



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Tuesday 8 March 2016

Session 4

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Scottish Parliament

Tuesday 8 March 2016

[The Presiding Officer opened the meeting at 14:00]

Time for Reflection

The Presiding Officer (Tricia Marwick): Good afternoon. The first item of business this afternoon is time for reflection. Our time for reflection leader today is the Rev Monsignor Paul Conroy of the Sacred Heart parish church in Bridgeton, Glasgow and vicar general of the archdiocese of Glasgow.

The Rev Monsignor Paul M Conroy (Sacred Heart Parish Church, Bridgeton and Vicar General, Archdiocese of Glasgow): Members of the Scottish Parliament, I am grateful for the opportunity to share this reflection with you today. Last Friday, we observed the world day of prayer with a service that was prepared by the women of Cuba and led by women all over the world. On Sunday, we celebrated mothering Sunday, honouring and giving thanks for our mothers, living and dead. Today, we mark international women's day and we are being encouraged to make the pledge for parity.

Those who devote themselves to public service share with women and men of good will a desire to make a difference and make things better. Together, we share a vision and a dream of a better world and of a safer, more prosperous and kinder future. The electorate place their trust in you.

The gospels give a description of how Jesus took three of his closest disciples into his trust at the top of Mount Tabor, where he was transfigured in their presence and shone with his glory. In that moment, Jesus showed them their future and, through them, he was showing us our future, too.

All of us, women and men together, have been made for glory, and glory is our future. The glory of God is not however something that awaits us only in the future; it becomes visible every time we make a pledge for parity—helping the poor, assisting the disabled, providing for refugees, saving children from exploitation and abuse, sheltering the homeless or promoting equality of opportunity.

In so many ways, God's plans for us are our plans for ourselves and God's hope for us is our hope for ourselves. As our elected representatives, you have a unique responsibility and opportunity to help us all to let the glory of God shine out in the society that we want to build. There is surely no greater ambition than that of

enabling women and men to be more fully alive. That is a divine ambition and an aim that we share not only among ourselves but with God who, for that reason, raised Jesus Christ from the dead.

I will conclude with some words of Pope Francis, who is full of hope for the glorious and transfigured future of humanity. He encourages us to discover our glory in the mercy that God shows to us and in the mercy that we show to each other, saying:

"May we become the voice of every man and woman, and repeat confidently without end:

'Be mindful of your mercy, O Lord, and your steadfast love, for they have been from of old'".

Business Motions

14:03

The Presiding Officer (Tricia Marwick): The next item of business is consideration of business motion S4M-15851, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a revision to the business programme for this week.

Motion moved,

That the Parliament agrees—

(a) to the following revisions to the programme of business for Tuesday 8 March 2016—

after

followed by Stage 3 Proceedings: Higher Education Governance (Scotland) Bill

insert

followed by Supplementary Legislative Consent Motion: Enterprise Bill – UK Legislation

delete

5.30 pm Decision Time

and insert

7.20 pm Decision Time

(b) to the following revision to the programme of business for Thursday 10 March 2016—

delete

5.00 pm Decision Time

and insert

6.00 pm Decision Time

(c) and that Rule 2.2.5(a) of Standing Orders be suspended for the purpose of allowing the Parliament to meet beyond 5.30 pm on—

(i) Tuesday 8 March 2016; and

(ii) Thursday 10 March 2016.—[Joe FitzPatrick.]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S4M-15840, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a timetable for the stage 3 consideration of the Land and Buildings Transaction Tax (Amendment) (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during stage 3 of the Land and Buildings Transaction Tax (Amendment) (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.—[Joe FitzPatrick.]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S4M-15839, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, which sets out a timetable for the stage 3 consideration of the Higher Education Governance (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during stage 3 of the Higher Education Governance (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 3: 1 hour

Groups 4 to 6: 1 hour and 50 minutes

Groups 7 to 9: 2 hours and 25 minutes

Groups 10 to 13: 3 hours.—[Joe FitzPatrick.]

Motion agreed to.

Topical Question Time

14:05

International Women's Day

1. Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): To ask the Scottish Government what it is doing to mark international women's day. (S4T-01351)

The Cabinet Secretary for Social Justice, Communities and Pensioners' Rights (Alex Neil): The Scottish Government will be involved in more events than ever to mark this year's international women's day. Our celebrations started here in the Parliament on Saturday 5 March when the First Minister gave the keynote address at the Scottish Women's Convention's annual event, and they will carry on for most of this week, with the First Minister speaking today at the Scottish Women's Aid conference. Also today, the Cabinet Secretary for Culture, Europe and External Affairs is participating at the Lord Provost of Glasgow's conference, which is being co-hosted with UNICEF. From Ayrshire to Clydebank, ministers will be sharing platforms and attending events that showcase what progress has been made towards gender parity but also highlighting where we must do more. All those who are here will agree that the work to end gender inequality is not just for one day a year but is part of our Government's core ambitions for Scotland as we pledge for parity.

Christina McKelvie: I welcome all those events because they all highlight things that we all believe in. Can the cabinet secretary give us an update on what the Scottish Government is doing to ensure that women are properly represented in leading roles throughout not just the public sector but the private sector in Scotland?

Alex Neil: As the member knows, both in the public sector and in the private and third sectors, we are doing everything that we can to encourage gender balance on boards. A key part of the Government's strategy is 50:50 by 2020. Although we do not have the legislative power to force private sector organisations to engage in 50:50 by 2020, nevertheless, as a major user of private services, we are using all the influence that we can to encourage companies both to do that and to reap the benefits of having 50:50 by 2020.

Christina McKelvie: I am sure that the cabinet secretary will agree that it is not just about roles in the public and private sectors and that one of the main issues is still the gender pay gap. What progress is the Scottish Government making on closing the gender pay gap?

Alex Neil: In the public sector, the main area outstanding relates to equal pay in local authorities. Four or five local authorities in Scotland still have not finally settled their equal pay claims. As I am the cabinet secretary with overall responsibility for local authorities, my priority is to encourage them to complete the settlement of those claims as soon as possible. For example, in North Lanarkshire alone, the equal pay claims of over 4,000 people—mainly women—are still outstanding. Given the time that it has taken to do that since the Equal Pay Act 1970 was passed and since the negotiations began to be held, about 12 or 15 years ago, there is now no excuse for any outstanding claims that have still not been settled.

Rhoda Grant (Highlands and Islands) (Lab): I am sure that the cabinet secretary is as shocked as I am by the University and College Union's report, which highlights the gender pay gap in our colleges and universities. Sadly for me, the worst figure comes from the University of the Highlands and Islands, where male lecturers are paid £18,637 more than their female equivalents. That is unacceptable in any walk of life but especially in our publicly funded institutions. What is the cabinet secretary going to do about it?

Alex Neil: We want to see equal pay implemented throughout the public sector, including in the local authority sector, as I mentioned, but also in the academic sector, in both universities and colleges. We will do everything within our power to encourage those institutions and ensure that those in the public sector who are funded through the taxpayer fulfil our requirement of equal pay for equal work.

Claire Baker (Mid Scotland and Fife) (Lab): I support the comments that have been made about the inequalities that women face at home and abroad, but we need light as well as shade, and I would like to highlight a report that has been published today that talks about underrepresentation of women in Scottish theatres. Does the cabinet secretary agree that our cultural life and expression are important to how we see ourselves? Will the Scottish Government support efforts for greater transparency and analysis of our understanding of the role of women in the creative sector?

Alex Neil: I absolutely empathise with the member. It is clear that there is no case for not having women on an equal footing with men when it comes to any aspect of our arts and culture. As arts and culture are supposed to reflect our society, it is particularly important to make sure that women are properly represented. Indeed, it is important to make sure that any minority group is properly represented. Women should definitely be represented in arts and culture, including in the

theatre, in television and radio and in the range of other media that we have available in modern society, because in modern society women make up more than 50 per cent of the population of Scotland.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): One of the most terrible consequences of gender inequality is domestic abuse and other forms of violence against women. When the First Minister addresses the Scottish Women's Aid conference this afternoon—she is due to do so imminently—will she respond to this week's report by Scottish Women's Aid on domestic abuse and homelessness? As the minister with ultimate responsibility for housing, has Alex Neil looked at the issues in that report? Will he respond positively to them?

Alex Neil: We will take our time to look at the conclusions and recommendations in that report, as well as the analysis. It is clear that the report contains some very disturbing research, which needs to be addressed. We will certainly respond positively to the report and do whatever we can to ensure that all the issues to do with women and homelessness and the impact on the wider family, particularly children, are properly addressed.

Land and Buildings Transaction Tax (Amendment) (Scotland) Bill: Stage 3

14:11

The Presiding Officer (Tricia Marwick): The next item of business is stage 3 of the Land and Buildings Transaction Tax (Amendment) (Scotland) Bill. In dealing with the amendments, members should have the bill as amended at stage 2—that is, SP Bill 85A—the marshalled list and the groupings. The division bell will sound and proceedings will be suspended for five minutes for the first division. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after each debate. Members who wish to speak in the debate on any group of amendments should press their request-to-speak buttons as soon as possible after the group is called.

Members should now refer to the marshalled list of amendments.

Section 1—Land and buildings transaction tax: second homes etc

The Presiding Officer: Group 1 is entitled “Replacement of only or main residence: transactions involving multiple dwellings”. Amendment 1, in the name of the Deputy First Minister, is grouped with amendments 2 to 4, 6, 12 and 15.

The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney): Group 1 is designed to deal with the situation in which a chargeable transaction involves the purchase of more than one dwelling, and one of those dwellings is a replacement main residence.

Amendment 3 seeks to ensure that, when a chargeable transaction involves both the replacement of a main residence and the purchase of other dwellings, the supplement will still be payable on the other dwellings that are purchased. Amendment 6 will ensure that, in that scenario, the supplement is payable on the proportion of the consideration that is, on a just and reasonable basis, apportioned to the dwellings that are purchased that are not the replacement main residence. Amendment 1 will ensure that it is the amount of consideration that is apportioned to those dwellings that is looked at in determining whether the £40,000 threshold is to be triggered. Amendment 4 will ensure that it is the apportioned consideration that is relevant to the £40,000 threshold in paragraph 3 cases.

Amendment 15 seeks to cross-reference the concept of “relevant consideration” in paragraph 15 of proposed new schedule 2A, which is on interpretation. The concept of “relevant consideration” includes cases in which the consideration is apportioned when a replacement main residence is purchased alongside other dwellings.

Amendment 12 relates to a situation in which the buyer of a new home still owns their existing one at the time of the purchase, but then within 18 months sells it and claims repayment of the supplement. In that situation, where more than one dwelling is bought as part of the transaction that involves the purchase of the new home, amendment 12 will ensure that the supplement is repaid only in so far as it relates to the purchase of the new home. Amendment 2 is consequential.

I move amendment 1.

Amendment 1 agreed to.

14:15

The Deputy Presiding Officer (Elaine Smith):

We now turn to group 2, which is entitled “Payment of additional amount: ‘grace period’”. Amendment 17, in the name of Gavin Brown, is the only amendment in the group.

Gavin Brown (Lothian) (Con): Amendment 17 aims to cure what I think is a serious flaw in the bill. A person who purchases a new main residence, regardless of size, but has not managed to complete the sale of their existing main residence, will have to pay the full tax up front. They will inadvertently become what has become known as an accidental second-home owner. That means that they had no desire to own a second home and were not planning to own one. For any number of reasons—for example, they were unable to get dates to line up, or the person purchasing the property suddenly had to pull out or to delay because their mortgage had not come through—anybody in a housing transaction could end up as an accidental second-home owner.

If the house that such a person purchased was valued at, say, £300,000, that would mean that they would have overnight to stump up £13,000. If the house was valued at £125,000, which is comfortably below and nowhere near the land and buildings transaction tax threshold, they would have to stump up £4,050. I ask simply this: where are people for whom £125,000 is the limit that they can get to purchase a house suddenly going to find £4,050?

The policy memorandum says very clearly that the intention is not to bring the group of people in question into the tax because it is aimed at genuine second-home owners, but that is exactly

what would happen in practice, which would be very punitive on individuals or families, who would potentially be hit with bills for thousands of pounds at a time when they would be genuinely under pressure because their sale had fallen through and they were scrabbling around trying to work out how to fund the purchase of a house. People would become ultra-cautious and would sell before they buy in order to make absolutely sure that they would not have to pay LBTT. That, of course, could lead to their having to rent in the interim period and store all their belongings and furniture, and to a host of other complications and bureaucracies. That could be pretty widespread: it is unlikely that there would be only a handful of cases each year. There could be a significant number, which would create an almighty bureaucracy and have a detrimental impact on the housing market.

Amendment 17 is formally supported by the Law Society of Scotland in the written submission that it sent round MSPs early today or late yesterday. The amendment was suggested by almost all those who gave evidence to the Finance Committee, and is supported by all members of that committee, who all agree with paragraph 79 of our report, which says:

“The Committee recommends that the Bill is amended at Stage 2 to provide for a grace period.”

That did not happen at stage 2, but I want it to happen at stage 3.

I move amendment 17.

The Deputy Presiding Officer: Two members have requested to speak. If their comments are brief, I will be able to call both. Malcolm Chisholm will be followed by Jackie Baillie.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): I will be very brief. I am not now required for the open debate, which will be short.

I support the bill, but when I looked at its detail, it struck me as rather odd that a grace period was not being allowed—in particular, because that was recommended by the Finance Committee and because the cabinet secretary took up, I think, most of the committee’s recommendations. It certainly seems to be very unfair that people will have to stump up large sums just because the transaction of selling their house will not be complete until a few days later.

Obviously, I will listen very carefully and with interest to what the cabinet secretary will say, but having read previous speeches that he has made on the issue, I do not see why he has to wait for six months to see what happens. I think that we can all anticipate what is likely—Gavin Brown outlined it. The bill as it stands would be unfair to individuals and could have a negative and a

detrimental effect on the housing market more generally.

Jackie Baillie (Dumbarton) (Lab): I apologise for my late arrival. Topical questions finished earlier than I had anticipated.

I support Gavin Brown's amendment 17. He is right to have pointed out that the issue was first raised in evidence to the Finance Committee by the Law Society of Scotland, and the committee agreed with it. There is genuine concern about the grace period because there are occasions when a purchaser has no intention of owning two properties simultaneously but—for whatever reason—the selling of one home while purchasing another is delayed.

We all accept the principle that there should be a grace period—the debate lies in whether sufficient time is being allowed. The cabinet secretary's amendment at stage 2 was helpful but a bit tight, because it gives, in effect, a grace period of only three to six days. Gavin Brown's proposal, which is for a period of 14 days, is the more sensible option. The Law Society believes that it is a better and more workable option: to be frank, we should take heed of that, given its experience in conveyancing. The proposal would avoid unintended consequences, which I know the cabinet secretary is keen to do, so I hope that he, too, will support amendment 17.

John Swinney: At stages 1 and 2, as colleagues have said, a major topic of debate was the question of a so-called grace period. That is relevant to cases in which the buyer has failed to sell their previous residence by the effective date of the new purchase.

A grace period would be a period following the effective date where the buyer could pay any ordinary amount of land and buildings transaction tax that was due, and obtain registration of title without paying the subsequent supplement at that point.

In considering Gavin Brown's amendment 17, members should be aware that the bill has always provided that a person who sells their previous residence within 18 months of the effective date will be entitled to repayment of the supplement, together with interest.

In addition, I lodged an amendment at stage 2 to clarify that, where the previous residence can be sold before the land and buildings transaction tax return is sent in, no supplement will be payable. That will help where there is a short delay in completing the sale of the previous residence.

A scenario that has been put to the Scottish Government is where a couple buy on a Friday and sell on the Monday so that they can flit over

the weekend. A couple in that situation would not pay the supplement as it is proposed in the bill.

I have also given Parliament a commitment that I will keep the matter under review, and ministers have the power under the bill to introduce an appropriate relief by order if it is considered necessary in the future.

Gavin Brown's amendment 17 is the same as an amendment that he lodged at stage 2, except that instead of proposing a 60-day grace period, he now proposes a 14-day one. The objections that I outlined at stage 2 remain valid. The amendment does not make clear the administrative requirements for taxpayers, their agents or Revenue Scotland, and it would apply even where no attempt has been made to sell a previous residence. It seems that it would shift the tax point forward in all cases.

I wish to emphasise what all that could mean for the Scottish budget. Gavin Brown's amendment 17 undermines the important feature of land and buildings transaction tax, that registration of title is permitted only when arrangements for the tax that is payable have been put in place. His amendment would allow registration of title to be obtained without payment of the supplement, which could burden Revenue Scotland with chasing sums with which buyers are reluctant to part. Those buyers will include buyers from outside Scotland—and, potentially, outside the United Kingdom—which will make it all the harder to secure payment.

I accept, as Gavin Brown argued at stage 2, that Scottish solicitors can be expected to help with informing their clients as to their legal duties, and with facilitating payments and paperwork, but I do not consider that to be complete protection for the Scottish budget because the ultimate decision on whether and when to pay the supplement would rest with the client.

Murdo Fraser (Mid Scotland and Fife) (Con): I draw members' attention to my entry in the register of members' interests as a member of the Law Society of Scotland.

I recall that, in my days in legal practice, situations often arose in which people had hoped to buy and sell on the same day or within a day or two but the purchaser of the property had difficulty in getting mortgage funds or there was an inadvertent delay. As Gavin Brown set out, people who are caught in such circumstances might face paying a hefty additional sum. Where does the Deputy First Minister think people will find that money?

John Swinney: Mr Fraser made my point in the example that he cited. He said that people might have a difficulty of a matter of a day or two.

Gavin Brown: Literally a day or two.

John Swinney: The amendment that I lodged at stage 2 addressed that issue.

Jackie Baillie accepted that I was helpful at stage 2 in extending the period to create those circumstances. I am simply placing on record the practical issues that would arise from Mr Brown's amendment, which would essentially shift forward the tax point in all cases. That would undermine the fundamental premise of land and buildings transaction tax legislation that Parliament has previously enacted.

I do not believe that it is desirable to make provision in the bill that may give rise to a bigger debtor list in Revenue Scotland at such an early stage in its operations.

In summary, I have not closed my mind entirely on the matter, but I cannot support an amendment the operation of which would be fundamentally unclear, and which would place an additional burden on Revenue Scotland and be liable to have negative implications for the Scottish budget. The statistics that Revenue Scotland collates will enable ministers and Parliament to determine the extent to which delayed sales are a significant issue. If they are, the remedy can be taken forward by ministers, given the powers that they have to introduce in the future an appropriate relief by order.

I invite Gavin Brown not to press amendment 17. Should he decide to press it, I urge members not to support it.

Gavin Brown: John Swinney does not want to burden Revenue Scotland, but he is perfectly happy to burden potentially thousands of people who purchase houses in Scotland.

The original LBTT legislation and the Land and Buildings Transaction Tax (Amendment) (Scotland) Bill have relied heavily on input from the Law Society of Scotland, which makes it quite clear in its written evidence, its oral evidence and the submission that it provided in advance of today that a grace period ought to be included in the bill. It quite clearly supports amendment 17 and is not looking to undermine the fundamental premise of the land and buildings transaction tax.

Mark McDonald (Aberdeen Donside) (SNP): Gavin Brown has cited two examples. The first involved somebody who requires a day or two after a sale, perhaps because of difficulties in getting the dates to match up. The Deputy First Minister has already indicated that his amendment at stage 2 addressed that.

The second example involved a sale falling through. Can Gavin Brown explain how, where a sale falls through, his 14-day grace period would be of assistance to people who will have to go through the sales process all over again?

Gavin Brown: I had wished that the period could be far longer than 14 days, but it was pretty apparent at stage 2 that the Government would not support a longer period.

It may help if there is a day or two, but—this may be news to Mark McDonald—it is sometimes not possible to get things to line up in a day or two; sometimes it can take longer. If a sale falls through because a mortgage is not in place in time, that may well be cured within a week or 10 days or so. My amendment 17 would allow that to happen. I think that everyone who gave evidence to the Finance Committee said the same very clearly. I think that that is why Mark McDonald signed up to the committee's report, which says:

"The Committee recommends that the Bill is amended at Stage 2 to provide for a grace period."

