightly pointed out that in many ways national insurance is an income tax by another name. He also pointed out that when we combine national insurance with income tax, we find that we are already a heavily taxed country and there is no need to increase income tax any further. He was right to focus on the bureaucratic mess that could be created by the Labour Party's determination to introduce a rebate.

**John Mason:** I appreciate Gavin Brown's point that people at the bottom end are highly taxed. Does he accept that the people at the top end are taxed too low?

**Gavin Brown:** John Mason cannot even take credit when he is being given it. His speech was excellent all the way through. I ask him not to spoil it with interventions of that nature because it does him no credit at all.

I am a little surprised by the SNP, but pleased by the approach that it has taken to taxation over the past couple of weeks and will take at decision time. I was told as a young man—it turns out wrongly—that the SNP was a high-tax party. Based on the debate, that does not appear to be true because not only are the front-bench members saying that we should keep taxes at the same level as the rest of the UK, but the back-bench members are saying it, too. Since the issue arose two weeks ago, not a single SNP MSP in debate, in public or in private has suggested that taxes should go up. It is not just the front-bench members who like the taxes to be at the same level as the rest of the UK, but the entire back-bench group, which gives me hope for Scotland. A number of years ago, when Alex Salmond was First Minister, he said that he approved of Margaret Thatcher's economic policies. I did not realise that the entire SNP membership approved of Margaret Thatcher's economic policies.

As I said in my opening speech, we will vote with the Government. We are very pleased that income tax in Scotland will not be higher than it is in the rest of the UK.

18:18

**Lewis Macdonald (North East Scotland) (Lab):** We have, indeed, reached an historic

moment: a few minutes from now, the Scottish Parliament will vote for the first time on the Scottish rate of income tax and, a few weeks from now, the Scottish Government will collect it. For those of us who have supported devolution as a process and not an event, it marks another significant milestone. For those who have argued that the Scottish Parliament could be a proper Parliament only with powers to raise money as well as to spend it, it is more than a milestone: it is a moment of truth.

There are members throughout the Parliament who have been here from the beginning. Perhaps they share my sense that Parliament as an institution has grown and matured over those years: fighting to be heard in its infancy, jostling for space as it grew, learning to do new things as its confidence developed and now, in its middle teens, taking ever greater responsibility for funding its own expenditure.

However, surely this is the coming of age—the point at which we can make meaningful decisions about how much money ministers have to spend and the point at which tax rates that are set in this place have a direct impact on the population. We in Labour celebrate that new level of responsibility and the new powers, because we know what we want to do with them. Now that the devolved Scottish Parliament is coming of age, it is doing so just in time to do the job for which it was intended because, of course, the Conservative Party again holds the levers of power. As we have just heard, it is as committed as ever to cuts in spending and cuts in taxes, but this time it is faced by a Scottish Parliament that has the powers to defy austerity and to express the will of the Scottish people, if we so choose.

So, is this the time of “Alba gu bràth” or is it more a case of

“Wee, sleekit, cowrin, tim’rous beastie”?

Sadly, the motion that is before us is indeed a mouse, and a very timid one at that, because John Swinney asks us to do nothing with those brave new powers. Instead, he asks us to vote for a Scottish rate of income tax of 10p in the pound—the same rate as that which has been set by George Osborne at Westminster—and not to break with the Tories’ austerity, but instead to stand shoulder to shoulder with them in passing on their austerity policies to Scotland’s schools and public services.

That is disappointing enough in itself. After all the rhetoric about austerity from Mr Swinney and his colleagues, this was their first best chance to show that they really meant it, but they have fallen at the first hurdle. Not only have they done that, they have spoken with great passion—greater passion, perhaps, than ever before—against the

very prospect of increasing taxation in order to protect public services.

**Stuart McMillan:** I have listened carefully to what Lewis Macdonald has had to say. Can he tell Parliament exactly what the details of his party’s proposed rebate would be?

**Lewis Macdonald:** I would be delighted to do that once we have heard from the SNP whether it supports the principle of raising tax to address austerity. [*Interruption.*]

**The Presiding Officer:** Order. Let us hear Mr Macdonald.

**Lewis Macdonald:** The truth—as has been so amply demonstrated by SNP member after SNP member—is that the SNP is so embarrassed by its taxpayers alliance with the Conservative Party that it will not address the principle at all but will only go on endlessly about the detail.

**Kevin Stewart:** Will Mr Macdonald give way?

**The Presiding Officer:** Mr Stewart, sit down.

**Lewis Macdonald:** It is the case not just that the SNP will not defend a policy of progressive taxation but that it will go through extraordinary contortions in order to denounce those of us who believe that progressive taxation is the right thing to do.

I listened once again to Nicola Sturgeon at First Minister’s question time today, when she appeared to deny that income tax is progressive at all. She said that teachers and nurses would be much worse off than she would be, because their tax rise of £140 would be twice as bad, statistically speaking, as her own tax increase of £1,447. If ever there was a case of someone who earns a six-figure sum arguing against tax increases on the basis that they would really penalise someone else more, that was it. I have no doubt that the support for that argument among SNP members will have gladdened Tory hearts once more.