Nobody on the committee, including Mark McDonald, expressed any objection to that. The committee looked carefully at the evidence and very clearly formed that view. If members change their views under duress a week or two after they have been put forward, that is regrettable.

John Swinney: We are back to the same point that I raised with Mr Fraser. Mr Brown read out an extract from the Finance Committee's report that argued for a grace period to be put in place at stage 2. That is precisely what the Government has done. Jackie Baillie said that a grace period was included at stage 2. It simply happens that it is not the grace period that Mr Brown thinks appropriate, but we have responded positively. Nobody was put under any duress to do that. Does Mr Brown accept that an amendment was lodged to address the Finance Committee's recommendation and that that undermines the fundamental point that he is making?

Gavin Brown: I am sure that Mr Swinney attempted to do that, but it is pretty clear to me, to a number of solicitors and to the Law Society of Scotland that the amendment was not sufficient. The Law Society said quite clearly in its report—which, I am sure, Mr Swinney has read—that it welcomes the amendment but it goes nowhere near far enough: the bill does not offer a sufficiently long grace period. The Law Society knows that, in practice, returns are submitted instantly and are not held back because it is not considered reasonable to ask solicitors to delay registration of title, which is the key to the ownership of property. If lawyers do not register title, there is a risk of exposure to inhibitions, for example, so the Law Society supports my amendment.

I am genuinely disappointed by the Deputy First Minister who has, when I have worked with him on a number of bills in the past, been open-minded. Here we have a bill that has been rushed through.

There was no full consultation or impact assessment. The Finance Committee did its best. After all the evidence that we saw on that committee, we suggested—to a person—that there ought to be a grace period, because the provision is unfair and a huge number of transactions could be affected by it.

The Deputy First Minister may shake his head, but when the bill was drafted, that was an unforeseen consequence. It is now, obviously, a foreseen consequence. We can do something about it here today; we can prevent its happening instead of waiting to see what happens after six months, because we are pretty clear about what could happen.

I would like to hear the Deputy First Minister telling people who might be trapped in such a situation that he did not want to bring in a change because it might have put a bit of a burden on Revenue Scotland. That is very disappointing. I will press my amendment.

The Deputy Presiding Officer: The question is, that amendment 17 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: Parliament is not agreed. This is the first division at this stage, so I suspend proceedings for five minutes.

14:31

Meeting suspended.

14:36

On resuming—

The Deputy Presiding Officer: We move to the division on amendment 17. This is a 30-second division and members should cast their votes now.

There was a problem with voting consoles that were not working, so I will call the vote again. This is a 30-second division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brennan, Lesley (North East Scotland) (Lab)
 Brown, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Davidson, Ruth (Glasgow) (Con)
 Fee, Mary (West Scotland) (Lab)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Findlay, Neil (Lothian) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)

Henry, Hugh (Renfrewshire South) (Lab)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Malik, Hanzala (Glasgow) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McInnes, Alison (North East Scotland) (LD)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)

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)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 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)
 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)
 Doris, Bob (Glasgow) (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)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 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)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 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)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (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 44, Against 66, Abstentions 0.

Amendment 17 disagreed to.

Amendments 2 to 4 moved—[John Swinney]—and agreed to.

The Deputy Presiding Officer: Group 3 is on trusts and liferents. Amendment 5, in the name of the Deputy First Minister, is grouped with amendments 7 to 11, 13 and 16.

John Swinney: The group of amendments makes small changes to the rules on the ownership of dwellings that are purchased by trustees. In certain circumstances, beneficiaries are treated as being the buyers or owners of dwellings that are purchased by trustees. Amendments 5 and 11 clarify that only the dwelling being purchased is relevant when considering the rules on beneficial ownership in a chargeable transaction.

Similarly, amendment 16 ensures that the dwelling being purchased is considered in the definition of a relevant interest in the interpretation paragraph. Amendment 9 recognises the fact that there can be more than one beneficiary with a relevant interest in a dwelling that is being purchased by trustee. Amendment 10 recognises that relevant interests may come into being after the date of a chargeable transaction. Amendment 13 ensures that, when a dwelling is deemed to be owned by a beneficiary, under certain trusts or by a liferenter in a proper liferent, what is relevant to the schedule is the dwelling's market value rather than the market value of the ownership interest in that dwelling. Amendments 7 and 8 are consequential to amendments that were agreed to at stage 2.

I move amendment 5.

Amendment 5 agreed to.

Amendments 6 to 13 moved—[John Swinney]—and agreed to.

The Deputy Presiding Officer: That brings us to group 4, which is on the power to modify part 2 of schedule 2A. Amendment 14, in the name of the Deputy First Minister, is the only amendment in the group.

John Swinney: In the previous groups, we saw technical scenarios that land and buildings transaction tax legislation needs to be capable of addressing. To ensure that appropriate adjustments can be made to the detailed rules for the land and buildings transaction tax supplement, the bill includes a balanced range of delegated powers, all of which are now subject to a form of affirmative procedure. Those delegated powers have all been influenced by existing delegated powers that are contained in the Land and Buildings Transaction Tax (Scotland) Act 2013.

The Delegated Powers and Law Reform Committee and the Finance Committee each scrutinised those powers. I welcome those committees' support for the principle of ministers having appropriate powers to react to changing circumstances without the need for a further bill.

At stage 2, the committees supported a new power to allow ministers to amend part 4 of proposed schedule 2A to the 2013 act in relation to partnerships and trusts. As I said at stage 2, partnership and trust arrangements can be complex and give rise to some of the most difficult aspects of land and buildings transaction policy and practice. In the vast majority of cases, residential properties are bought and sold without the use of partnerships or trusts. On reflection, I consider it appropriate that the power that I described should allow for the amendment of part 2 of schedule 2A—as well as part 4—because part 2 now includes important provisions concerning trusts and partnerships.

Amendment 14 extends the delegated power in paragraph 14(3A)(a) accordingly. The intention to lodge the amendment was signalled in the Scottish Government's supplementary delegated powers memorandum, which was posted on the Parliament's website on 3 March.

I hope that I have the Parliament's support for my proposed extension to the delegated powers, to ensure that the legislation for the land and buildings transaction tax supplement is flexible, proofed for future use and capable of reacting to any tax avoidance arrangements that may emerge.

I move amendment 14.

Amendment 14 agreed to.

Amendments 15 and 16 moved—[John Swinney]—and agreed to.

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

Land and Buildings Transaction Tax (Amendment) (Scotland) Bill

The Deputy Presiding Officer (Elaine Smith): The next item of business is a debate on motion S4M-15837, in the name of John Swinney, on the Land and Buildings Transaction Tax (Amendment) (Scotland) Bill. I call John Swinney to speak to and move the motion. Deputy First Minister, you have a maximum of eight minutes.

14:44

The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney): I am pleased to be opening this stage 3 debate on the Land and Buildings Transaction Tax (Amendment) (Scotland) Bill—[*Interruption.*]

The Deputy Presiding Officer: Order. I ask members to please leave the chamber quietly.

John Swinney: I thank members of the Finance Committee and the Delegated Powers and Law Reform Committee for not only their scrutiny of the bill, but their willingness to work with the Government to enable the bill to progress expeditiously through the Parliament to achieve a 1 April 2016 commencement date.

I thank the organisations and individuals who provided written and oral evidence to the Finance Committee during the committee's stage 1 scrutiny of the bill. I also appreciate the input from a range of stakeholders who met the bill team, often at short notice. That input has helped to shape the bill before the Parliament today. I am also grateful for the work that was undertaken by Revenue Scotland to ensure that, from an operational standpoint, it is ready to hit the ground running when the land and buildings transaction tax supplement comes into force.

The bill introduces a 3 per cent land and buildings transaction tax supplement payable on the purchase of additional dwellings, such as buy-to-let or second homes. Subject to parliamentary approval, that means that, from 1 April 2016, anyone buying a residential property in Scotland of £40,000 and above who already owns a residential property, here or anywhere in the world, will pay an additional 3 per cent land and buildings transaction tax on the whole purchase price of the property, unless they are simply replacing their existing main residence.

The bill provides that individuals or couples who concluded missives on their purchase before 28 January 2016 will not be subject to the supplement.

The United Kingdom Government announced in November last year that it intended to introduce a new stamp duty land tax higher rate on the purchase of additional residential properties in the UK, effective from 1 April 2016. As I said last December during my draft Scottish budget statement, following careful consideration of matters, I concluded that the absence of a similar land and buildings transaction tax supplement in Scotland could adversely impact on the opportunities for first time buyers to get a foot on the property ladder.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): The cabinet secretary is admitting that the legislation was introduced in response to the actions of the UK Government. How would the Scottish Government react if the UK Government either delayed or substantially changed its proposals?

John Swinney: The issue that I have had to face with regard to this particular situation is the scenario of the UK Government acting in this fashion. Given the proper consideration that is available to this Parliament over taxation matters, the Scottish Government has to respond to ensure that its policy objectives can be protected in this legislative scenario.

I was concerned about the possibility that the opportunity for first-time buyers to get access to property in Scotland could be undermined if we did not have similar provision in place. I quite understand the point that Mr Chisholm is making, which is that the UK Government is free to change its mind on this question, and I accept that it might well do so. However, I have to act on the basis of the legislative scenario that I see opening up in front of me, and the need to protect the policy objectives of the Scottish Government, which have been supported by the way in which land and buildings transaction tax has been implemented, and the benefits that that has given in terms of strengthening the market for first-time buyers.

Without a land and buildings transaction tax supplement in Scotland, it could be more attractive to invest in additional residential properties in Scotland compared to the rest of the UK—particularly at the lower end of the market—making it more difficult for first-time buyers in Scotland to buy a property. That would be contrary to the Scottish Government's policy of maximising opportunities for first-time buyers to buy their first home.

However, I appreciate that the private rented sector has a key role to play in providing good quality accommodation for those who live in rented accommodation. The Scottish Government has been supporting the purpose-built private rented sector since 2013, funding the study that led to the "Building the Rented Sector in Scotland" report

and establishing a dedicated private rented sector champion, tasked with ensuring that action is taken to boost the supply of high-quality private rented sector homes at scale.

I recognise the need to support home ownership and first-time buyers without discouraging significant and beneficial investment in residential property for rent. After reflecting on the stage 1 evidence, I was pleased to positively respond to the Finance Committee's stage 1 report recommendation that provision should be made within the bill for a 100 per cent relief from the land and buildings transaction tax supplement for buyers purchasing six or more residential properties in one transaction. The Scottish Government lodged a stage 2 amendment to give effect to that decision.

It is estimated that the supplement will raise between £17 million and £29 million in 2016-17, after taking account of behavioural effects, including any impact on underlying LBTT revenues. The Scottish Fiscal Commission has endorsed the estimate as reasonable, recognising the uncertainties posed by the lack of Scottish data on these types of transactions.

The cost of the relief from the supplement for buyers who purchase six or more residential properties in one transaction has not been factored into the aforementioned revenue estimate. As outlined in the supplementary financial memorandum, lodged with the Parliament on 3 March, the Scottish Government has estimated the cost of the relief to be in the region of £2 million in 2016-17 and annually thereafter.

There have been numerous calls for various reliefs from the land and buildings transaction tax supplement. I am firmly of the view that a period of time will be required to enable the supplement to become embedded and for sufficient financial and statistical data to be collected to enable informed policy decisions to be made in future. The position on reliefs with particular reference to the land and buildings transaction tax supplement will be kept under review as part of the on-going process of devolved tax planning and management.

I turn to the subject of a grace period, which was discussed by the Finance Committee and earlier today during stage 3. The Scottish Government lodged a stage 2 amendment, agreed to by the Finance Committee, that allows for the possibility that a person could claim exemption from the supplement in their initial land and buildings transaction tax return. That may be possible where the sale of the previous main residence is completed before the land and buildings transaction tax return for the acquisition of the new main residence has to be submitted. In such circumstances, no supplement would need to be paid.

I acknowledge that that does not provide a solution for all instances where the purchase of a new dwelling takes place before the sale of an old one, because the purchaser will need to submit their tax return in order to register the title to the property. The approach that I have decided to take here is to ask Revenue Scotland to monitor the position from the land and buildings transaction tax supplement provisions coming into force until 30 October 2016. The data collected will enable the Scottish Government—

Gavin Brown (Lothian) (Con): Is the Scottish Government's advice to solicitors to hold off for a few extra days—or as long as it takes—before submitting that return?

John Swinney: No. That is not the Government's advice. The Government's advice to solicitors is to comply with the legislation, as I would expect them to do. However, we will monitor the evidence as it emerges in the handling of this issue.

It is important that we review the impact of the land and buildings transaction tax supplement, and I am aware of a number of calls for an early review to be carried out. I certainly agree with the comments made by the Finance Committee in its stage 1 report that

“developing an understanding of the impact of the supplement will be complex and will take time”.

To ensure a meaningful and constructive review, I firmly believe that reviewing the impact of the supplement will require at least one complete year of data, given the seasonality in housing transactions, the likely forestalling behaviours and the longer-term trends in the housing market. The Scottish Government intends to update Parliament on the outcome of that review in the 2018-19 draft budget, in accordance with our undertaking in the written agreement on the budget process.

I move,

That the Parliament agrees that the Land and Buildings Transaction Tax (Amendment) (Scotland) Bill be passed.

14:53

Jackie Baillie (Dumbarton) (Lab): It seems like no time at all since we were having the stage 1 debate on the land and buildings transaction tax supplement, because, in fact, it was just two weeks ago. We have approached the bill literally at breakneck speed. I acknowledge the effort that that has been for the Cabinet Secretary for Finance, Constitution and Economy, his officials, the Finance Committee, the clerks and those who contributed to our deliberations by giving evidence. We have proceeded with a degree of haste that is not usual for bills in this Parliament.

I have said a couple of times before that we need to think carefully about our parliamentary process for scrutinising tax changes. I accept absolutely that there will be occasions when we need to act quickly to implement a new tax or vary a rate. We will want, as a matter of course, to avoid behavioural responses where people might seek to avoid any new or changed tax but, equally, we will want to ensure that we have time to consider any revised legislation and get that legislation right. No one in this chamber wants unintended consequences to arise from rushed legislation.

The speed has implications for stakeholders, too, as consultation will, by its very nature, need to be done entirely differently, never mind the scrutiny process of this Parliament. The Law Society of Scotland, KPMG and the Chartered Institute of Taxation all expressed concerns to the committee about the lack of consultation that was undertaken.

I know that the convener of the Finance Committee agrees, and that will undoubtedly feature in the committee's legacy paper. I hope that the speed of acting initially is balanced by a greater degree of post-legislative scrutiny, so that we can at least fix those aspects of legislation that are not working as intended. However, that debate will be for another day—in another session.

Let me turn to the substance of the debate. The land and buildings transaction tax was levied for the first time last year. The bill to introduce a supplement that is before us today is in reaction to the decision by the Chancellor of the Exchequer to implement a 3 per cent stamp duty tax supplement, which he announced in his autumn statement. We are essentially copying a proposal from the UK Government in order to safeguard the housing market in Scotland. I think that we all get that.

However, the House of Commons Treasury Committee believes that the proposal from the chancellor, on which we have based ours, is flawed. That committee believes that it will have a negative effect on the buy-to-let market, which we consider to be important—as the Deputy First Minister said in his opening speech—and it believes that it will also have an impact on labour market mobility. Indeed, the committee thinks that the whole thing is unduly complex and that it will have unintended consequences, so it is pushing for a delay—a period of calm reflection. I am not sure how successful the Treasury Committee will be and how persuadable George Osborne is, but the cabinet secretary has made it clear to me previously that he will proceed regardless.

Irrespective of any delay, the cabinet secretary—or indeed his successor—needs to keep the legislation under close review. Let us not

be slow to amend it if we feel that it is having a negative impact on areas of our housing market. There is considerable and increasing reliance on the private sector rental market. If the availability of properties diminishes, there will be a knock-on effect on the social rented sector, where the number of new housing developments has been in decline.

The cabinet secretary said that he would come back at stage 2 with areas for exemption, and he did that to an extent. However, I think there is a continuing concern about labour market mobility on two counts. First, any contraction in the private sector rental market has a consequence for people moving around the country for work. They will be unable to access the range of housing that is currently available. That is the concern. Secondly, it has an effect on economic migration, as incoming workers will be charged an additional 3 per cent if they retain their home abroad.

That might not affect that many people, but we do not want to send out a message that Scotland is a less desirable place to move to in order to do business. We need skills from outwith our borders, such as those of doctors, nurses and teachers. We need to be cautious that we do not do anything that puts them off. I ask the cabinet secretary or his successor to monitor the impact of the legislation on labour mobility.

Finally, let me consider the income that is likely to be generated. As I have said before, the amount that is generated by residential LBTT is much less than anticipated. The forecast for 2015-16 was £235 million, and we are likely to be some way short, despite £20 million coming from the Treasury for forestalling effects.

The forecast for the LBTT supplement is much less ambitious. From a yield of £45 million to £70 million, it has been reduced to between £17 million and £29 million. The cabinet secretary has touched on some of the reasons for that. It has undoubtedly benefited from a much more detailed assessment and an attempt to consider behavioural factors. However, it is still limited in the availability of data, a point that was made robustly by the Scottish Fiscal Commission. I ask the cabinet secretary what action is being taken to improve the data.

The cabinet secretary has indicated that the bill is about ensuring that the opportunities for first-time buyers to enter the housing market remain as strong as they possibly can. That is something that we can agree on. I hope, however, that he has not had a negative impact on the private buy-to-let market, which is an increasingly important element of the housing market in Scotland.

14:59

Gavin Brown (Lothian) (Con): The Conservatives gave careful thought at all stages to whether to support the bill. There are strong arguments from across the sectors on its flaws and dangers, but on balance I take the view that the risk of inaction is marginally greater than the risk of action. On that basis, we supported the bill at stage 1 and we will support it at decision time.

Malcolm Chisholm raised a particularly interesting question, as he often does in these debates. He asked what would happen if the UK Government, for whatever reason, decided to delay the implementation of its similar tax through its bill. I have no inside information, but if there were a delay of any sort by the UK Government on its stamp duty supplement legislation, I would argue that we ought to delay the implementation of this bill in Scotland. The primary reason for the bill would be removed, at least temporarily, until such time as the stamp duty supplement was implemented south of the border. Such a delay is unlikely, but the Scottish Government ought to remain open to the possibility and if it happens it should act accordingly.

There are calls from any number of constituents and organisations who are looking for as much guidance and advice as possible from the Scottish Government directly and from Revenue Scotland. The supplement will go live in a couple of weeks, and huge numbers of people are wondering about the detail and about all except for the most basic scenarios. I urge the Government, once the bill has been passed, to publish as quickly as possible all guidance and extra regulations—everything that it possibly can to give the public and the public's agents as much notice as possible of how things will work in practice.

Jackie Baillie pointed out some other arguments. If the bill affects the buy-to-let market too savagely, it could have an impact on the number of properties that are available to rent. We should be careful, as it may have a negative impact on people who do not want to purchase—particularly if it leads to an increase in rents.

The bill could have some impact on smaller house builders, who are more reliant on what is called selling “off plan” the houses and flats that they build; that is, selling the property in advance of it being built. It is very difficult and less likely—although not impossible—for a first-time buyer to purchase a property off plan, long before it is built. Such purchases are much more likely to be made by somebody who is involved in a buy to let. If the bill starts to damage smaller house builders, I hope that the Scottish Government will take careful recognition of what is going on and take action.

My biggest concern was outlined in the stage 1 debate, at stage 2 and when we discussed my amendment today. At this late stage, I still urge the Scottish Government to give careful consideration to a grace period. A host of organisations have argued for that, not least those that advised the cabinet secretary on this bill and on the Land and Buildings Transaction Tax (Scotland) Bill. This bill will create a genuine unfairness for those buying houses. None of us wants that to happen, but it is pretty obvious that it will happen in a huge number of cases. The cabinet secretary said that he was not closed minded about a grace period, but thus far he appears to have been. I urge him to keep his mind open and liaise closely with stakeholders, in particular the Law Society of Scotland and those who will have to implement the bill on the ground.

It is obvious to me that we will have to revisit the bill pretty quickly—certainly long before six months have passed, given the number of transactions that will be involved. I ask the cabinet secretary to say something further about that in his closing speech.

The Deputy Presiding Officer: We come to the open debate. It will be a short debate, with speeches of a maximum of four minutes. Mark McDonald will be followed by Lesley Brennan.

15:03

Mark McDonald (Aberdeen Donside) (SNP): It is good to know that, unlike at stage 1, when I was the only speaker in the open debate, I will have some company this time around.

A group of schoolchildren came into the public gallery and had to sit through the discussion on the amendments. As we discussed the finer merits of technical amendments to a taxation policy, I contemplated what a fine job we were doing of teaching them that politics was not in any way dry, boring or dull. It is fair to say that at least Gavin Brown did his best to inject a bit of heat into the debate, although he was a little uncharitable in his description of how the Finance Committee approached the issue of a grace period, particularly at stage 2.

The Deputy First Minister stated—and Jackie Baillie agreed in her remarks just now—that a grace period was included at stage 2. The Finance Committee recommended only that there should be a grace period; it did not recommend a specific length of time. As Gavin Brown will recall, we had a long discussion about that issue in committee. It was felt that, on balance, it would be best for the committee to recommend a grace period and allow the Scottish Government to decide on the most appropriate length of time.

Gavin Brown: Will the member give way?

Mark McDonald: I ask Gavin Brown to give me one moment.

Gavin Brown is perfectly entitled to disagree with the length of time of the grace period and to advocate for the points that he wishes to make. However, he must accept, first, that the committee recommended merely a grace period; secondly, that the Deputy First Minister proposed a grace period that was voted on in committee and accepted; and thirdly, that there was no duress applied with regard to how the committee members voted. Committee members assessed the options that were in front of them and voted accordingly.

Gavin Brown: Does Mark McDonald genuinely think that the amendment that the cabinet secretary lodged at stage 2 provided for a grace period? Does he think that it would be wise for solicitors to hold off on submitting land returns in the interim?

Mark McDonald: I will make a couple of observations. First, the Deputy First Minister has outlined that the amendment that he lodged at stage 2 dealt only with the first part of Gavin Brown's two-pronged problem in that respect. The second problem that Gavin Brown highlighted, which relates to a situation in which the sale collapses because the buyer withdraws, would not be addressed by a 14-day grace period as proposed at stage 2. *[Interruption.]*

I hear Gavin Brown saying that he proposed a 60-day grace period at stage 2. At committee, we went through the reasons why that was inappropriate. Given the 30-day requirement for the submission of LBTT returns, a 60-day grace period would have raised significant issues. In particular, Gavin Brown's amendment did not specify any particular sales that would be captured, so it would have covered all transactions and allowed anybody to delay their transaction by 60 days irrespective of whether a sale had been completed or whether they were selling in the first place. It would have given carte blanche for a 60-day grace period simply to apply to all sales, in the same way as the 14-day grace period that Gavin Brown proposed, which did not specify who would be captured by the provision.

Gavin Brown should draw comfort from the fact—and I think that he is supporting the bill at stage 3 for these reasons—that, first, as the Deputy First Minister has highlighted, there will be the possibility of repayment after an 18-month period if a transaction goes through, and secondly, data will be captured to inform the possible future use of order-making powers to make an amendment if that is necessary. On that basis, we should all be grateful that the bill will receive support at decision time.

15:07

Lesley Brennan (North East Scotland) (Lab):

The housing market is a key component of our economy and, as such, changes to it ought to be considered very carefully. According to Registers of Scotland, approximately 90,000 properties were submitted for registration in the past financial year. The Fraser of Allander institute warned last week that growth in Scotland is set to slow further. With that fragility in mind, I strongly urge the Deputy First Minister to reconsider the implementation of an explicit grace period for accidental home owners.

The Finance Committee recommended that the Scottish Fiscal Commission should provide commentary in November, after the six-month outturn data for the supplement are released. The committee received correspondence yesterday from Lady Susan Rice on behalf of the Scottish Fiscal Commission. She stated:

“As with the other devolved taxes, the SFC plans to analyse outturn data relative to the forecast. A complication when conducting such an exercise for the LBTT supplement using part-year outturn data is that there are no historical data with which to identify a typical seasonal pattern in tax receipts from the supplement.”

I welcome the Deputy First Minister's comments today about reviewing the arrangements after 12 months to ensure that seasonality is picked up, but there is still the issue around how we then unpick people who are captured, given that there is no explicit grace period.

The letter continues:

“This makes it difficult to assess whether or not any discrepancy between forecast and outturn is due to an underlying forecast error or an unknown seasonal pattern in this sub-part of the market. Nevertheless, we shall attempt to shed as much light as possible on the operation of the supplement as the outturn data are released.”

Moreover, the Scottish Fiscal Commission states that uncertainty in assessing the impact of the tax stems from the lack of data for this small part of the housing market. The Scottish market is a small part of the housing market, as is buy-to-let and accidental second home owners. In addition, the Council of Mortgage Lenders stated in correspondence with me that it does not collect any data or have any information on the bridging finance market. Given the paucity of data and the fragility of the economy, an explicit grace period ought to have been implemented.

Finally, it is not explicit in the bill that registered social landlords and local authorities who purchase fewer than six properties would be exempt, so I urge that exemption. I support the supplement in the bill, but I am concerned about the rapid roll-out of the measure and any unintended consequences, specifically because of

the lack of precision in the two points that I have highlighted today.

15:11

John Swinney: I will address some of the comments that have been made. There has been a debate about the supplement provision that the bill will enact. Gavin Brown characterised the situation correctly when he said that it is a matter of judgment. Everybody can see that there could be a risk to the Government's objectives for the housing market in Scotland, and in particular to one of our key objectives in our approach to land and buildings transaction tax in the original legislation, which was to give first-time buyers better prospects of progressing on the property ladder. That objective could be undermined by the legislative changes that are being made south of the border and their implications for the property market in Scotland. The decision in principle is undoubtedly a decision that was made on balance, but I have been anxious to ensure that the Government's policy objectives, which have been reinforced by the steps that we have taken on land and buildings transaction tax, are in no way jeopardised by that proposal from the UK Government.

Jackie Baillie's comments were an explicit acknowledgement of one of the challenges that we now face in our parliamentary budgeting and financial processes. We need to respond at greater speed than our core longstanding budget process allows. That was a helpful recognition of the issues that arise out of the devolution of additional tax-raising powers to the Scottish Parliament and the need for tax decisions to be made, and an acknowledgement that tax decisions sometimes have to be taken within a smaller window than expenditure decisions, given that behavioural implications can arise.

We will not resolve those issues this afternoon. However, the discussions about the bill and the scrutiny that the Finance Committee has given to the measures in the fiscal framework and the Scottish Fiscal Commission Bill, to which we will come later in the week, as well the wider agenda around the budget process, are all live discussions that Parliament needs to reflect on. I am sure that the Finance Committee will reflect them in its legacy paper.

Today, I put on the record the Government's willingness to engage constructively with Parliament on those discussions. We all need to understand the parameters and processes within which we are working, in what is now a different scenario from the one that was envisaged when some of the veterans of Parliament—I consider myself to be one of them—were involved in the

production of the Public Finance and Accountability (Scotland) Act 2000.

The other major issue in the debate was that of the grace period. We touched on some of the detail of that in considering the stage 3 amendments and we discussed it at stage 2. Mr McDonald fairly characterised the Finance Committee's recommendation—it argued for a grace period to be provided for in the legislation. I responded constructively to that at stage 2 and provided for a grace period that will not have the effect of undermining the central tenet of the land and buildings transaction tax legislation, which is that it is important that transactions are registered with Revenue Scotland. That should enable all the appropriate tax to be collected and should mean that there is no diminution of that important principle. I will continue to reflect on those issues as we see the implementation of the legislation and, if I consider that there is any requirement for the issue to be addressed, appropriate provisions will be drawn to Parliament's attention.

I acknowledge that the bill has been taken through Parliament at some speed and I am grateful to everyone who has participated in that process to enable it to happen. I give the reassurance that the Government will reflect carefully on the implementation of the legislation to ensure that its central purpose is delivered as part of the process.

Higher Education Governance (Scotland) Bill: Stage 3

15:16

The Deputy Presiding Officer (Elaine Smith):

The next item of business is stage 3 proceedings on the Higher Education Governance (Scotland) Bill. In dealing with the amendments, members should have the bill as amended at stage 2—that is, SP bill 74A—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 proceedings. The period of voting for the first division will then be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate.

Members should now refer to the marshalled list of amendments.

Section A1—Position of senior lay member

The Deputy Presiding Officer: Group 1 is on the role of the rector. Amendment 27, in the name of Chic Brodie, is grouped with amendment 31.

Chic Brodie (South Scotland) (SNP): The bill, which I hope will receive full scrutiny after some years of enactment, has as its base democratic accountability. The purpose of amendments 27 and 31 is simple: it is to underpin that and to make the important role and function of the rector equivalent to the role and function of the proposed senior lay member.

I fully accept and acknowledge the historic relevance of our ancient universities. I was lucky enough to attend one—the University of St Andrews—and was later privileged to be appointed a lay member of its court. I also accept and acknowledge the major contribution and significance of the ancients, which are globally recognised, and the role played by many if not all rectors, past and present. However, we cannot set about rightly demanding the overall democratic accountability that we seek—which requires the consistent application of a recruitment process and so on across a sector that faces an increasingly globally competitive future—but agree to disregard a perception of elitism in the sector.

Part of that perception would be curtailed by my amendments 27 and 31, together with other amendments. The amendments are designed to ensure that rectors and senior lay members, or whatever they are called, play a consistent, active and immediate, rather than remote, role in the post to which they have been elected. The franchises for rectors would be broadened to include all staff

as well as the student franchise, to which I will return with future amendments.

I move amendment 27.

Liz Smith (Mid Scotland and Fife) (Con): Mr Brodie has outlined today and at stage 2 that there are, at present, clear divisions and clear lines of responsibility between the senior lay governor and the rector in the five institutions that have a rector. He is correct that clarity of purpose is essential for good governance.

The fact that the bill will create an overlapping franchise and, therefore, overlapping responsibilities is a serious issue that the Scottish Government must surely recognise. Notwithstanding our political differences on the matter, I hope that the Scottish Government can see fit, even at this late stage, to undo what is a muddle. There is a significant difference between opposing an element of the bill for policy reasons and opposing that element because it creates confusion, which is exactly what has happened here.

I emphasise strongly that the task that is before us at stage 3 is to address the bill's practical implications, rather than the principles, and ensure that what we vote for at decision time is both workable and acceptable to the diverse institutions that make up our HE sector. We owe them that, at the very least—a point that Mr Brodie has made. That point was recognised fully at stage 2 by SNP members Sandra White, Jim Eadie, George Adam and Chic Brodie, not least because, as they reported, they had been lobbied by the various institutions in their constituencies. It is also apparent that Labour and the Green Party agree with the point, too.

It is essential that a governing body is chaired by the person whom that body has the greatest confidence in, as confidence is a principle of good governance in any institution, never mind a university. There must be absolute clarity of purpose. We are therefore happy to support Mr Brodie's amendments 27 and 31.

Liam McArthur (Orkney Islands) (LD): During stage 1 evidence, the cabinet secretary made it clear to the Education and Culture Committee that it was not the Government's intention, through the bill, to affect the role of the rector at the five institutions where such a role exists. It was always difficult to see how that could be achieved and, sadly, after the amendments that were passed at stage 2 on elected chairs, it is now beyond the cabinet secretary's ability to honour that commitment. That is a source of regret. However, the priority at this stage must be to provide what clarity we can to the respective roles of rector and senior lay governor.

There is still too much of an overlap and duplication, as Liz Smith said, which is giving rise to the potential for confusion and even conflict. The concern is not confined to Opposition members. Chic Brodie deserves credit for his work in the committee to highlight the problems and, more important, for his efforts to help dig the cabinet secretary out of the hole that she has dug for herself.

The amendments might not entirely address the problem, but that is hardly Mr Brodie's fault. Rightly, he seeks to properly distinguish the respective roles and ensure that anyone who chairs a governing body has the confidence and support of that body's members. On that basis, I am happy to confirm our support for amendments 27 and 31.

The Cabinet Secretary for Education and Lifelong Learning (Angela Constance): I thank Mr Brodie for his explanation of amendments 27 and 31. As he set out, amendment 27 would remove the requirement for the universities of Glasgow, Edinburgh, Aberdeen and St Andrews to include the position of senior lay member in their governing bodies, and amendment 31 would amend section A2(2) to give the rector all the functions of the senior lay member that are set out in that section.

Section A2(2) says that certain provisions that relate to the senior lay member have no effect in relation to institutions that have a rector with the functions that are set out in section A2(1)—namely, the universities of Glasgow, Edinburgh, Aberdeen and St Andrews. Those provisions are, first, the provisions that relate to the duty of the senior lay member to preside at meetings of the governing body and to have a deliberative and a casting vote at such meetings and, secondly, the provision that allows another member of the governing body of a higher education institution to be selected in the absence of the senior lay member or while the position is vacant. In those institutions, those duties are always exercised by the rector, and the purpose of section A2(2) is to preserve the current statutory functions of the rector in those ancient institutions.

Amendment 31 seeks to give additional functions to rectors in the ancient universities. If the amendment were agreed to, the rector would continue to have the functions of presiding at meetings of the governing body and having a deliberative and a casting vote at meetings. However, crucially, the functions that the bill as amended reserves for the senior lay member—the responsibility for the leadership and effectiveness of the governing body and for ensuring that there is an appropriate balance of authority between the governing body and the principal of the institution—would be given to rectors in the

ancient universities, which would be a substantial change in the rector's role.

That is what amendments 27 and 31 would do in isolation. As we progress to consider the amendments in group 2, it will become clear that amendments 27 and 31 are also part of a wider group of amendments that provide for a new position—that of the elected co-chair—in all 18 higher education institutions. The elected co-chair would share certain responsibilities with rectors in the ancient institutions and with senior lay members in the other 14 HEIs. I do not consider that, either in isolation or combined with Mr Brodie's amendments in group 2, amendments 27 and 31 would benefit the bill or the institutions.

Liz Smith: The cabinet secretary has said many times that the diversity of the higher education sector is crucial. That is one of the reasons why we have different positions. Is she really comfortable with a bill that has overlapping franchises for the senior positions in question and in which there are not clear lines of responsibility on who will carry out which role?

Angela Constance: I am concerned that Mr Brodie's amendments would confuse the role of rector and that of co-chair and would confuse the role of co-chair and that of senior lay member. In doing so, they would move the balance of power, given that the co-chair is elected only by the governing body. With respect, I think that what Mr Brodie has proposed would provide far less clarity than what the Government has proposed.

Chic Brodie: We have not reached the detailed discussion of the further proposals that are attached to my amendments. If the Government proceeds with its proposal, it will unquestionably be a recipe for conflict, because of the existence of two franchises and the lack of clarity on who will do what, which will change because of the potential conflict.

I hear what the cabinet secretary says about amendments 27 and 31, but I hope that further clarity will be provided when we come to my other amendments. Does the cabinet secretary agree that the franchise confusion will result in diminishing performance from the institutions that are affected? It is time to have consistency across the higher education sector.

Angela Constance: With respect, I do not believe that what Mr Brodie proposes would lead to any consistency. What the Government seeks to do in the bill is to reflect the Scottish code of good higher education governance, which makes clear the differences between the role of senior lay member and that of rector, and the Government has reflected those differences in the bill.

Liz Smith: The code of good governance is being reviewed. Would it have been sensible to

await the results of that review before proposing the changes in the bill?

Angela Constance: No. It is important that the code of governance is reviewed as appropriate, but the bill is high level and discrete in its proposition, and I refute the suggestion that there is any franchise confusion. I believe that staff, students and the wider electorate on campus are well able to understand the difference between the rector and the senior lay member.

Annabel Goldie (West Scotland) (Con): Will the cabinet secretary give way?

Angela Constance: Not just now.

A key principle of the bill is to enable an approach to governance that is based on greater transparency, accountability and inclusivity to support continuous improvement in the operation of our higher education institutions and, crucially, create a consistent approach to governance matters for all our institutions. Providing for the election of a senior lay member on the governing body of each Scottish HEI is key to making those principles real. The role of senior lay member is a powerful one that is central to the governance of the institution, so the senior lay member must be elected by a franchise of staff, students and members of the governing body.

Removing the requirement for senior lay members in the ancient institutions would not be transparent or inclusive, as it would remove the right of staff to take part in that decision-making process, except in the University of Edinburgh, where the rector is elected by staff and students.

15:30

Annabel Goldie: I seem to be one of the few members of this Parliament who have served on a university court. I am listening with care to what the cabinet secretary is saying, but I have to tell her that I am unclear about how an elected rector with an accountable mandate to voters in the institution and an elected senior lay member with an accountable mandate to other voters in the institution will reconcile their views if they disagree about an issue. I am also unclear as to where the rest of the governing body is to take leadership from. I am deeply concerned that that question remains unanswered at stage 3.

Angela Constance: I say with the greatest respect to Ms Goldie that the questions are not unanswered. No one needs to be a member of a university governing body to understand the issues or to have an interest in the wellbeing of institutions. What will happen is what happens now, which is that the ancient universities decide how the roles of the rector and the senior lay

member dovetail. Those roles are well differentiated in the code of governance.

In all four ancient universities, what Mr Brodie proposes would fully transfer the senior lay member's duties to the rector, which would result in the rector having substantially enhanced functions in the governing body, such that that body would have no ability to undertake any form of selection prior to the election of the rector. That would give those institutions different governance arrangements from all others and create inconsistency.

We have worked hard to maintain and preserve the current role of rectors, but it has never been the bill's aim to give them additional functions. Taken in the round with Mr Brodie's amendments 28, 29, 30 and 40, amendments 27 and 31 seek to introduce a co-chair model for the chairing of the governing bodies of all our HEIs. I will address that in greater detail as we move on to group 2, but I can say here and now that I do not consider that that model would be of benefit to the bill or our institutions.

For the reasons that I have described, I cannot support amendments 27 and 31. If Mr Brodie presses amendment 27 and moves amendment 31, I ask members to reject them.

Chic Brodie: I am even more confused now about what the senior lay member will do vis-à-vis what the rector will do in the ancient universities. Who will speak for the students? There will be absolute confusion in the determination of the functions that will be exercised by the rector and by the senior lay member. Through my amendments, I am trying to eradicate any possibility of confusion, so that the students and the wider franchise of the staff, who will have to be involved, would know clearly who represented them as their elected representative on the university body.

The cabinet secretary says that what the bill proposes will create greater transparency, but I suggest that it will do the very opposite, because we will not be clear about who is making what decisions and in what context. I cannot accept that, so I will press amendment 27.

The Deputy Presiding Officer: The question is, that amendment 27 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.

15:33

Meeting suspended.

15:38

On resuming—

The Deputy Presiding Officer: We will now proceed with the division on amendment 27.

For

Brodie, Chic (South Scotland) (SNP)
Brown, Gavin (Lothian) (Con)
Buchanan, Cameron (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Davidson, Ruth (Glasgow) (Con)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Hume, Jim (South Scotland) (LD)
Johnstone, Alex (North East Scotland) (Con)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
McArthur, Liam (Orkney Islands) (LD)
McInnes, Alison (North East Scotland) (LD)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Rennie, Willie (Mid Scotland and Fife) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Scott, Tavish (Shetland Islands) (LD)
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)
Baker, Claire (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Boyack, Sarah (Lothian) (Lab)
Brennan, Lesley (North East Scotland) (Lab)
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)
Doris, Bob (Glasgow) (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)
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)
Grant, Rhoda (Highlands and Islands) (Lab)
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)

Hyslop, Fiona (Linlithgow) (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)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 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)

The Deputy Presiding Officer: The result of the division is: For 20, Against 91, Abstentions 0.

Amendment 27 disagreed to.