**Kevin Stewart:** Will Mr Macdonald give way?

**The Presiding Officer:** The member is in his final minute.

**Lewis Macdonald:** The only fly in the ointment was that Gavin Brown almost gave the game away when he suggested that the flaw in Labour’s proposals is that an increase in income tax might scare away some high-tax paying citizens from Scotland. That is a perfectly legitimate point of view and it is the only point on which the Tories do not agree with the SNP. The Tories recognise that income tax imposes a greater burden on people on higher salaries, but the SNP wants to pretend that the opposite is the case and, to be frank, that is a disgrace.

**The Presiding Officer:** You need to bring your remarks to a close.

**Lewis Macdonald:** There is a choice before Parliament at this historic moment—it is a choice especially for those who are not Tories but who voted with the Tories last week. We can postpone using any of our new powers into the indefinite future or we can use them now in order to stop the cuts that are being delivered by John Swinney on behalf of the SNP Government, who is passing on the cuts that have been sent down to him by Westminster. We in Labour are proposing that we should resist those cuts and that we should do so in the way that we have described. I hope that others will vote accordingly later today.

18:25

**John Swinney:** I welcome the opportunity to close this historic, landmark debate, which has been very interesting and spirited. It looks to me as if Gavin Brown has had a very enjoyable afternoon taking part in it.

It has not been obvious to me that Gavin Brown and I have been on much the same wavelength on taxation. *[Interruption.]* The Labour Party's guffawing is misplaced. Mr Brown has been far from at the front of the queue in applauding the tax decisions that I have taken on the land and buildings transaction tax. I had the first opportunity in 300 years to set a tax in Scotland, of course, and I related it to the ability to pay and delivered progressivity where nobody in the United Kingdom—not even the Labour Party—had attempted to do that. We should be a bit sceptical about some of the rhetoric that we heard from Mr Brown on the issue.

The one thing that I am pleased about is that the Conservatives have returned to the position that they occupied in 2007 to 2011 as the lobby fodder of the Scottish National Party Government for our decisions. That is a very welcome return by the Conservative Party to that position.

John Mason made a fascinating contribution to the debate. He looked at the actual cash impact on individuals in low-income households. He did not try to pretend that there is an easy answer to the issue, which the Labour Party has tried to do; rather, he confronted the issue and recognised the difficulty that an increase in taxation would cause to individuals in low-income situations. He made a point, particularly in relation to the speculative rebate about which we have heard a great deal, about the difficulties of ensuring that people in low-income situations secure the benefits to which they are entitled. That is a common problem for people on low incomes, and it seems to be casually disregarded by the Labour Party.

The other thing that the Labour Party has casually disregarded is the fragility of incomes of individuals who are in low-income situations in our country. Jackie Baillie marshalled the difference in the costs of a tax increase for people on higher incomes versus for people on lower incomes. Her numbers were correct in that respect, but so are my numbers on the proportional increase in the tax bill of individuals with lower levels of income being double that of individuals at a higher rate. The casual disregard of the impact on lower-income individuals demonstrates that the Labour Party is not on the side of low-income households in our society.

**Lesley Brennan:** John Swinney comments on our casually disregarding, but he seems to be casually disregarding the personal allowance, which takes a large proportion of people who get under £11,000 out of paying any tax. We are offering others a rebate, which he also seems to be casually disregarding.

**John Swinney:** What Lesley Brennan has just confirmed is that the Labour Party is, of course, quite happy to increase taxes for people who earn just £11,000. I am not prepared to do that as part of the budget.

Lesley Brennan also said that there is the rebate. In nine minutes and 23 seconds of beautiful oratory to the Parliament, Jackie Baillie said this about the rebate: it is workable. That was the level of detail that Jackie Baillie gave us—that was it.

When Clare Adamson invited Mr Kelly to tell us in his speech how that rebate would be paid to members of the public, he did what he always does in such situations: he just shouted back, "Irrelevant."

Mr Rennie criticised my managerial style. Well, I am sorry about my managerial style, but on 6 April I have to make sure that people can have their tax collected, and I have to make sure that if there is a rebate, it can be paid. On the basis of what I have heard from the Labour Party, it has not a scintilla of a legal or operational basis for paying that rebate—we did not hear about one today.

I give way to Johann Lamont.

**Johann Lamont:** Meanwhile, back in the real world, where people—*[Interruption.]*

**The Presiding Officer:** Let us hear, Ms Lamont.

**Johann Lamont:** —where people on low pay may be losing their jobs, losing care support for their mothers and losing opportunities for learning in schools, does not the cabinet secretary accept that council services disproportionately support people on low incomes? That is what £500 million of cuts means—disproportionate attacks on them.



**John Swinney:** That is precisely why the Scottish Government is investing £250 million of new money in health and social care to support the delivery of those services.