The Deputy Presiding Officer: Group 2 is on the role of the chairing member and the co-chair. Amendment 28, in the name of Chic Brodie, is grouped with amendments 29, 1, 30 and 40.

Chic Brodie: All my amendments in the group reflect the proposed roles of the chairing members, which I referred to earlier, and of the co-chairs, and embrace the changes that were proposed in amendments 27 and 31.

Amendment 28 would reflect the responsibility of the senior lay member, rector or whatever she

or he is called to reflect the views, aspirations and needs of their electorate when chairing the governing body on matters of policy. The chair, who would be elected by the governing body, would have responsibility for administration, finance and operations matters when chairing the governing body. I will return to that when we discuss amendment 40.

On the elected determination of the role of rector, senior lay member or whatever the person is called, my contention is that whoever fills that position should chair the governing body when issues of policy that affect the institution are to be discussed. The guarantee of the wider franchise would support them in that role when steering matters of policy through the governing body. Amendments 28 and 29 together propose that prospectus.

It is also my contention that, for day-to-day administration, finance and operations matters, the governing body should elect one of its own, who could be an elected member, a staff member or a student member, to be the co-chair.

The amendments would provide a supportive partnership that enables discussion between the co-chairs with their respective responsibilities—between the senior lay member or rector with responsibility for policy, supported by the wider franchise, and the elected chair of the governing body, supported by that body. That combination balances the clear authority to provide guidance and direction to the principals of the institutions on clearly defined matters and areas of operation and policy.

It is paradoxical that section A1(3) of the bill as it stands promotes the possibility of appointing pro tem another member of the governing body to an elected position in the absence of the senior lay member or rector while the position is vacant. The co-chair proposal largely negates that need, although provision is made in amendment 40, to which we will come.

Sections A8, A9 and 1A, on appointment, remuneration and resignation and removal, will be equally applied with respect to the position of the elected co-chair of the governing body.

I move amendment 28.

Liz Smith: My amendment 1 is a very simple amendment that is intended to make it clear that the list of duties that is set out in section A1(2) is not in any way an exhaustive list of functions that would be carried out by the senior lay member, who, through the general statutes of their institution, may carry out many other roles. I return to the issue of respecting the diversity of any institution. The amendment would also remove section A1(2)(c)(ii), because the responsibility in it

belongs to the governing body on a corporate basis, not to its individual chair.

We are happy to support Mr Brodie's amendments in the group.

Liam McArthur: My comments on Chic Brodie's previous amendments apply equally in this instance. I will not repeat myself; we will support the amendments in this group as well.

On Liz Smith's amendment 1, we will have an opportunity to discuss the diversity in our HE sector in detail later. That diversity is a feature within as well as across the different institutions. We wish to see that diversity reflected in the way in which our universities are governed, but there are real risks in adopting legislation that is overly prescriptive and detailed. A one-size-fits-all approach is not appropriate, and we should look to build in flexibility where we can.

In essence, that is what amendment 1 aims to do. It does not try to second-guess to the nth degree every aspect of the role to be performed by the senior lay member of a governing body; it recognises that each institution will vary and therefore the functions of the senior lay member may vary accordingly. Moreover, ensuring that there is a proper balance of authority between the governing body and the principal of an institution is a corporate responsibility of the governing body as a whole. It cannot be personalised to apply to the rector or the senior lay member alone. In that respect, amendment 1 better reflects what happens and what should continue to happen.

15:45

Angela Constance: I will deal with amendments 28 to 30 and 40 from Chic Brodie and amendment 1 from Liz Smith.

The role of senior lay member of the governing body is central to the bill's ambitions to ensure that every voice in the higher education community is heard and to enable an approach to governance that is based on greater transparency, accountability and inclusivity, supports continuous improvement in the operation of our higher education institutions and creates consistency across institutions to underpin governance arrangements.

We have heard from Mr Brodie on his amendments 27 and 31. Those amendments, combined with amendments 28 to 30 and 40, which he has just described, would have a substantial impact on the role of the senior lay member and would disempower that central and powerful role. They would also introduce the position of elected co-chair. Together, the amendments would provide that the senior lay

member would have a duty to preside at meetings of the governing body only

"when issues of policy affecting the institution are being considered",

and that they would have a deliberative and casting vote at such meetings, again only

"when issues of policy affecting the institution are being considered".

We have no definition of "issues of policy", so it is not clear what exactly is envisaged for the role of the senior lay member in the new model.

On all other matters, duties would fall to the co-chair, who would be elected in a manner to be determined by the governing body. That would enable the governing body to simply appoint the co-chair without opening out the electorate any wider than its own membership.

Liz Smith: Is it not the case that there is considerable confusion in the bill over the roles of the rector and the chair? That is the reason why we have a considerable problem.

Angela Constance: No, we do not have a "considerable problem". As I have said to Liz Smith and other colleagues, the difference between the role of the rector and that of the senior lay member is laid out clearly in the Scottish code of good higher education governance, which is reflected in the Government's approach throughout the bill. The defining difference between Liz Smith's position and that of the Government on the co-chair is as set out by Mr Brodie. He believes that the co-chair should be one of the governing body's members; I do not accept that approach. The senior lay member should be elected by staff and students, as well as the governing body.

To return to Mr Brodie's amendments, the senior lay member's responsibility for the leadership and effectiveness of the governing body, and for ensuring an appropriate balance of authority between the governing body and the principal of the institution, would become a joint responsibility, shared with the co-chair.

The combination of the amendments would enable governing bodies in many respects to retain the status quo, whereby the balance of power in the governing body of the institution would sit with a member appointed by the governing body. The senior lay member, where such a role existed, would have limited powers and responsibilities. That would fundamentally go against the bill's core aims. It would diminish the impact of the bill, undermine our ambition to achieve consistency and create a two-tier system.

I urge members to reject amendments 28 to 30 and 40.

Moving on to amendment 1 from Ms Smith, having considered it carefully, I cannot support the amendment. Section A1(2)(c) of the bill as amended sets out the senior lay member's functions, which are intended to reflect existing practice. Responsibility for the appropriate balance of authority between the governing body and the principal of the institution is a widely recognised key function of a chairing member of a governing body; indeed, that is recognised in the Scottish code of good higher education governance.

Liz Smith: Is it not the case that the 18 higher education institutions have very different structures? The whole point of the bill is to allow them to have that diversity, so that what are, because of the individual institutions' statutes, different roles can be carried out.

Angela Constance: As has been said a few times, the bill acknowledges the diversity of our institutions, which should be valued. However, we want a high level of consistency across the sector when it comes to good governance.

Where Liz Smith and I fundamentally disagree is that she wishes to reduce the powerful and influential role of the senior lay member—which, in my view, should be an elected position—to that of a quasi rector. She wishes to downgrade the role of senior lay member, which is not in keeping with the bill or the Government's position.

Amendment 1 seeks to remove a central function from the senior lay member, as I have indicated. In doing so, it removes one of the clear distinctions between the role of senior lay member and that of rector. Amendment 1 also qualifies the senior lay member's responsibility for the leadership and effectiveness of the governing body by making it

"subject to such functions of the senior lay member as are provided for by virtue of any enactment or in accordance with the governing document of the institution."

That means that the governing body would be able to make its own rules about the functions of the senior lay member, even allowing it to remove from the senior lay member responsibility for the leadership and effectiveness of the governing body. As I have said, that responsibility is widely recognised as a key function of the chairing member—it is recognised in the code as the main role of the chair of a governing body. The amendment could allow the governing body to render the role of the senior lay member meaningless.

As with the amendments lodged by Mr Brodie, Liz Smith's amendment limits the powers and responsibilities of the senior lay member and enables the functions of that powerful role to be passed on to a member of the governing body who is appointed by the governing body. It

undermines the aim of creating a consistent approach to governance within institutions and enables the status quo to be retained. I therefore cannot support amendment 1. If Mr Brodie presses amendments 28 to 30 and 40, and Ms Smith presses amendment 1, I urge members to reject them.

Chic Brodie: Words such as "diversity", "consistency", "accountability" and "flexibility" have been thrown around. The proposals in my amendments are to simplify the rationale. It is quite wrong—and I never suggested—that the senior lay member or rector, or whatever they are called, who is elected by the staff and students, should be disenfranchised or disempowered simply because they go from co-chairing to sitting in the body of the court. I said that they would be co-chairing and would be responsible for all policy matters, which provides a bulwark against any idea that they might be removed at the whim of the governing body, which would recognise the role of that person in its constitution. The co-chair, elected by the body, would handle day-to-day administration, finance and operation matters. That quite clear division would actually allow them to work together across the body corporate of the university.

Either I did not explain myself clearly enough or we seem to be hell bent on delivering what is in the bill without looking at the consequences and at the points of conflict that will arise. I ask the question again: who speaks for the students?

The Deputy Presiding Officer (John Scott): Do you wish to press or withdraw amendment 28?

Chic Brodie: I am pressing it.

The Deputy Presiding Officer: The question is, that amendment 28 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brown, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Davidson, Ruth (Glasgow) (Con)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 McInnes, Alison (North East Scotland) (LD)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 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)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Boyack, Sarah (Lothian) (Lab)
 Brennan, Lesley (North East Scotland) (Lab)
 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)
 Doris, Bob (Glasgow) (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)
 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 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)
 Hyslop, Fiona (Linlithgow) (SNP)
 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)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)

McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 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)
 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)

The Deputy Presiding Officer: The result of the division is: For 17, Against 94, Abstentions 0.

Amendment 28 disagreed to.

Amendment 29 moved—[Chic Brodie].

The Deputy Presiding Officer: The question is, that amendment 29 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brodie, Chic (South Scotland) (SNP)
 Brown, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Davidson, Ruth (Glasgow) (Con)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 McInnes, Alison (North East Scotland) (LD)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 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)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)

Boyack, Sarah (Lothian) (Lab)
 Brennan, Lesley (North East Scotland) (Lab)
 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)
 Doris, Bob (Glasgow) (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)
 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 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)
 Hyslop, Fiona (Linlithgow) (SNP)
 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)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)

Salmond, Alex (Aberdeenshire East) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 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)
 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)

The Deputy Presiding Officer: The result of the division is: For 19, Against 94, Abstentions 0.

Amendment 29 disagreed to.

Amendment 1 moved—[Liz Smith].

The Deputy Presiding Officer: The question is, that amendment 1 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brown, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Davidson, Ruth (Glasgow) (Con)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McInnes, Alison (North East Scotland) (LD)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 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)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Boyack, Sarah (Lothian) (Lab)
 Brennan, Lesley (North East Scotland) (Lab)
 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)
 Doris, Bob (Glasgow) (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)
 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 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)
 Hyslop, Fiona (Linlithgow) (SNP)
 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)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 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)
 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)

The Deputy Presiding Officer: The result of the division is: For 19, Against 93, Abstentions 0.

Amendment 1 disagreed to.

Amendment 30 moved—[Chic Brodie].

The Deputy Presiding Officer: The question is, that amendment 30 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brodie, Chic (South Scotland) (SNP)
 Brown, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Davidson, Ruth (Glasgow) (Con)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 McInnes, Alison (North East Scotland) (LD)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 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)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Boyack, Sarah (Lothian) (Lab)
 Brennan, Lesley (North East Scotland) (Lab)
 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)
 Doris, Bob (Glasgow) (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)
 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 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)
 Hyslop, Fiona (Linlithgow) (SNP)
 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)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 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)
 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)

The Deputy Presiding Officer: The result of the division is: For 19, Against 94, Abstentions 0.

Amendment 30 disagreed to.

Section A2—Interaction with role of rector

Amendment 31 moved—[Chic Brodie].

The Deputy Presiding Officer: The question is, that amendment 31 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brodie, Chic (South Scotland) (SNP)
 Brown, Gavin (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Davidson, Ruth (Glasgow) (Con)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 McInnes, Alison (North East Scotland) (LD)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 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)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Boyack, Sarah (Lothian) (Lab)
 Brennan, Lesley (North East Scotland) (Lab)
 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)
 Doris, Bob (Glasgow) (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)
 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 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)
 Hyslop, Fiona (Linlithgow) (SNP)
 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)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 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)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (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 18, Against 92, Abstentions 0.

Amendment 31 disagreed to.

Section A3—Relevant criteria etc

The Deputy Presiding Officer: Group 3 is on functions and membership of committee

determining relevant criteria. Amendment 32, in the name of Chic Brodie, is grouped with amendments 2, 33 to 35, 3, 4 and 11.

Chic Brodie: In order to secure a robust basis for the election, I believe that the committee that designs the process and criteria for the appointment and ultimate support of the governing body in which the senior lay member—or rector, or whatever they are to be called—plays a pivotal part as leader and co-chair, must be “appointed by it”, as a delegated authority of the governing body.

The aim is also, as is proposed in amendment 33, to ensure the availability of the elected senior lay member or rector. It is critical that, in response to the demands of the electorate, that person’s availability is propagated and reflects the aspirations of those who elected him or her. We in this chamber would get short shrift if we told our electors that we could not pursue their interests or reflect their input because we were ensconced in Moscow, for example.

Amendment 34 suggests that the committee should be limited in size and should include members of the wider electorate, hence the proposal that there be only six members.

I move amendment 32.

16:00

Liz Smith: Amendment 2, in my name, is designed to place responsibility for the details of the role of the nominations committee where it should be, which is within the “Scottish Code for Good Higher Education Governance”, which is due to be reviewed very shortly—indeed, it is a pity that the Scottish Government could not have permitted that review to be concluded before it embarked upon this aspect of the bill.

Amendments 3 and 4 are designed to ensure that there is absolute clarity that staff and student members of the nominations committee should also be members of the governing body.

I am happy to support Mr Brodie’s amendments 32 and 33, but I am not comfortable with amendment 34, on the basis that I think that we must respect, once again, the diversity of the sector, in which the average number of nominations committee members is greater than six.

I am happy to accept the cabinet secretary’s amendment 11.

Clare Adamson (Central Scotland) (SNP): I am pleased to be able to speak to amendment 35, which is in my name, especially on international women’s day, on which we celebrate equality, diversity and fairness.

Amendment 35 would require the committee that is tasked with recruiting candidates for the position of senior lay member to report publicly on that process. Specifically, the report should state the number of candidates who have applied, and it should include information about the protected characteristics of those candidates, as listed in section 149(7) of the Equality Act 2010:

“age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.”

Amendment 35 also makes it clear that those details should be included in the report only when the applicant allows them to be included. That is in line with good employment practice and would ensure that all candidates have control over information that might be released about them. Moreover, the amendment would ensure that data protection law is explicitly applied so that there would be no doubt that individuals cannot be identified or have confidential information that can be matched to them shared publicly. Those are important safeguards for anyone who would put themselves forward to be considered for the role of senior lay member.

I note and welcome the support of the National Union of Students Scotland and the University and College Union for amendment 35. The UCU has suggested that the report could be made public before elections are held. It could, of course, also be made public after an election, thereby providing an audit of the process and a demonstration of what had worked well and what might be done differently in the future. The amendment is deliberately silent on that in order to give governing bodies and their recruitment committees the maximum flexibility to determine what might best suit their circumstances in an appointment process.

The provisions in amendment 35 encapsulate a number of the key principles and values that underpin the bill. I believe fundamentally that we should encourage greater diversity among the people who chair our higher education institutions. Although significant progress has been made in appointing more women chairs, only four years ago, no women were chairing any of our HE institutions. Our universities should seek to mirror in their governance not just the demographics of our society, but the demographics of their communities. Requiring recruitment committees to report publicly on their success or otherwise in attracting a diverse pool of candidates, on how many reach the interview stage and on the election itself, will focus minds and ensure that they do their very best to be seen to be inclusive in their approach to the whole process. That level of transparency and accountability is absolutely appropriate.

Finally, the requirement to report publicly will apply to all institutions, which will ensure consistency across the sector. If it also indirectly encourages those who are involved in recruitment processes to be mindful of the importance of attracting as wide and diverse a pool of candidates as possible to the role of senior lay member, so that universities have vibrant and dynamic elections for those vital positions, that can only be a good thing.

Angela Constance: Amendments 32, 33 and 34, in the name of Chic Brodie, would make small but potentially impactful changes to section A3 of the bill, which requires the governing body of a higher education institution to delegate certain duties to a committee, including developing the relevant criteria for the position of senior lay member.

In attempting to limit to six the membership of the committee that is to be tasked with selecting candidates for election as senior lay member, amendment 34 impinges on the ability of higher education institutions to select the appropriate number of members to meet their interests for selection of a senior lay member. It would unnecessarily and unhelpfully constrain institutions. Therefore, I cannot support it.

Amendment 32 would make it explicit that the committee must be appointed by the governing body. Nothing in the bill prohibits governing bodies from appointing the members of the committee and that function is currently implied. The amendment is therefore not required.

With reference to Mr Brodie's amendment 33, the criteria that are listed in section A3 were not intended to be exhaustive. Principles in the “Scottish Code for Good Higher Education Governance” already cover availability of the chair and will continue to do so. Also, HEIs could include a requirement about availability in the criteria for the position of senior lay member, should they wish to do so. However, the Scottish Government would not object to availability being referred to on the face of the bill as part of the relevant criteria and is content to support amendment 33. I therefore ask Mr Brodie not to move his amendments 32 or 34, and other members to reject them, if he does.

I turn to amendment 35, in the name of Clare Adamson, which provides for a publicly available statistical report, prepared by the committee and relevant to the various stages of the appointment process, which focuses on equalities information, where consent has been received from the applicant to disclose that information. I agree with Clare Adamson's argument that HEIs should, in the interests of transparency and accountability, disclose protected characteristics of applicants as long as they have the consent of the individual

applicants to do so. I therefore support amendment 35 and encourage members to do so, too.

I understand that there are different opinions about when the report should be published—prior to an election or after the entire appointment process has ended. That should be a matter for each HEI to decide and it is the sort of issue that the new mandatory student, staff and union members on all governing bodies can influence.

I do not believe that amendments 2, 3 and 4 in the name of Liz Smith are necessary. Section A3 already obliges HEIs, when a vacancy for a senior lay member arises, to delegate responsibility for the recruitment process to a committee that features at least one student and one staff member drawn from the institution.

Amendment 2 would introduce a requirement for HEIs to have regard to the code of good governance in their delegation to a committee of responsibility for ensuring fairness and efficiency in the process of filling the position of senior lay member. That is unnecessary because HEIs must already, as part of the terms and conditions of funding, comply with the code.

Amendments 3 and 4 would require staff and student members of the committee to be drawn from the governing body membership. They are unnecessary because HEIs already have the power to select the members of the committee from the members of the governing body and do not need to be compelled to do so. The amendments would narrow the autonomy of institutions and restrict their ability to carry out functions. I am sure that Liz Smith would agree that that would be unhelpful. I therefore ask her not to move her amendments, and other members to reject them if she does.

I turn finally to amendment 11, in my name, which is a minor technical amendment to ensure consistency between the wording in section A3 and the wording in the rest of the bill, if amendment 24 is accepted.

I urge members to support amendments 11, 33 and 35 and, for the reasons that I have given, to reject amendments 2, 3, 4, 32 and 34.

Liam McArthur: It is widely recognised that for our universities to be genuinely world class they must be transparent, representative and accountable in how they are governed. How that is achieved may be the subject of some debate, but it is, ultimately, an objective that we all share. In that respect, I am happy to support amendment 35 in the name of Clare Adamson, which seems to accord with the intentions behind the equality duty and with the benefits that come with greater transparency.

Similarly, I am supportive of Liz Smith's amendments 2 to 4. I still have misgivings about the Government's determination to use legislation to achieve its objectives. Amendment 2 would sensibly leave responsibility for defining the role of nominations committees in the code of good governance.

Amendments 3 and 4 would reasonably require that staff and student members of nominations committees should also be members of the governing body. That would achieve the aim of ensuring appropriate staff and student representation in the process, while also ensuring that the place of the governing body is respected.

I am supportive of the other amendments in the group, but with one exception. I am not clear what would be gained by restricting membership of nominations committees to six members. I am concerned that that requirement would go against the grain of encouraging diversity in the sector.

Chic Brodie: On the basis of what the cabinet secretary has said, and in the hope of securing a robust system for election and appointment, I will not press amendment 32, nor will I move amendment 34.

Amendment 32, by agreement, withdrawn.

Amendment 2 moved—[Liz Smith].

The Deputy Presiding Officer: The question is, that amendment 2 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)
 Finnie, John (Highlands and Islands) (Ind)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 McInnes, Alison (North East Scotland) (LD)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Wilson, John (Central Scotland) (Ind)

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)
 Baker, Claire (Mid Scotland and Fife) (Lab)

Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Boyack, Sarah (Lothian) (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)
 Doris, Bob (Glasgow) (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)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hilton, Cara (Dunfermline) (Lab)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 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)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)

Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 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)
 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)
 Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 21, Against 91, Abstentions 0.

Amendment 2 disagreed to.

Amendment 33 moved—[Chic Brodie]—and agreed to.

Amendment 34 not moved.

Amendment 35 moved—[Clare Adamson]—and agreed to.

Amendment 3 moved—[Liz Smith].

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.

For

Brown, Gavin (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Davidson, Ruth (Glasgow) (Con)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 McInnes, Alison (North East Scotland) (LD)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 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)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Boyack, Sarah (Lothian) (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)
 Doris, Bob (Glasgow) (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)
 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 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)
 Hyslop, Fiona (Linlithgow) (SNP)
 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)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)

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)
 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)

The Deputy Presiding Officer: The result of the division is: For 17, Against 95, Abstentions 0.

Amendment 3 disagreed to.

Amendment 4 moved—[Liz Smith.]

16:15

The Deputy Presiding Officer: The question is, that amendment 4 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)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 McInnes, Alison (North East Scotland) (LD)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 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)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Boyack, Sarah (Lothian) (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)
 Doris, Bob (Glasgow) (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)
 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 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)
 Hyslop, Fiona (Linlithgow) (SNP)
 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)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
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 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 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)

The Deputy Presiding Officer: The result of the division is: For 17, Against 95, Abstentions 0.

Amendment 4 disagreed to.

Amendment 11 moved—[Angela Constance]—and agreed to.

Section A4—Advertisement and application

The Deputy Presiding Officer: Group 4 is on senior lay member: advertisement of position. Amendment 36, in the name of Gordon MacDonald, is grouped with amendments 12, 37, 13, 38, 14 and 15. If amendment 36 is agreed to, I cannot call amendments 12 and 37, as they will have been pre-empted. If amendment 12 is agreed to, I cannot call amendment 37, as it will have been pre-empted. If amendment 13 is agreed to, I cannot call amendments 38, 14 and 15, as they will have been pre-empted.

Gordon MacDonald (Edinburgh Pentlands) (SNP): As an MSP who represents two universities—Heriot-Watt and Napier—and who has a significant number of students in his constituency, I am pleased to move my amendment 36. It concerns the advertising of a vacancy for the position of senior lay member of the governing body of a higher education institution. The amendment removes the requirements that are currently in the bill at sections A4(1)(a) and A4(1)(b)—that the vacancy must be advertised on the institution's website and in the print and online versions of at least one national newspaper in Scotland—and inserts a new, less detailed and less prescriptive requirement, which is simply that the vacancy is to be advertised widely in a manner that will bring it to the attention of a broad range of people. It will ensure that the advertisement for the vacancy is circulated widely and in a manner that is suitable to bring it to the attention of a broad range of people, while also allowing institutions to advertise a vacancy as they see fit within those parameters.

Although the aim of the bill is to create a consistent approach to governance, it is also important to create room for manoeuvre, which is in keeping with our higher education institutions' autonomy and the fact that they have differing local and academic circumstances, which they may wish to consider when taking forward their duty to advertise.

I move amendment 36.

Liam McArthur: I referred earlier to the overly prescriptive and dogmatic approach that the Government has taken on aspects of the bill. Nowhere has that been more in evidence than in the proposed arrangements for advertising and interviewing applicants for the position of senior lay member of the governing body. Ministers have proposed a system that is micromanaged to the nth degree. The level of detail is wholly disproportionate and betrays an unjustified lack of trust or confidence in our universities.

Amendments 12 and 13 in my name would remove most of that wholly unnecessary interference and prescription. Instead, the advertisement and application process would be required to comply with good governance principles of transparency and inclusivity. The Scottish Further and Higher Education Funding Council would have a role in determining the good governance, which would satisfy ministers' desire for some level of external oversight. The alternative is that ministers are left to determine what is an operational matter for universities—and that is unhealthy.

Finally, with regard to the other amendments in the group, I welcome the cabinet secretary's amendments 14 and 15, which move us in the right direction. Similarly, I welcome the amendments from Gordon MacDonald and Chic Brodie, who seem to be seeking an outcome that is much the same as the one that I am pursuing—namely, an inclusive but not overly prescriptive process.

My preference, however, particularly given that Gordon MacDonald's amendment pre-empts my own, would be for Parliament to adopt a clear approach through amendments 12 and 13. Those provisions have the advantage of being linked to good governance, over which the funding council would have sight. I believe that such an approach would deliver the transparency and inclusiveness that we are seeking to achieve.

Chic Brodie: My amendment 37 was designed to secure and underpin the wider franchise of staff and students in particular, but I am happy to support Gordon MacDonald's amendment 36, and I will not move my own amendment.

With regard to my amendment 38, I confess that I do not know why an application form for a very senior position would be necessary, particularly given that the bill has already delegated to an appointed committee

"The relevant criteria",

to

"include the skills and knowledge"

and, in my view, the availability, that the committee considers

"to be necessary or desirable".

I would have thought that any serious applicant for a very senior position in the education hierarchy would simply address those aspects in a letter. I would also expect a very full due diligence process to be carried out for such a serious application for a very senior position before interviews even took place. Liam McArthur's amendment deserves serious consideration in that respect.

Angela Constance: I am grateful to Gordon MacDonald for outlining the purpose of amendment 36. I have continued to listen to stakeholders and have given the matter full consideration. I am persuaded that the requirement to advertise could be more general, as long as the vacancy is advertised widely and reaches a broad range of people. I am therefore content to support Gordon MacDonald's amendment 36.

However, I consider that, apart from my amendments 14 and 15, the other proposed amendments to section A4 would impact significantly and negatively on the provision's aim to improve the accessibility of the role of senior lay member to a potentially wider pool of candidates, thereby ensuring a more consistently transparent and fair recruitment process across the sector for the appointment of senior lay members.

I do not believe that amendments 12 and 13 in the name of Liam McArthur are necessary. Amendment 12 would introduce a requirement for higher education institutions to have regard to the code of good higher education governance, which they are already required to do as a condition of their funding. The limiting of the requirement to advertise to "within and outside" the institution is too permissive and could potentially limit the reach of that requirement.

It should be noted that the code can currently be revised without the approval of the Scottish Parliament. Any reference to the code in the bill would, therefore, allow the application of the bill to develop in ways that the Parliament has not sanctioned and will not be able to scrutinise—for example, through secondary legislation.

Liam McArthur: I hear the concerns that the cabinet secretary has expressed regarding the potential approach that universities could take. However, in light of the legislation that is before us, does not she think that it is inconceivable that universities, not least because of the pressure that they would come under from staff and student representatives, would extend the net as widely as possible in searching for potential applicants?

Angela Constance: Given Liz Smith's earlier remark that the purpose of stage 3 consideration of legislation is about focusing on workability, and

as I outlined earlier, I feel and fear that the amendments in the name of Liam McArthur are too permissive and would not achieve the broader requirement for a fair process that aims to widen the scope of the potential candidates whom we are trying to reach.

I am somewhat surprised, given that Mr McArthur tends to be very focused on and interested in the role of Parliament in scrutiny, that, although his proposals are connected with the code of good governance as is practised, he wants to insert reference to the code in legislation, which would mean that Parliament would not have a role in scrutinising it at a future date.

The provisions on advertisement and applications in section A4, as inserted in the bill at stage 2, seek to ensure a clear and level playing field for all applicants. For example, a single application form means that all applicants are obliged to present evidence of their suitability in the same way.

I do not share the view of some members that the provisions are overly prescriptive. There is no requirement on the level of detail that the advert must contain when explaining the matters in section A4(2)(c); decisions about that rightly remain with the HEI. The matters that the bill requires an advert to explain set basic parameters to ensure transparency and fairness in the recruitment process. The principles that underpin the bill are the enhancement of inclusion, participation, transparency and consistency in governance arrangements in our higher education institutions. Unfortunately, none of Mr McArthur's amendments would meet those principles. For that reason, I ask Mr McArthur, with respect, not to press his amendments, and I ask members to reject them if he moves them.

Amendments 37 and 38 in the name of Chic Brodie would introduce a requirement for institutions to advertise through media outlets that are

“particularly relevant to students and staff”

and remove the requirement for the advert to include details about how the application form for the position can be obtained. It is important that applicants know that they must apply in a specific way so that all applicants are obliged to present evidence of their suitability in the same way. That will ensure a level playing field. If the vacancy is advertised widely and brought to the attention of a broader range of people, part of the intention of Chic Brodie's amendment 37 can be more appropriately met through Gordon MacDonald's amendment 36.

Amendments 14 and 15 are minor technical amendments to sections A4(2)(c)(iii) and (iv). The provisions oblige HEIs to explain in any

advertisement that reimbursement or remuneration is offered to cover expenses that are linked to attending an interview, campaigning in an election, or carrying out the functions of the senior lay member position. Advertising the availability of such payment will encourage a broader pool of candidates to apply for the position of senior lay member at Scottish HEIs. That can only be good for the diversity and range of skills and knowledge in HEI governing bodies. The purpose of the minor amendments is to provide clarity that it is the availability of reimbursement or remuneration that should be set out in the advertisement rather than a monetary value.

I will move amendments 14 and 15 at the appropriate time and ask members to support them, as well as supporting amendment 36 in Gordon MacDonald's name. I ask members to reject the other amendments in the group if they are pressed.

Liz Smith: I am willing to accept amendment 36 in the name of Gordon MacDonald because it removes some of the overly prescriptive nature of the advertisement procedure. The fact that the Scottish Government is willing to support that amendment tells the story that it was originally far too prescriptive. The amendment is true to the principle of ensuring that there is as wide a pool of applicants as possible without any micromanagement.

Liam McArthur's amendments 12 and 13 pursue that principle to a much greater degree. I welcome that because it will ensure that the application process is completely compliant with the code of good governance when it comes to transparency and inclusivity. It will also allow an important role for the Scottish funding council, which is, after all, the responsible broker between the Scottish Government and each institution.

I was happy to support Mr Brodie's amendment 38, even if I believe that amendments 12, 13 and 36 will probably work a bit better. I cannot support amendment 37 because it would create complications. I will support amendments 14 and 15 because they seek to reduce the ridiculous overspecification of some aspects of the advertisement process.

Mary Scanlon (Highlands and Islands) (Con): I was the committee member who raised the concerns about telling our world-class universities that they had to advertise on the internet and that they had to tell people where to get an application form, so I thought that it was important and appropriate for me to welcome Gordon MacDonald's and Liam McArthur's amendments. The amendments will reduce the prescriptive content that I was amazed to see in the bill.

Given that telling our universities how to advertise was not in the committee's stage 1 report, was not mentioned by any member of the Parliament at stage 1 and was never raised as an issue at any time during stage 1, who did the Government consult prior to including the measures in the bill at stage 2 and who did it consult following that in bringing forward the amendments today, which are welcome and which water down the specifications?

16:30

The Deputy Presiding Officer: Cabinet secretary, do you wish to add anything?

Angela Constance: I simply say that this is a listening Government. We listen to all members and stakeholders.

Gordon MacDonald: As I set out, my amendment 36 seeks to enable a compromise and a less exacting requirement that still meets the aims of the bill of ensuring that the position of senior lay member is advertised in a manner that enables the advertising to reach a broad range of people. We heard from Liam McArthur and Chic Brodie about their amendments 12 and 37 respectively, which offer their alternative approaches. Liam McArthur's amendment would require institutions to advertise the vacancy in a manner that they see fit, having regard to the Scottish code of good higher education governance, and Chic Brodie's would require institutions to advertise in media outlets that are

"particularly relevant to students and staff".

I welcome Chic Brodie's intention not to move amendment 37 and I ask Liam McArthur not to move amendment 12. If it is moved, I ask members to reject it and to support my amendment 36.

Amendment 36 agreed to.

The Deputy Presiding Officer: I remind members that, if amendment 13 is agreed to, I cannot call amendments 38, 14 and 15, because of pre-emption.

Amendment 13 moved—[Liam McArthur].

The Deputy Presiding Officer: The question is, that amendment 13 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brodie, Chic (South Scotland) (SNP)
Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Davidson, Ruth (Glasgow) (Con)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Finnie, John (Highlands and Islands) (Ind)

Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Harvie, Patrick (Glasgow) (Green)
Hume, Jim (South Scotland) (LD)
Johnstone, Alex (North East Scotland) (Con)
Johnstone, Alison (Lothian) (Green)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
McArthur, Liam (Orkney Islands) (LD)
McGrigor, Jamie (Highlands and Islands) (Con)
McInnes, Alison (North East Scotland) (LD)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Rennie, Willie (Mid Scotland and Fife) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, Tavish (Shetland Islands) (LD)
Smith, Liz (Mid Scotland and Fife) (Con)
Wilson, John (Central Scotland) (Ind)

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)
Baker, Claire (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Boyack, Sarah (Lothian) (Lab)
Brennan, Lesley (North East Scotland) (Lab)
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)
Doris, Bob (Glasgow) (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)
Fee, Mary (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
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)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Henry, Hugh (Renfrewshire South) (Lab)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hilton, Cara (Dunfermline) (Lab)
Hyslop, Fiona (Linlithgow) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
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)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 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)
 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)
 Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 23, Against 89, Abstentions 0.

Amendment 13 disagreed to.

Amendment 38 not moved.

Amendments 14 and 15 moved—[Angela Constance]—and agreed to.

Section A5—Interview of certain applicants

The Deputy Presiding Officer: We move to group 5, on senior lay member: interview of applicants. Amendment 16, in the name of Liam McArthur, is grouped with amendment 17.

Liam McArthur: As things stand, the bill would allow little or no discretion for nominations committees to determine who should or should not be invited to interview for the position of chair; it would give them little or no discretion over who is then allowed to go forward for election.

Although no one should be unreasonably excluded, a meaningful process of sifting candidates is not unreasonable; indeed, many would argue that it is necessary and in the interests of the universities and the candidates themselves. I presume that that is why Professor

von Prondzynski appeared to favour such an approach.

Amendments 16 and 17 depart from what currently appears to be, in essence, a tick-box exercise. They would instead allow nominations committees to assess how well each prospective candidate meets the requirements of the demanding role of chair. We have already taken steps to ensure that the nominations committee itself is representative and that it acts in a transparent manner. We can therefore feel reasonably confident that, in exercising discretion, the committee will do so in a way that reflects the widest possible interests of students, staff and the university as a whole.

The sift process would allow the committee to consider all relevant information that is contained in an application before drawing up a shortlist for interview. Those who are invited to interview would then be assessed as to their suitability to hold the position of chair, allowing members of the nominations committee an opportunity to determine whether or not a given candidate is likely to be committed to the strategic interests of the university.

The concern at present is that the bill leaves nomination committees with no ability to respond appropriately to an application from a single-issue candidate. However important such an issue might be and however legitimate it may be to see that issue debated, it is questionable whether having a chair elected on the basis of a single issue would give them the necessary mandate or legitimacy in overseeing the work of the governing body as a whole. That would run the risk of diminishing the governing body and the university itself.

On that basis, I ask Parliament to support these important amendments, and I move amendment 16.

Liz Smith: Liam McArthur is absolutely right to have lodged these amendments in order to ensure that everything possible is done to ensure that there is no weakening in the quality and professionalism of the chair and to minimise the risk of electing single-issue candidates with specific agendas that may or may not be contrary to the best strategic interests of the institution. The Conservatives give their whole-hearted support to amendments 16 and 17.

Angela Constance: I am grateful to Mr McArthur for outlining the purpose of amendments 16 and 17. Both amendments seek to give the committee that selects candidates to stand for election increased vetting powers beyond its being satisfied that an applicant meets the criteria that the committee has set.

The point of the democratic process that is provided for in the bill is that, beyond meeting

those criteria, any further qualitative judgment on the candidates should properly be for the electorate. The fact that the committee devises the criteria according to what it considers necessary or desirable to exercise the functions of the senior lay member and command the trust and respect of the staff and students, the academic board and the governing body means that the committee sets the competence bar for candidates and already has a certain amount of discretion in assessing whether or not applicants cross that bar.

Section A5 already requires the assessing committee to be satisfied that the candidate meets the relevant criteria for the position of senior lay member. All candidates should be assessed fairly against the same criteria and not, as Mr McArthur suggests in amendment 16,

“together with other ... relevant information contained within the application”.

Nothing should be relevant other than whether the candidate appears in their application to meet the criteria for the position and further satisfies the committee at interview that they do so. Any further qualitative judgment should rightly be for the electorate of the students, staff and members of the governing body.

In short, the bill provides for a recruitment process that stands up against modern standards for a fair and transparent recruitment exercise. It ensures that credible and competent candidates are presented to the electorate and that it is the electorate that can make the final determination as to the strongest of the candidates.

Mr McArthur's amendments 16 and 17 are unnecessary because of the role that the committee already has in determining the relevant criteria and assessing candidates against those criteria. More worrying, the amendments are undesirable because they seek to undermine the democratic process for the appointment of a senior lay member that is at the heart of the bill.

Quite simply, the committee should not be able to arbitrarily vet who stands in the election if a candidate can otherwise satisfy the committee that they meet the criteria that the committee has set. Therefore, I strongly urge members to reject amendments 16 and 17.

Liam McArthur: I thank Liz Smith and the cabinet secretary for their contributions.

I listened with interest, in particular, to what Angela Constance had to say. She is right in that the nominations committee can set the competence criteria for candidates, and it is absolutely right that candidates should be judged fairly, but I do not think that providing the nominations committee with an opportunity to sift applications more thoroughly than is presently the

case in the bill would undermine that. Indeed, it is arguable that the democratisation process could already be said to have been undermined by what we have put in place in relation to rectors and senior lay members.

I think that the modest provisions that amendments 16 and 17 propose would provide an additional safeguard without undermining the democratisation process that is under way. Therefore, I press amendment 16.

The Deputy Presiding Officer: The question is, that amendment 16 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)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 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)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Boyack, Sarah (Lothian) (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)
 Doris, Bob (Glasgow) (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)
 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 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)
 Hyslop, Fiona (Linlithgow) (SNP)
 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)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 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)
 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)

The Deputy Presiding Officer: The result of the division is: For 17, Against 95, Abstentions 0.

Amendment 16 disagreed to.

Amendment 17 not moved.

Section A6—When election to be convened

The Deputy Presiding Officer: Group 6 is on the election of the senior lay member. Amendment 18, in the name of the cabinet secretary, is grouped with amendments 5 to 8, 39 and 19.

I draw members' attention to the note on the groupings. Amendments 18 and 5 are direct alternatives, which means that I can call both amendments. If amendment 18 is agreed to, the Parliament can still decide whether to agree to amendment 5. If it did so, amendment 5 would replace amendment 18. I also point out that, if amendment 39 is agreed to, I will not be able to call amendment 19, because of pre-emption. I hope that that is clear.

Angela Constance: Amendment 18 provides for a minor but important finessing of section A6(1) of the bill, which compels an HEI to arrange an election for the position of senior lay member.

Amendment 18 seeks to make it explicit in statute that it is for the governing body of the HEI to arrange the election for the position of senior lay member. It is clear that that is what section A6(1) intends and implies, but it is important to make that absolutely clear. Therefore, I ask members to support amendment 18.

I turn to Liz Smith's amendments 5, 6 and 7. They would have a negative impact on the process for the appointment of the senior lay member. Amendment 5 is unnecessary, and my amendment 18 makes fuller provision in this area by also making it clear that it is the duty of the governing body to arrange an election.