**Lesley Brennan:** Will Mr Swinney take an intervention?

**John Swinney:** I am bringing my remarks to a close.

Johann Lamont talked about the real world. In the real world, if a party makes a promise to deliver a rebate on 6 April, it has to be capable of delivering it. There is not a scintilla of evidence to suggest that that could be done.

Mr Findlay was giving us a lecture from his high moral standpoint on the back benches that we should not be misleading the people, but the Labour Party is misleading the people. To avoid anyone misleading the electorate, I point out that if Labour's proposal went through, taxes for people earning incomes as low as £11,000 would go up. That is a penalty for low-income households in our country.

James Kelly also accepted in his speech that individuals on low incomes would be adversely affected. This Government will have nothing to do with that.

Mr Findlay said that, in the course of the debate, there would be grinning faces from Ruth Davidson, Murdo Fraser and Alex Johnstone. I just pose Mr Findlay and his colleagues the question: what were they thinking when the Ruth Davidsons, the Murdo Frasers and the Alex Johnstones were standing shoulder to shoulder, grinning away in happiness in the better together alliance? Were they not worried about the smiles of the—*[Interruption.]* Does Mr Macdonald want to intervene?

**The Presiding Officer:** No, you are winding up.

**John Swinney:** I am sorry; I cannot allow Mr Macdonald to interrupt the grinning spectacle of the better together alliance.

The Labour Party sold out the poor in this country by getting into bed with the Tories and they are paying the most terrible price for it. Those in the Labour Party should be ashamed of themselves. *[Applause.]*

**The Presiding Officer:** That concludes the debate on the Scottish rate resolution.

The question is, that motion S4M-15497, in the name of John Swinney, on the Scottish rate resolution be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Davidson, Ruth (Glasgow) (Con)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Johnstone, Alison (Lothian) (Green)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)

Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wilson, John (Central Scotland) (Ind)  
 Yousaf, Humza (Glasgow) (SNP)

#### Against

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Brennan, Lesley (North East Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahon, Michael (Uddingston and Bellshill) (Lab)  
 McMahon, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)

**The Presiding Officer:** The result of the division is: For 74, Against 35, Abstentions 0.

*Motion agreed to,*

That the Parliament agrees that the Scottish rate of income tax for tax year 2016-17 is 10%.

## Burial and Cremation (Scotland) Bill: Financial Resolution

18:34

**The Presiding Officer (Tricia Marwick):** The next item of business is consideration of motion S4M-15260, in the name of John Swinney, on the financial resolution for the Burial and Cremation (Scotland) Bill.

*Motion moved,*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Burial and Cremation (Scotland) Bill, agrees to—

(a) any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act, and

(b) any charge or payment in relation to which Rule 9.12.4 of the Standing Orders applies arising in consequence of the Act.—[John Swinney.]

**The Presiding Officer:** The question on the motion will be put at decision time.

## Point of Order

18:34

**Neil Findlay (Lothian) (Lab):** On a point of order, Presiding Officer. At First Minister's question time today, I made a comment that I now understand to be unparliamentary. If that is the case, I withdraw the term attributed to me. However, at the same question time, the First Minister described Labour's support for a modest tax increase on those earning more than £20,000—

**Members:** Just apologise.

**The Presiding Officer (Tricia Marwick):** Order. Let us hear Mr Findlay.

**Neil Findlay:** —to end the Government's austerity as "dishonest" and went on to accuse Labour of "perpetrating a con trick". I therefore withdraw the term attributed to me that the Parliament finds unparliamentary and would instead substitute it with the term used by the First Minister today.

**The Presiding Officer:** Mr Findlay, you have been a member of the Parliament for almost five years. You know that the word "liar"—the word that you used at First Minister's question time and that was recorded by the independent official report—is unparliamentary. I note what you have said and I will consider the matter further.

## Decision Time

18:36

**The Presiding Officer (Tricia Marwick):** There are three questions to be put as a result of today's business. The first question is, that motion S4M-15607, in the name of Paul Wheelhouse, on the Community Justice (Scotland) Bill, be agreed to.

*Motion agreed to,*

That the Parliament agrees that the Community Justice (Scotland) Bill be passed.

**The Presiding Officer:** The Community Justice (Scotland) Bill is passed. [*Applause.*]

The second question is, that motion S4M-15608, in the name of Maureen Watt, on the Burial and Cremation (Scotland) Bill, be agreed to.

*Motion agreed to,*

That the Parliament agrees to the general principles of the Burial and Cremation (Scotland) Bill.

**The Presiding Officer:** The third question is, that motion S4M-15260, in the name of John Swinney, on the financial resolution for the Burial and Cremation (Scotland) Bill, be agreed to.

*Motion agreed to,*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Burial and Cremation (Scotland) Bill, agrees to—

(a) any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act, and

(b) any charge or payment in relation to which Rule 9.12.4 of the Standing Orders applies arising in consequence of the Act.

*Meeting closed at 18:37.*



This is the final edition of the *Official Report* for this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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