Section A6 provides that an institution is required to organise an election for the position of senior lay member of the governing body if, after interview, more than one candidate is entitled to stand and confirms their intention to do so.

16:45

I am confident that provisions elsewhere in the bill will result in a wide range of suitable candidates not only presenting themselves but making it through to the election stage. However, should that for any reason not be achieved, sections A6(1) and A6(2)(a) and (b) make provision to ensure that an election for the position of senior lay member will not be held with only one candidate standing. In that way, the bill ensures a real and meaningful election in keeping with the bill's overall aim to establish an open, transparent and more democratic appointment process across all HEIs for the role of senior lay member.

Amendments 6 and 7 from Liz Smith would remove that provision and enable elections involving one candidate to be held, with no meaningful vote for staff, students or the members of the governing body. For that reason, I cannot support those amendments. The electorate must be presented with a choice, or the election could become a coronation of a pre-selected candidate. I therefore urge members to protect the democratic ideals of the bill and reject amendments 5, 6 and 7 from Liz Smith.

Amendment 8, also lodged by Liz Smith, is unhelpful as it seeks to limit and, in effect, water down the requirement on institutions to meet campaign expenses. Unlike section A6, Liz Smith's proposed provision would not require an HEI to reimburse reasonable campaign expenses; rather, it would provide for the status quo, which is that HEIs can provide campaign expenses if they wish. There is a risk that, should an institution refuse to meet campaign expenses, that would put off those who cannot afford to run an election campaign from standing. However, I am absolutely clear that my intention in the bill is to achieve a broader pool of potential senior lay member candidates and that income and wealth should not be pre-determiners of that process. I therefore cannot support amendment 8 and ask members to reject it.

With regard to Mr Brodie's amendment 39, I know that Mr Brodie highlighted his view at stage 2 that if proportional representation was suitable for elections to this Parliament, elections for the senior lay member of the governing body of a higher education institution should operate similarly. I have some sympathy with his view but cannot support amendment 39. Rectorial elections, relevant to the appointment of one person rather than a representative body, are not conducted in that way, and I do not support the introduction of the single transferable vote for senior lay member elections. A simple majority system is more proportionate to a focused campus election of that sort, which may have a relatively small number of candidates.

Obliging HEIs to conduct elections via a single transferable vote system without having the option to consider any other form of proportional representation would impose a greater administrative and financial cost on our institutions. Further, I understand that although NUS Scotland is sympathetic to amendment 39, it does not support it. If the member had been keen to explore the matter at stage 2, that might have allowed some time to examine the case with stakeholders. However, in the current context, I ask the member not to move amendment 39. If he does, I ask that members do not support it.

Liam McArthur's amendment 19 seeks to remove what I consider to be the fundamental right of each student, staff member and governing body member to cast a vote of equal weight in the election of the senior lay member and to introduce a process that would enable institutions to make rules to establish an electoral college for voting in that election. Quite simply, the introduction of an electoral college would cut across the core intention to democratise the process for electing senior lay members to chair university governing bodies.

It has been central to the narrative of the bill that I see a real benefit in enabling every voice on campus to be heard. Section A7 of the bill, as inserted at stage 2, enables a system in which each vote cast in the election carries equal weight and the election is won by the candidate who secures a simple majority of the total number of votes cast. An electoral college would have enabled institutions to apply whatever weighting they chose to each of the three constituencies of staff, students and members of the governing body. They could have given the members of the governing body 80 per cent weighting, staff 10 per cent and students 10 per cent. It would have been open to each institution to establish that for themselves.

A key policy aim of the bill, as I have said already, is to enable every voice on campus to be heard. That would not be achieved by an electoral college that resulted in some voices on campus being more equal than others. I want all voices to be equal and, in particular, I want to make sure that the voices of staff and students can actually be heard in the election process. I therefore cannot support amendment 19 and I ask that members reject it. I ask members to support amendment 18.

I move amendment 18.

Liz Smith: I believe that my amendment 5 is a preferable alternative to amendment 18 from a semantic perspective. I do not disagree with the principle of what the cabinet secretary is trying to do, but I think that amendment 5 expresses it better.

Amendment 6 is designed to enable an election to occur in a circumstance where there is only one candidate. That circumstance might not be desirable, but it is highly possible, so we have to take it seriously.

Amendment 7 is designed to counter the problem that would be left by the bill that would mean that any university could be left without a chair for a significant time and therefore encounter the unwelcome instability that would follow. It is extremely important for the sake of our institutions that we avoid that situation.

Amendment 8 is intended to replace existing provisions with a section that requires an election to be held to select which of the candidates for election who are identified through the previous section should be chosen as the senior lay member.

The amendments remove the requirement for there to be multiple candidates before an appointment can be made and they make it clear that the governing body is responsible for the running of the election. I add that the Conservatives are happy to support amendment 19 but not amendment 39.

Chic Brodie: I was not sure whether I had misheard the cabinet secretary when she said that I should perhaps have consulted more after stage 2. I am afraid that I have consulted quite widely—I am not sure that that has been reflected elsewhere—my consultation being weighed down by experience.

It is right for the institution to seek the election of a senior lay member. Section A7(5) states:

“In the event of a tie between two or more candidates for the highest number of votes cast, the election is won by whichever of them is deemed to be the winner”.

There can be nothing worse than an election such as one consisting of three candidates, let us say with a franchise of 1,000 electors, with the winner getting 400 votes and the other two getting 300 votes each, combining to make 600. In that situation, we would send a senior lay member to the governing body with less than 50 per cent support from the electorate that he or she sought to get support from. That would hardly give the elected member a strong voice in the governing body. I suggest that my amendment 39 be agreed to.

Liam McArthur: I confirm my support for the amendments in the group except for amendment 39, but that is solely due to the pre-emption.

My amendment 19 is perhaps a little more complex, but its aim is to ensure that there is greater fairness in the way in which chairs are elected. Whether the system that is used for electing senior lay members is the single transferable vote system or first past the post, numbers matter, and in that respect it seems inevitable that the views of students will be better reflected than those of staff. When we consider that most students will leave the university once their course is complete, unlike staff, whose career at a university may last significantly longer, that seems anomalous.

My amendment 19 seeks to balance the votes of students, staff and the governing body in any contest by introducing an electoral college arrangement. The cabinet secretary says that she wants everyone's voice to be heard on campus,

but surely even she can see that some voices will be heard more loudly than others as a result. How the college system would work in practice could quite reasonably be left to individual institutions to determine, again reflecting the diversity within the sector.

Although the approach could, as I said, be slightly more complex to operate, its benefit is the mandate that it would give the senior lay member. She or he could legitimately argue that their success represented a fair reflection of the views of all stakeholders within the university.

Like Chic Brodie, I have to say that the accusation from the cabinet secretary about a lack of consultation, given what we have seen at stage 3 in relation to the provisions on elected chairs and rectors, is somewhat staggering.

I ask the Parliament to support my amendment 19.

Angela Constance: I have listened to the explanations that Liz Smith, Chic Brodie and Liam McArthur have given of their amendments, and I remain convinced that they are unnecessary or undesirable. Amendment 5 is unnecessary, as my amendment 18 makes fuller provision in that area by also making it clear that it is the duty of the governing body to arrange an election.

Liz Smith's amendments 6 and 7 would enable elections that involve one candidate with no meaningful vote for staff, students or the members of the governing body. The electorate must be presented with a choice, not an installation. Therefore, I urge members to protect the democratic ideals of the bill and reject Liz Smith's amendments 5 to 7.

Similarly, Liz Smith's amendment 8 is undesirable, as it seeks to dilute a power and responsibility that is important in enabling a broader and more diverse pool of potential senior lay member candidates.

Liz Smith: Will the cabinet secretary list the members and stakeholders with whom she consulted on that section of the bill?

Angela Constance: Let me put things in perhaps a very undiplomatic way. I have consulted on the bill until I am blue in the face. My officials have been involved in extensive discussions with a range of stakeholders, and the Government and I made extensive efforts to co-design propositions between stage 1 and stage 2. Irrespective of what people's views of the bill are, I utterly reject and refute the claim that there has been a lack of meaningful dialogue about it. That is quite simply not true.

To follow on from my point before Ms Smith's intervention, it is important to return to the current position. What Ms Smith proposes would be a

retrograde step, so I will not support amendment 8 and I ask members to reject it.

I listened to everything that Mr Brodie said about amendment 39 but, on balance, a simple majority system is more suitable for the election of a senior lay member across 18 HEIs. Therefore, although I am sympathetic in general terms, I ask members not to support amendment 39.

Liam McArthur's amendment 19 could deny students and staff the right to cast a vote of equal weight in the election of the senior lay member, which is quite simply not acceptable. Mr McArthur seemed to touch on the notion that students are somewhat transient, as they may study for only three or four years, but what group other than students has such a major interest in their institution's good governance and its being well run? It is imperative that, whether a person is a member of staff, a student or, indeed, a member of the governing body, their vote has equal weight to that of everyone else.

Liam McArthur: Will the cabinet secretary take an intervention?

Angela Constance: I am just finishing.

The bill is about inclusivity and achieving clear parity of esteem for the entire campus community, so I cannot support amendment 19, and I ask members to reject it.

Amendment 18 agreed to.

Amendment 5 moved—[Liz Smith].

The Deputy Presiding Officer (Elaine Smith): The question is, that amendment 5 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brodie, Chic (South Scotland) (SNP)
Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Hume, Jim (South Scotland) (LD)
Johnstone, Alex (North East Scotland) (Con)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
McArthur, Liam (Orkney Islands) (LD)
McGrigor, Jamie (Highlands and Islands) (Con)
McInnes, Alison (North East Scotland) (LD)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Rennie, Willie (Mid Scotland and Fife) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Scott, Tavish (Shetland Islands) (LD)
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)
Baker, Claire (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Boyack, Sarah (Lothian) (Lab)
Brennan, Lesley (North East Scotland) (Lab)
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)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
Finnie, John (Highlands and Islands) (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)
Grant, Rhoda (Highlands and Islands) (Lab)
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)
Hyslop, Fiona (Linlithgow) (SNP)
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)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McDonald, Mark (Aberdeen Donside) (SNP)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMahon, Michael (Uddingston and Bellshill) (Lab)

McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 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)

The Deputy Presiding Officer: The result of the division is: For 19, Against 93, Abstentions 0.

Amendment 5 disagreed to.

Amendment 6 moved—[Liz Smith].

17:00

The Deputy Presiding Officer: The question is, that amendment 6 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)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 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)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)

Boyack, Sarah (Lothian) (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)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 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)
 Hyslop, Fiona (Linlithgow) (SNP)
 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)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)

Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 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)

The Deputy Presiding Officer: The result of the division is: For 18, Against 94, Abstentions 0.

Amendment 6 disagreed to.

Amendment 7 moved—[Liz Smith].

The Deputy Presiding Officer: The question is, that amendment 7 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)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 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)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Boyack, Sarah (Lothian) (Lab)
 Brennan, Lesley (North East Scotland) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunningham 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)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunningham North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 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)
 Hyslop, Fiona (Linlithgow) (SNP)
 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)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 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)

The Deputy Presiding Officer: The result of the division is: For 18, Against 93, Abstentions 0.

Amendment 7 disagreed to.

Amendment 8 not moved.

Section A7—Election franchise and result

Amendment 39 moved—[Chic Brodie].

The Deputy Presiding Officer: I remind members that, if amendment 39 is agreed to, I cannot call amendment 19 as there would be a pre-emption.

The question is, that amendment 39 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brodie, Chic (South Scotland) (SNP)
 Finnie, John (Highlands and Islands) (Ind)
 Harvie, Patrick (Glasgow) (Green)
 Johnstone, Alison (Lothian) (Green)
 Wilson, John (Central Scotland) (Ind)

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)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Boyack, Sarah (Lothian) (Lab)
 Brennan, Lesley (North East Scotland) (Lab)
 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)
 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)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)

Fergusson, Alex (Galloway and West Dumfries) (Con)
 Findlay, Neil (Lothian) (Lab)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Keir, Colin (Edinburgh Western) (SNP)
 Kelly, James (Rutherglen) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 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)
 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)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 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)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 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)
 Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 5, Against 107, Abstentions 0.

Amendment 39 disagreed to.

Amendment 19 moved—[Liam McArthur].

The Deputy Presiding Officer: The question is, that amendment 19 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)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Finnie, John (Highlands and Islands) (Ind)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Wilson, John (Central Scotland) (Ind)

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)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Boyack, Sarah (Lothian) (Lab)
 Brennan, Lesley (North East Scotland) (Lab)
 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)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)

Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hilton, Cara (Dunfermline) (Lab)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 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, 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)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 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)
 Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 22, Against 87, Abstentions 0.

Amendment 19 disagreed to.

Section A9—Remuneration and conditions

The Deputy Presiding Officer: Group 7 is on senior lay member remuneration. Amendment 20, in the name of the cabinet secretary, is grouped with amendments 21 and 9.

Angela Constance: Amendment 20 is a minor amendment to section A9(1), which ensures that the senior lay member of the governing body can request and will be paid reasonable remuneration and allowances from the HEI, commensurate with the work that is done in carrying out that office's functions.

It has been suggested that, as the provision says that HEIs must pay reasonable remuneration in response to a request from the senior lay member, it could be misinterpreted as allowing the senior lay member to dictate in their request what is reasonable. Although I do not agree with that interpretation, I have listened to stakeholders and lodged this minor amendment to make it absolutely clear that it is for the governing body of an HEI to decide what is reasonable remuneration and allowances for the work that the senior lay member carries out.

Amendment 21 is a minor technical amendment to section A9(1) that is consequential on amendment 20. Amendment 21 will simply add the clarity, following the addition of text by amendment 20, that reasonable remuneration and allowances are to be paid if they are commensurate with the work that a person does in their capacity as the senior lay member.

Amendment 9 is substantially the same as an amendment that Liz Smith lodged at stage 2. I did not consider such an amendment to be necessary then and it is still not necessary now. Amendment 9 would provide for a power that already exists. HEIs can currently provide remuneration if they wish. Compliance with the code of good HE governance is also expected, and I see no reason why that would not continue.

As I have said, section A9 ensures that a senior lay member, or chair, of the governing body can request and will be paid reasonable remuneration, commensurate with the responsibilities of carrying out that office's functions. That is not akin to a salary or unlimited payment, but it is right for a senior lay member, on request, to be paid reasonable remuneration and allowances for the work that they have undertaken. It is also a duty on HEIs to make such payments when that is reasonable. In recognition of the important work that the senior lay member does, I do not think that many HEIs would object to that, and I am clear that it will encourage a broader pool of candidates to apply for the position of senior lay member at HEIs, which can only be good for the

diversity and range of skills and knowledge in HEI governing bodies.

In removing subsections (2) and (3) of section A9, amendment 9 would remove the safeguard in the bill that the senior lay member is to be independent, rather than a student or member of university staff, and it would remove the provision that ensures that HEIs remain able to control the terms and conditions of the senior lay member position. I therefore cannot support amendment 9, which merely describes discretion that HEIs already have, and I ask members to reject it but to support amendments 20 and 21, in my name, which bring clarity to the existing provision.

I move amendment 20.

Liz Smith: The Conservatives will support amendments 20 and 21 on the ground that they place responsibility for remuneration with the governing body. Amendment 9 would require decisions about the remuneration of chairs to be made in accordance with current and evolving best practice, as set out in the code of good governance—something that Universities Scotland is rightly concerned about.

We saw serious misunderstanding in the bill's early stages about exactly what chairs do. Indeed, the myth pertained that they only have to turn up for six meetings a year, claim expenses and chair the agenda when, in reality, the situation is completely different. Compliance with the code allows for payment that is based on compensation for additional costs incurred or income forgone by the senior lay member or payment to the senior lay member's employer in compensation for their time.

Liam McArthur: The amendments in the group offer an opportunity to address another problem that the Government created through its approach at stage 2. To give credit where it is due, the cabinet secretary appears to have recognised that her earlier proposals on remuneration and allowances for elected chairs were not workable, and amendments 20 and 21 are certainly an improvement.

That said, the approach that Liz Smith's amendment 9 sets out is preferable. It would leave the decisions to be determined by each institution's governing body, in line with what the funding council considers to be the principles of good practice across the sector. The NUS makes a fair point in arguing that, without some form of appropriate remuneration, we run the risk of making the post of elected chair the preserve of those who are financially secure. Nevertheless, the more discretion we can leave open for governing bodies of universities to decide the most appropriate arrangements for their institutions and for the individuals who take on the role, the better.

Angela Constance: I am grateful to Mr McArthur and Ms Smith for their support for amendments 20 and 21. I reiterate my objection to amendment 9, in the name of Liz Smith, for all the reasons that I gave earlier, and I ask members to reject amendment 9 but to support amendments 20 and 21.

Amendment 20 agreed to.

Amendment 21 moved—[Angela Constance]—and agreed to.

Amendment 9 moved—[Liz Smith].

The Deputy Presiding Officer: The question is, that amendment 9 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brown, Gavin (Lothian) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Hume, Jim (South Scotland) (LD)
McArthur, Liam (Orkney Islands) (LD)
McInnes, Alison (North East Scotland) (LD)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Rennie, Willie (Mid Scotland and Fife) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Scott, Tavish (Shetland Islands) (LD)
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)
Baker, Claire (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Boyack, Sarah (Lothian) (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)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (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)
Grant, Rhoda (Highlands and Islands) (Lab)
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)
Hyslop, Fiona (Linlithgow) (SNP)
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)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McDonald, Mark (Aberdeen Donside) (SNP)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McMillan, Stuart (West Scotland) (SNP)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
Murray, Elaine (Dumfriesshire) (Lab)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Pentland, John (Motherwell and Wishaw) (Lab)
Robertson, Dennis (Aberdeenshire West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Russell, Michael (Argyll and Bute) (SNP)
Salmond, Alex (Aberdeenshire East) (SNP)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
Smith, Drew (Glasgow) (Lab)
Stewart, David (Highlands and Islands) (Lab)
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)
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 13, Against 92, Abstentions 0.

Amendment 9 disagreed to.

Section 1A—Resignation or removal of chairing member

The Deputy Presiding Officer: That brings us to group 8, which is on the resignation and removal of the chairing member and ordinary members of a governing body. Amendment 22, in the name of the cabinet secretary, is grouped with amendments 23 and 24.

Angela Constance: During any bill process, it is important that ministers listen to members' views, particularly when they are expressed by supporting amendments at stage 2. Sections 1A and 5A were introduced at stage 2 through amendments from Liz Smith and Chic Brodie respectively. At stage 2, I did not agree that those provisions were necessary or desirable, but committee members across the parliamentary groups clearly thought otherwise, and I have listened to them. Therefore, I am not seeking to remove those provisions from the bill in their entirety but, through amendment 24, I will introduce a new provision based on sections 1A and 5A that is workable in the context of the bill as amended at stage 2.

Amendment 24 provides for a similar safeguard to that which sections 1A and 5A introduced, without impinging on the powers that higher education institutions have to manage the resignation of or to remove any member of the governing body, including the chair. HEIs can already manage the removal or resignation of governing body members, and they do so through their own governing instruments.

Broadly, the process for the resignation or removal of the senior lay member and any other member of the governing body of an institution should be left largely to the universities—as autonomous institutions—to determine. Sections 1A and 5A impinge on the autonomy of HEIs in an unacceptable way by prescribing detail including notice periods and who notice must be given to. That is an unnecessary and unhelpful level of prescription, and amendment 24 will introduce measures that provide for a more proportionate response.

Amendment 24 provides a statutory safeguard whereby an elected senior lay member and any other member—including the newly elected and nominated members of the governing body—may resign or be removed, as can currently be done in relation to a chair or any other member. I hope that that assures Ms Smith and Mr Brodie that the intent of their amendments—what was being pursued through sections 1A and 5A—is being carried forward through amendment 24. I hope that I have also provided wider assurance to members, and to the HE sector, that the bill seeks to take a light-touch approach to the detail of governance matters when that is warranted.

As a consequence of the new provision that amendment 24 will insert, sections 1A and 5A, which were added at stage 2, will be superseded. As such, I seek to remove them through amendments 22 and 23. I encourage members to support amendments 22 to 24.

I move amendment 22.

Amendment 22 agreed to.

After section 1A

Amendment 40 moved—[Chic Brodie].

17:15

The Deputy Presiding Officer: The question is, that amendment 40 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brodie, Chic (South Scotland) (SNP)
Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Hume, Jim (South Scotland) (LD)
Johnstone, Alex (North East Scotland) (Con)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
McArthur, Liam (Orkney Islands) (LD)
McGrigor, Jamie (Highlands and Islands) (Con)
McInnes, Alison (North East Scotland) (LD)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Rennie, Willie (Mid Scotland and Fife) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Scott, Tavish (Shetland Islands) (LD)
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)
Baker, Claire (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Brennan, Lesley (North East Scotland) (Lab)
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)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Eadie, Jim (Edinburgh Southern) (SNP)

Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 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)
 Hyslop, Fiona (Linlithgow) (SNP)
 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)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Smith, Drew (Glasgow) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 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)

The Deputy Presiding Officer: The result of the division is: For 19, Against 91, Abstentions 0.

Amendment 40 disagreed to.

Section 4—Composition of governing body

The Deputy Presiding Officer: The next group is on the composition of the governing body and trade union involvement. Amendment 41, in the name of George Adam, is grouped with amendments 42 and 44 to 47.

George Adam (Paisley) (SNP): I am pleased to speak to amendments 41, 42 and 44 to 47. As with much else in life, these rather innocuous-looking technical changes have the potential to have a much larger impact. Such was the storm and fury over practically every aspect of the bill during its earlier stages that, between stages 2 and 3, I spent some time looking for potential loopholes and unintended consequences in its provisions. That might suggest that I need to get out more, Presiding Officer, and you might be correct if you came to that conclusion. However, it was time well spent, because I found unintended consequences that pertain to the provisions on trade union representation and the rights of trade unions to nominate two members to institutions' governing bodies.

I welcome those provisions. It is clear to me that, as the cabinet secretary has made clear, trade unions and their members have a role to play in the governance of our higher education institutions, particularly if we are to ensure that every voice on campus is heard. Trade unions and their members have at heart not just their own interests but the wider wellbeing of the agencies, organisations and institutions that employ their members. However, I understand that section 4 as drafted says that, if an institution does not recognise a trade union that has members in that institution, that trade union will not be able to nominate members to sit on the governing body. That would be an unhelpful outcome.

The bigger concern for me is that, at some point, an institution might decide to derecognise a trade union in order to prevent the nomination of members to its governing body. In all honesty, I cannot imagine that any of our existing institutions would wish to thwart the objectives of the legislation in such a way. However, legislation must be future proofed where it can be, to prevent such unintended and extremely unhelpful consequences.

The amendments aim to shut that door before anyone is minded to prise it open. They seek to make it clearer that, if an institution has staff who are members of a trade union that that institution has not recognised, the institution cannot argue that there is no trade union for the purposes of

nominating trade union members to the governing body under sections 4(1)(c) and 4(1)(d). By removing the requirement for recognition in section 4(2), as amendment 45 would, we would ensure that all trade union members can have a representative on a governing body.

Amendments 46 and 47 would make clearer the definition of a trade union for the purposes of the bill.

The amendments seek to give the fullest possible effect to the spirit, intent and purpose of the bill, and I hope that members will support them.

I move amendment 41.

Angela Constance: I thank Mr Adam for explaining the intent of amendments 41, 42 and 44 to 47. I have been clear that I am committed, through the bill, to enabling every voice on campus to be heard. As part of that, I have ensured that trade unions are entitled to nominate two members to the governing bodies of all HEIs.

The inclusion of union members on the governing body of each HEI was a core recommendation of the 2012 review. I have been clear throughout the bill process that that is a very important provision. The amendments, as described by Mr Adam, represent a technical clarification, and I welcome the closure of the potential loophole that he identified.

It is important that all unions are considered in relation to such positions and that all union members have a say. Mr Adam's amendments help to achieve that aim. For that reason, I ask members to support amendments 41, 42 and 44 to 47.

George Adam: I am not a paranoid individual, but I believe that we must ensure that there is no temptation for individuals to abuse the situation. That is why I will press amendment 41.

Amendment 41 agreed to.

Amendment 42 moved—[George Adam]—and agreed to.

The Deputy Presiding Officer: Group 10 is on remuneration committees. Amendment 43, in the name of Mark Griffin, is grouped with amendment 49.

Mark Griffin (Central Scotland) (Lab): I will speak to amendment 43, in my name, and speak in support of amendment 49, in the name of Alison Johnstone.

Amendment 43 seeks to ensure that trade union and student association nominees sit on a university's remuneration committee. Labour supports the principle of the bill, which is to ensure greater transparency and representation in

university decision making. That principle should be reflected in the processes that lead to the governing body taking decisions. In view of that, students and staff representatives should sit on sub-governing body committees, such as remuneration committees.

Decisions made in the governing body have often gone through a lengthy process in order that advice can be given and recommendations made to the board. In order to ensure that our universities remain transparent and accountable at every level, it is important that their two main stakeholders—staff and students—are key participants in all decision-making bodies.

In autumn last year, UCU Scotland submitted a freedom of information request to all Scottish institutions to ask for the details of their principals' remuneration and how it was set up. Two institutions did not respond, two used exemptions not to supply the information requested, and six redacted the remuneration committee minutes or other related information. More than half of higher education institutions, therefore, were not fully transparent about principals' pay. We believe that that is not acceptable for bodies that spend more than £1 billion of public money annually. It is time that we had more transparency on the issue.

The Government should pay heed to recent scandals on pay and packages that have affected the further education sector, and support the amendment. If staff and student representatives were full members on remuneration committees, it would result in greater diversity and a greater balance of opinions among stakeholders. That was recommended by the Hutton review of fair pay, which found that, at 15.35:1, university principals have the highest pay ratio in the entire public sector.

Follow-up research by NUS Scotland found that, in Scotland, the ratio goes up to 16:1. There are 88 individuals in Scottish universities who earn more than the First Minister; there is only one university principal who earns less than that. It is clear from those figures, and given the backdrop of tight financial circumstances across the public sector, that the higher education sector needs to take strong action and to be more accountable on senior pay.

Our amendment 43, combined with Alison Johnstone's amendment 49, which has our support, provides for measures that we believe will help curtail unreasonable management pay increases and will keep pay more in line with that of those at the bottom of the pay scale. I hope that members will support us on this issue.

I move amendment 43.

Alison Johnstone (Lothian) (Green): Amendment 49 is designed to allow universities to

set senior pay in a fairer, more equitable manner. It could work in tandem with Mark Griffin's amendment 43, which I support.

Principals' pay has hit the headlines many times. Last year, people at the top end of the pay scale in universities received pay increases of 8 per cent, 13 per cent and even 15 per cent. At the same time, staff had to take industrial action—and they therefore lost pay—to get a 2 per cent increase. Others were pushed into insecure zero-hours contracts.

UCU has described that pay inequality in its briefing today as “ludicrous” and as being

“more reminiscent of pre-crash investment banking than public service institutions”.

NUS Scotland reports in its briefing—as my colleague Mark Griffin has highlighted—that university principals have the highest pay ratio in the entire public sector and that the ratio in Scotland is even higher than the UK average.

After years of pay restraint in the public sector, people find such vast levels of wage inequality harder and harder to stomach. There are concerns over the arbitrary nature of pay rises and, as has been highlighted, the lack of transparency. Each and every member of staff plays a part in the success that is recognised in our universities. However, as NUS president Gordon Maloney has highlighted, figures show that just 17 people earned more than £4 million between them.

Amendment 49 would help to link the decisions on principals and senior managers to pay for lecturing staff. It recognises the need to bring down the wage ratios in universities, and it would require remuneration committees to

“have regard to ... the desirability of reducing the ratio between the remuneration of the highest paid and lowest paid employee within the institution”.

Remuneration committees should of course also have regard to the overall financial health of the institution.

The list that I have provided is non-exhaustive. Committees would be free to consider anything else that they deemed relevant or important to their decisions. I hope that the cabinet secretary can respond positively on the issue. We will of course work with any and all parties who support our aim.

There is a clear case for acting now. It is time to legislate to ensure that future pay rises for principals are in step with wider pay increases.

Liz Smith: We cannot support either amendment 43 or amendment 49, on the basis that we do not feel that there has been sufficient consultation with all the stakeholders about how the measures would work in practice. We will

therefore not be supporting either of the amendments in the group.

Angela Constance: I thank both Mr Griffin and Ms Johnstone for their substantial contributions this afternoon and for their explanations of the intentions behind their respective amendments. I want to make clear my considerable sympathy for the intent of their proposals.

It is of course disappointing that there continues to be a considerable gender pay gap in many of our institutions, particularly in more senior roles. We have all been shocked to see double-figure percentage increases in some remuneration packages for principals in the last year, with what would appear to be little consideration more generally of applying increases in principals' pay that broadly reflect recent comparable public sector pay settlements.

17:30

That said, HE institutions are autonomous, not public bodies. Although it is the Government's view that every HEI employee deserves fair pay and conditions, it is for each autonomous HEI to ensure that pay and conditions are fair and justifiable for every employee, up to and including the principal.

Although I think that there are discussions to be had with the sector to encourage it to do more around these issues, it is not for the Scottish ministers to intervene statutorily in how pay and conditions are set by autonomous bodies. It may well be appropriate for the forthcoming review of the code of good HE governance to consider and address the important issues of inclusivity and transparency in the setting of pay and conditions in our HEIs, including who sits on remuneration committees.

We are, of course, also limited in what we can do under the terms of the Scotland Act 1998, which reserves employment rights and duties and industrial relations. We consider Alison Johnstone's amendment 49 to be outwith legislative competence and, for that reason alone, I cannot support it.

Patrick Harvie (Glasgow) (Green): The minister said that the Government cannot accept amendment 49 for the reason of competence alone. Is it the Government's explicit view that the policy objective should be achieved? If it is, how should be it achieved, if not by this means?

Angela Constance: I would hope that Patrick Harvie would accept that the intention and the policy objective of everything that this Government has done on this matter and across a portfolio of interests—

Iain Gray (East Lothian) (Lab): Will the cabinet secretary give way?

Angela Constance: I am still answering Mr Harvie, if Iain Gray does not mind.

We have a strong track record on endeavours to close the pay gap and on the living wage and equal pay. It is with regret that, with the powers that we have and even with the additional powers that we are getting, we are not able to accept Alison Johnstone's amendment 49. As I have already said, it is for that reason alone that I cannot accept it.

Iain Gray: Is it not the case that, if amendment 49 was not competent for reason of reservation, it would not have been accepted by the chamber desk?

Angela Constance: No. I asked that very question myself, and it is not the case.

There are some issues with Mark Griffin's amendment 43, which I will come to. Before I do that, I make it clear that the bill aims to establish consistent yet discrete provisions on the overarching governance of institutions to improve transparency, inclusion and accountability more generally.

Jenny Marra (North East Scotland) (Lab): Will the cabinet secretary give way?

Angela Constance: Let me finish this point, please.

By making provision in this bill for an elected senior lay member and mandatory elected staff members as well as student and trade union members nominated by representative bodies on our institutions' governing bodies, those bodies will have wider and more diverse representation. *[Interruption.]*

The Deputy Presiding Officer: Order, please. Can we have some quiet in the chamber?

Angela Constance: That will allow for wider and more diverse representation of the whole community of the institution on all the committees set up by a governing body to carry out and oversee particular functions.

I am now happy to give way to Jenny Marra.

Jenny Marra: Has the cabinet secretary taken legal advice on the regulation of principals' pay?

Angela Constance: Jenny Marra has been a member long enough to know the protocols and conventions on what Governments say or do not say on taking legal advice. However, I am confident that the Government is on strong legal footing on this matter, in terms of our understanding of what currently we can and cannot do.

The influence that Mark Griffin's amendment 43 seeks to secure for trade union and student members over pay and conditions is already catered for by the bill, but in a way that recognises the autonomy of higher education institutions. I am unclear on the intention behind the fact that amendment 43 makes no provision for inclusion of the new mandatory staff members on HEI governing bodies, some of whom will be in a union, although some will not.

Amendment 43 runs the risk of producing an unintended consequence. The amendment supposes that HEIs will always form remuneration committees, and indeed such committees currently feature in the code. However, there is no fixed statutory requirement in that respect, nor does the amendment oblige HEIs to form such committees. HEIs might in such cases give the task of setting pay and conditions to another committee, thereby potentially avoiding the scope of amendment 43 altogether.

Although I empathise with the effect that the two amendments seek to achieve, I cannot support Alison Johnstone's amendment 49, because it is outwith the Parliament's legislative competence, and I cannot support Mark Griffin's amendment 43, because it steps beyond what we consider proportionate in terms of governance arrangements for autonomous bodies. In addition, I have indicated clearly what I believe to be the real risk of an unintended consequence. However, I hope that the forthcoming review of the code of good governance will explore the issue thoroughly. I urge members to reject both amendments.

Mark Griffin: Amendment 43 in my name and amendment 49 in the name of Alison Johnstone are both supported by UCU and NUS Scotland. My amendment would not give the Government any legislative control over pay and conditions for management. It simply asks for staff and student representatives to be on the remuneration committee where such a committee exists.

Senior management pay was an issue that was raised in initial evidence to the committee, and it seems to have been missed by the Government. With a pay ratio of 16:1, the gap between those at the top and those at the bottom of the pay scale in our higher education sector is the widest in the public sector in Scotland. That issue should be addressed when we are talking about the governance of higher education institutions.

I think that having staff and student reps on the remuneration committee would begin to address the issue, and it would give those committees a balance, with a cross-section of opinion from across the whole university campus. It would include the views of staff who are having to strike and fight for much lower pay rises than those received by people at the top. I ask members to

support the amendment in my name, and I press amendment 43.

The Deputy Presiding Officer: The question is, that amendment 43 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South 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)
 Finnie, John (Highlands and Islands) (Ind)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hilton, Cara (Dunfermline) (Lab)
 Johnstone, Alison (Lothian) (Green)
 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)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Stewart, David (Highlands and Islands) (Lab)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Wilson, John (Central Scotland) (Ind)

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)
 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)
 Doris, Bob (Glasgow) (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)
 FitzPatrick, Joe (Dundee City West) (SNP)

Fraser, Murdo (Mid Scotland and Fife) (Con)
 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)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hume, Jim (South Scotland) (LD)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 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)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McGregor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (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)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 30, Against 80, Abstentions 0.

Amendment 43 disagreed to.

Amendments 44 to 47 moved—[George Adam]—and agreed to.

The Deputy Presiding Officer: Group 11 is on the specified percentage of women who are appointed to the governing body. Amendment 48, in the name of Cara Hilton, is the only amendment in the group.

Cara Hilton (Dunfermline) (Lab): Today is international women's day. Amendment 48 is aimed at ensuring that women in our universities have fair representation on their governing bodies. Women make up more than half the student and staff populations in our universities, but only 35 per cent of governing board members are female. The Higher Education Governance (Scotland) Bill is aimed at increasing transparency, democracy and accountability, but it will not do that if it does not tackle diversity. Amendment 48 would set a minimum 40 per cent quota for women on university boards.

Chic Brodie: I ask this question on an important day, but quotas, like targets, are false gods. Today on "Good Morning Scotland", the leader of Scottish Women in Business said that we should create a flexible work pattern and a level playing field across all family and business factors. If the governing body is made up of 10 people, should not their election be based on merit?

Members: Come on!

The Deputy Presiding Officer: Order, please.

Chic Brodie: Let me finish. Why would we deny 60 per cent of women if they are the best candidates?

Cara Hilton: I am quite stunned by Chic Brodie's intervention. When I look at, for example, the Westminster Parliament and see that it is full of men, I do not think that they are there on merit. I am glad that we in Scotland take a more progressive view and are backing the 50:50 campaign. That is why I lodged amendment 48.

I welcome the progress that has been made in recent years, because the record has been poor. I have no doubt that the improvements that have been secured have a lot to do with scrutiny of the sector. However, women remain underrepresented in positions of leadership in our universities; 65 per cent of Scotland's universities' governing boards are men and, in four institutions, more than 70 per cent are men. [*Interruption.*]

The Deputy Presiding Officer: Order, please. There is far too much chat going on in the chamber.

Cara Hilton: As recently as 2010, just one in four governing board members was a woman and I do not accept the case that has been argued by members such as Chic Brodie that it is because women are not able to do the job. Plenty of women are well able to take on those roles.

Universities in Scotland have accepted that higher education governance has faced a serious problem with gender imbalance. From the figures that we see today, it is clear that much more needs to be done to ensure real equality for women in the university sector.

On wider diversity—perhaps this is more worrying—a freedom of information request from NUS Scotland found that only 40 per cent of institutions have set targets for increasing equality and diversity on their governing bodies, and that only 30 per cent are issuing regular progress reports on equality targets. Those targets are requirements in the "Scottish Code for Good Higher Education Governance", and the figures show that voluntary self-regulation has so far failed to deliver success in the sector.

If we are going to put safeguards in place to ensure that there is no return to the old days, we have to act now to ensure that women have fair representation. Our universities should be at the forefront of advancing equality. Today, on international women's day, we have the opportunity to act by backing my amendment 48, which would ensure that governance of our universities reflects our society, and that women are fairly and properly represented.

I move amendment 48.

Liam McArthur: I understand the motivation behind amendment 48, but writing into the bill the intention as suggested could be problematic. As Cara Hilton will be aware, the make-up of governing bodies is arrived at by various means. Members are nominated and elected by a range of different interests including staff, students, trade unions and academic board members. Given that, it is difficult to see how the governing body as a whole could give effect to the proposal, desirable as it undoubtedly is.

That said, the governing bodies should be representative of the wider university community, so I would expect those who nominate and elect members to take that into consideration. Strides have been taken in that direction in recent years, but they must be continued and stepped up.

Although I am not able to support Cara Hilton's amendment 48, it has served a useful purpose in allowing Parliament to reiterate the importance that it attaches to achieving greater gender balance on governing bodies.

17:45

Liz Smith: Cara Hilton has slightly misunderstood the effects that her amendment 48 might have. A governing body would not be in a position to control the issue, since a wide range of its members are elected and nominated by groups including staff, students, trade unions and academic board members. Therefore, in order to secure a 40 per cent quota of women in the membership of the governing body, limitations would have to be imposed on specific elections for those groups. It would be hugely complex, if not impossible, to ensure that the final quota

breakdown could be agreed on without upsetting the democratic right of the different groups to nominate the persons whom they think best fit the job.

In any case, there is not really much of a problem. I think that eight of our higher education institutions now have female chairs.

Angela Constance: I thank Cara Hilton for her contribution. She is right that our universities should be at the forefront of tackling inequality within and outwith the institutions. The Government has made a clear and unequivocal commitment to requiring public boards to have 50:50 representation by 2020. Labour shares our aspiration to have gender equality in all areas of public life, so I am sympathetic to the intention behind Cara Hilton's amendment 48. However, as things stand, the amendment falls outwith the legislative competence of the Parliament, because equal opportunities is currently reserved.

As others did, I welcomed the commitment that Universities Scotland made last April to work with its members to achieve 40 per cent representation by women among the lay members on all university governing bodies. Clearly, some institutions are embracing that commitment more enthusiastically than others. Although I welcome the rapid change that some have made in their representation, I urge those that currently have a much lower percentage of women on their courts to consider what more they must do to make progress.

Much as I might wish to underpin that voluntary intent with appropriate legislation on the gender make-up of university governing bodies, for as long as wider equal opportunities powers remain substantially reserved, I cannot support Cara Hilton's amendment 48.

Jenny Marra: How does the Scottish Government's position on amendment 48 fit with Nicola Sturgeon's commitment to 50:50 gender equality on public bodies?

Angela Constance: In case Ms Marra cannot hear because she is sitting up the back, I point out to her that, unfortunately, Ms Hilton's amendment 48 falls outwith the legislative competence of the Parliament, because equal opportunities is currently a reserved matter. *[Interruption.]*

The Deputy Presiding Officer: Order.

Angela Constance: Of course, Ms Marra and her colleagues campaigned for equal opportunities to remain reserved during the referendum in 2014. If Scotland had voted yes, we would already have the powers that she now seems to think we should have. *[Interruption.]*

The Deputy Presiding Officer: Order, please. There is far too much noise in the chamber.

Angela Constance: On a more consensual note, the new legislative competence that the Scottish Parliament is set to gain under the Scotland Bill will provide the next Scottish Government and Parliament with the opportunity to return to the matter. I am sure that Cara Hilton joins me in looking forward to that.

Cara Hilton: I am disappointed that the cabinet secretary will not support my amendment 48. I am not convinced at all by her argument that we do not have the power to act. *[Interruption.]*

The Deputy Presiding Officer: Order.

Cara Hilton: I would like guidance from you, Presiding Officer, on whether it is within the competence of the Scottish Parliament to act on the issue.

The Deputy Presiding Officer: Ms Hilton, I am sorry, but I did not hear you because of the noise. Could you please repeat your point?

Cara Hilton: I am not convinced by the cabinet secretary's argument that it is outwith the powers of the Scottish Parliament to act on the matter. I would appreciate your guidance, as Presiding Officer, on whether we have competence to act on the issue.

The Deputy Presiding Officer: Those matters are for Parliament to debate and decide on. Please carry on with your summing up.

Cara Hilton: The purpose of my amendment 48 is to ensure that women have fair representation on governing bodies. If members support that principle, they should back my amendment.

Johann Lamont (Glasgow Pollok) (Lab): On a point of order, Presiding Officer. Can you clarify whether, if an amendment is deemed to be competent to be debated, that means that it is competent to be passed?

The Deputy Presiding Officer: The legislative competence of an amendment is not a criterion for its admissibility. It can be admitted and Parliament can then debate the matter and take a decision on it. That is quite clear.

The question is, that amendment 48 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South 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)
 Finnie, John (Highlands and Islands) (Ind)

Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hilton, Cara (Dunfermline) (Lab)
 Johnstone, Alison (Lothian) (Green)
 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)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Stewart, David (Highlands and Islands) (Lab)
 Wilson, John (Central Scotland) (Ind)

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)
 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)
 Doris, Bob (Glasgow) (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)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 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)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hume, Jim (South Scotland) (LD)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 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)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (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)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 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)
 Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 29, Against 80, Abstentions 0.

Amendment 48 disagreed to.

Section 5A—Resignation or removal of ordinary members of governing body

Amendment 23 moved—[Angela Constance]—and agreed to.

After section 6

Amendment 24 moved—[Angela Constance]—and agreed to.

After section 7

Amendment 49 moved—[Alison Johnstone].

The Deputy Presiding Officer: The question is, that amendment 49 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South 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)

Finnie, John (Highlands and Islands) (Ind)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hilton, Cara (Dunfermline) (Lab)
 Johnstone, Alison (Lothian) (Green)
 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)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Stewart, David (Highlands and Islands) (Lab)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Wilson, John (Central Scotland) (Ind)

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)
 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)
 Doris, Bob (Glasgow) (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)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 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)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hume, Jim (South Scotland) (LD)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 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)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (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)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 30, Against 80, Abstentions 0.

Amendment 49 disagreed to.

After section 18A

The Deputy Presiding Officer: That brings us to group 12, which is on exemptions from part 1. Amendment 25, in the name of Liam McArthur, is the only amendment in the group.

Liam McArthur: At various stages, I have referred to the diversity as well as the quality of our university sector. During our consideration of the bill, we have heard ample evidence of both and pleas to avoid doing anything that would undermine either. The poster child for that has perhaps been the Royal Conservatoire of Scotland, whose staff, students, management and stakeholders have all made abundantly clear their outright opposition to the bill applying to their institution.

No one can seriously dispute the uniqueness of what the conservatoire does, how it is set up and the expectations that are placed on it. That was set out in the letters that the Education and Culture Committee received from the widest possible cross-section of the conservatoire's stakeholder community, which expressed

collective dismay at the bill's consequences for the conservatoire. Those concerns exemplify the risks that are inherent in taking the blunt instrument of legislation to something that is as diverse and complex as our university sector.

By way of illustration, in a letter this week to Dr Allan, the principal of the conservatoire, Professor Jeffrey Sharkey, stated:

"An election for a Chair will be especially divisive, disruptive and diversionary given our scale ... and our disciplinary focus. Elections will sow the seeds of division and will politicise the role of Chair."

Given that the election of chairs is now embedded in the bill, the only option left for addressing those concerns is to allow for the conservatoire to be removed from the application of the bill's provisions.

I pay tribute to Sandra White for the efforts that she has made in articulating that case, which she has done on behalf not solely of the conservatoire but of Glasgow School of Art. She has argued forcefully on behalf of both institutions and has highlighted the extent and range of ways in which both institutions are unique and are ill suited to the statutory approach that ministers favour.

Although Scotland's Rural College has been mentioned less frequently in dispatches than its more artistic counterparts, its claim for an exemption is arguably no less strong. In truth, the most sensible approach at this late stage is to leave open the opportunity for each institution to make its case to ministers for exemption. It would then be for ministers to decide whether that was justified in whole or in part.

The only way in which that could be done would be through the more general exemption that my amendment 25 proposes, rather than the institution-specific approach that Sandra White and others took—quite reasonably—at stage 2. Other universities may well believe that they have a case for partial exemption from certain provisions. For example, in the past Jim Eadie has made a pressing case on behalf of the University of Edinburgh. The more general approach that I propose would have the benefit of allowing such arguments to be considered more fully and would leave the ultimate decision with ministers.

That said, given that the conservatoire has been the cause célèbre on the issue, I will leave the final word with Professor Sharkey, who said:

"The problem that this Bill seeks to solve in relation to the Conservatoire has not been articulated. Given the opposition of the entire Conservatoire community to the Bill, the risks and costs associated with its implementation, and in the absence of any clear benefits that might outweigh those risks and costs, we believe that the Conservatoire should be excluded from its scope."

I look forward to the contributions of members on all sides of the chamber.

I move amendment 25.

The Deputy Presiding Officer: Four members wish to speak, so I ask for remarks to be kept as brief as possible.

Liz Smith: Amendment 25, which I have much pleasure in supporting, is important. I return to the comments that I made at the start of proceedings. Notwithstanding the differences of opinion that we have about the politics of the bill, it is essential that we make it properly workable and that we respect the wide diversity of our institutions. After all, that is one of their most redeeming and successful features, which—in words, at least—the Scottish Government is always keen to maintain.

Respecting the differences between institutions is crucial if we are to allow our institutions to flourish and to stay ahead of the game when it comes to international competition, and it can be done without prejudicing any other aspects of the Scottish Government's intention. That is clear from the voices on the SNP back benches—Mr McArthur mentioned Sandra White, who I hope will contribute to the debate on amendment 25—and in the Labour Party and the Green Party. I ask the Scottish Government to think about the issue extremely carefully. SNP back benchers are not given to moving against the Scottish Government's policy intention, but on this occasion they have done so on practical grounds.

Some of the practical differences that we are talking about are simple. For example, the Royal Conservatoire of Scotland is a company limited by guarantee and has shareholders, so it is a quite different institution from many others. Like Glasgow School of Art and Scotland's Rural College, the conservatoire makes the case for its small-size specialist nature, which is very different from that of other universities.

The conservatoire also makes the point that it must compete against Scottish and UK performing arts companies and that, in doing so, it is very dependent on attracting international staff. It warns in blunt terms that the entire conservatoire community, including the Educational Institute of Scotland, believes that the bill will be detrimental to the conservatoire, as do the leaders of Scotland's national companies. I would have thought that that was a compelling case. I again draw the cabinet secretary's attention to the fact that both Ferdinand von Prondzynski and her predecessor, Mike Russell, said that such specialist institutions would almost certainly need to have their special circumstances fully recognised.

The cabinet secretary maintained at stage 2 that such exemptions would cut across the very heart

and purpose of the bill, but in fact the opposite is true. Treating the different constitutions of institutions in different ways is not a weakness but a strength, and it reflects the rich diversity on which those institutions have built their successful reputations.

For those reasons, we whole-heartedly support amendment 25, which seeks to establish a new section that would introduce flexibility for institutions that, because of size or some other factor, are unable for practical—I stress the word “practical”—rather than political reasons to comply with any of the provisions that are contained in part 1.

18:00

Sandra White (Glasgow Kelvin) (SNP): As I represent a constituency with three fantastic universities, colleges and the specialised institutions of Glasgow School of Art and the Royal Conservatoire of Scotland, I have taken a great interest in the bill. I thank colleagues from all political parties for their support of the amendment that I moved at stage 2 on the specialised institutions, but I have concerns about amendment 25.

Members: Oh.

The Deputy Presiding Officer: Order, please.

Sandra White: If members will please just listen, I will explain my concerns. The conservatoire has been referred to with regard to amendment 25, but the amendment would open up exemptions from part 1 to all higher education institutions, which is what concerns me.

I thought that it was eminently sensible that specialised higher education institutions such as Glasgow School of Art and the Royal Conservatoire should be exempt. However, I am very much concerned that amendment 25 would mean that all higher education institutions could apply for exemptions. They could claim that they could not reasonably comply with any aspect of part 1. I am really concerned that all higher education institutions could claim to the Scottish Government that they could not comply with the provisions that we have just been speaking about on staff, trade union and student representation.

Perhaps Liam McArthur, in summing up, will alleviate some of my concerns. It would be a mistake to open up exemptions from part 1 to all higher education institutions, as amendment 25 proposes, and I cannot support that.

My main concern when I lodged my stage 2 amendment was about the smaller institutions. I got support for that position and I thank the members who supported it. Given what we have said about trade union, staff and student

representation, the thought of all higher education institutions applying for exemptions is a worry for me, and I think that it would be a worry for everyone.

Iain Gray: I support Mr McArthur's amendment 25 for the same reasons as we supported a slightly different amendment at stage 2. Labour supports the bill, although the cabinet secretary has not always made it easy for us to do so and has certainly not made it easy for us to love the bill.

It is no secret that we have had concerns about the process whereby we have arrived at the bill's final stage and form. In particular, there is an issue about a small number of higher education institutions—most notably the Royal Conservatoire and Glasgow School of Art, which in giving evidence to the committee made the strong case that they are different in scale and in governance. That issue has not really been addressed; rather, it has been dismissed. It was certainly dismissed in the stage 2 consideration of the bill.

Amendment 25 gives ministers another opportunity to consider some of the arguments that were made at stage 2. I am not as certain as Mr McArthur sounded that any particular institution should be completely and permanently exempted from the bill's provisions. However, amendment 25 would allow for consideration of exemption from some elements, which seems flexible and helpful. Amendment 25 could allow for concerns to be addressed in the future, and for that reason we support it.

I do not share Sandra White's concerns about amendment 25. If all higher education institutions vexatiously applied for exemption, ministers would give them pretty short shrift, particularly if they had no particular argument that had not already been presented during the progress of the bill. I therefore do not share Ms White's fear, and we will support Mr McArthur's amendment 25.

Patrick Harvie (Glasgow) (Green): I am grateful for the chance to say a few words in support of amendment 25, which has been brought to us in an extremely reasonable form. It is about as reasonable an amendment as I can imagine.

Like others, I have had representations from institutions including the Royal Conservatoire of Scotland and Glasgow School of Art. I think that all of us, whatever view we will ultimately take on the amendment, recognise the distinctive value that those institutions provide to the higher education landscape in Scotland. If those representations had come only from the senior management of those institutions, I would have had a lot less sympathy, but they seem to reflect the clear and settled view not only of the senior management

but, as has been said, of the teaching unions and the student bodies.

There is no great danger of what Sandra White suggests—a heap of spurious applications being made—if the amendment is agreed to. If such applications were made, the Government would be entitled to reject them all by return of post. The amendment would not even require the Government, in turning down an application for exemption, to set out any detailed reasons. It would give the Government discretion over the duration and extent of any exemption.

The amendment is about as reasonable an amendment as we could have to recognise the distinctive circumstances of specific institutions.

Sandra White: Will the member take an intervention?

Patrick Harvie: I will if there is time.

The Deputy Presiding Officer: Very briefly, please.

Sandra White: The member mentioned representations, but Universities Scotland, which represents all the universities, has also sent us emails asking us to support amendment 25. I fear that what I mentioned will happen. I just want to confirm that the member has had that representation as well.

Patrick Harvie: I think that I would trust Universities Scotland to recognise the distinctive situation that some institutions are in, but I say again that, even if spurious applications came in from every university in Scotland, the Scottish Government would be entitled to turn them down on the day that it received them without even setting out detailed reasons.

Amendment 25 is about as reasonable an amendment as we could have to allow some discretion, and I hope that members will consider supporting it while we all continue to support the principles of the bill.

The Deputy Presiding Officer: We are now a bit pushed for time.

Angela Constance: I thank Mr McArthur for outlining the purpose of amendment 25. It is substantially the same as an amendment that Tavish Scott moved on Mr McArthur's behalf at stage 2, and I stand by the view that I expressed then. The introduction of such a provision would be to the detriment of the bill's overarching aims, so I cannot support Mr McArthur's amendment.

Liz Smith: Will the cabinet secretary spell out how the amendment would be to the detriment of the bill's aims?

Angela Constance: I hope that that is what my remarks will do.

As Liz Smith knows, the bill aims to introduce a high level of consistency across the sector in a small number of discrete but key areas of governance of our higher education institutions. Amendment 25 would undermine that objective by enabling any institution to seek exemption from the application of any of the bill's measures on any grounds simply by stating that it "cannot reasonably comply with" any aspect of the bill. The amendment could result in differing application of the bill's provisions across institutions and it suggests a highly subjective test from within the institution about when it "cannot reasonably comply".

Liz Smith: The cabinet secretary has said all along that the most important thing is to ensure that we have diversity in our sector, to allow it to continue to have its success. Surely it is logical to allow that diversity when it comes to amendment 25.

Angela Constance: I would have thought that Ms Smith, more than most, would understand the issue about consistency. If amendment 25 had been a Government amendment, it would have been widely criticised—and rightly so—for giving powers to ministers outwith the scrutiny of Parliament. It contains a detailed and prescriptive process, yet throughout the passage of the bill we have heard members such as Ms Smith complaining about undue meddling and bureaucracy.

The point that Sandra White made is important. Under the proposal, there would be no limit on the number of times that an institution might apply for an exemption. The amendment is poorly drafted.

Drew Smith (Glasgow) (Lab): Will the cabinet secretary take an intervention?

Angela Constance: Maybe later.

I stand by my view that, if such a provision was incorporated in the bill and any application for an exemption was successful, that would fatally undermine the bill's aim to create a consistent approach to governance. It should also be noted that the amendment would allow the Scottish ministers to disapply provisions of the bill in relation to particular institutions without any scrutiny from the Parliament, as I indicated. That is contrary to the other amendments that Mr McArthur has lodged, and it would not be appropriate to let legislation develop in that way.

I assure Mr McArthur that I have given the fullest consideration to amendment 25 to determine whether it would be appropriate, but I simply cannot foresee any circumstance in which any of our institutions could not reasonably comply with any of the measures in the bill that makes the need for that provision compelling. I expect all our 18 HEIs to be able to meet the provisions of this

focused bill and enable every voice on campus to be heard. Amendment 25 carries the real risk that those voices—the voices of staff in elections, union members on governing bodies and students across a range of democratic decision-making processes on campus—would not be heard.

I have the same aspirations for each and every one of our higher education institutions in Scotland, and I am convinced that all of them are more than capable of achieving those aspirations. Indeed, many institutions, including the small specialist institutions such as the Royal Conservatoire of Scotland, have already achieved a level of compliance in practice.

Should Parliament pass the bill, we will of course continue to engage with the Royal Conservatoire of Scotland, Glasgow School of Art and Scotland's Rural College to discuss the implementation of the bill's provisions. Discussions will be aimed at identifying the transitional arrangements that could be put in place to help small specialist institutions to fully comply with the bill's high-level provisions in due course.

For all the reasons that I have set out, I respectfully ask Mr McArthur not to press amendment 25. If it is pressed, I ask members to reject it.

Liam McArthur: I thank all members who contributed to the debate on the amendment, and particularly those who support it. The cabinet secretary talked about amendment 25 somehow posing a threat to the need to have the voice of students and staff heard. The voice of staff and students at the Royal Conservatoire of Scotland, Glasgow School of Art and Scotland's Rural College is being ignored through the process. As Patrick Harvie rightly said, if the case were being made simply by the senior management of those institutions, it would be received rather differently than it has been.

The cabinet secretary talked about the importance of consistency. That is correct up to a point but, as Liz Smith rightly pointed out, the diversity of the sector is not its weakness but its strength. The cabinet secretary undertook to the Education and Culture Committee and the Parliament to safeguard that strength through the process.

To some extent, Iain Gray gave the winding-up speech to Sandra White's contribution. Sandra White led the charge in relation to the Royal Conservatoire of Scotland—I have put that on the record. The fact that she is backing down from that position simply because she thinks that the amendment is broadly cast is not at all appropriate.

Amendment 25 would allow the opportunity for institutions to make their case, which ministers

would then consider. As Patrick Harvie said, if the applications were vexatious, they would be returned in the post. The conservatoire has put forward a pretty compelling case. To be reassured by the cabinet secretary that, at some point after we pass the bill, discussions will begin with it and GSA about the bill's implementation will be of cold comfort to them.

The amendment is reasonable. It is not often that Patrick Harvie refers to me or my motions as "extremely reasonable"—that may be lifted for a leaflet in due course. Nevertheless, the amendment is reasonable. It tries to make good an undertaking that the cabinet secretary and the Government gave us at the beginning of the process and to salvage something from the bill to reflect and protect the diversity of our university sector.

I press amendment 25.

The Deputy Presiding Officer: The question is, that amendment 25 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Brennan, Lesley (North East Scotland) (Lab)
 Brown, Gavin (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Davidson, Ruth (Glasgow) (Con)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 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)
 McArthur, Liam (Orkney Islands) (LD)
 McGregor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)

Rennie, Willie (Mid Scotland and Fife) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Wilson, John (Central Scotland) (Ind)

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)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 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)
 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)
 Doris, Bob (Glasgow) (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)
 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)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 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)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 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)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)

Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 48, Against 62, Abstentions 0.

Amendment 25 disagreed to.

Schedule—Consequential modifications

18:15

The Deputy Presiding Officer: We turn to group 13, on the powers of the senatus academicus and principal.

As we are nearing the agreed debate time limit, I am prepared to exercise my power under rule 9.8.4A(c) to allow the debate on this group to continue beyond the limit in order to avoid the debate being unreasonably curtailed.

Amendment 10, in the name of Liz Smith, is the only amendment in the group.

Liz Smith: Paragraph 1 of the schedule creates confusion about the role of the senate in the administration of property where legislation that has followed the Universities (Scotland) Act 1858 has given powers to the court of a university on the administration of property. It is not clear that that is the intent of paragraph 1, so amendment 10 seeks to restore clarity in section 5 of the Universities (Scotland) Act 1858.

I move amendment 10.

Angela Constance: I thank Liz Smith for her explanation of the intent behind amendment 10.

The aims of the bill focus on the composition of the academic board or senate, not on its roles and responsibilities. I do not consider that the consequential amendments that the schedule makes to section 5 of the Universities (Scotland) Act 1858 will affect how institutions interpret the powers of the academic board or senate.

The provisions in section 5 of the 1858 act are subject to further provisions in the Universities (Scotland) Act 1889, which make it clear that the university court has overall control of the revenue and property of the HEI. I believe that HEIs will continue to interpret the statutory provisions on the role of the academic board or senate as they currently do. I do not support the amendment and would urge members to reject it if it is pressed.

The Deputy Presiding Officer (John Scott): I call Liz Smith to wind up and press or withdraw her amendment.

Liz Smith: I have nothing further to say, but I press my amendment.

The Deputy Presiding Officer: The question is, that amendment 10 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)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Rutherglen) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 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)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 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)
 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)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 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)

Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 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)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pearson, Graeme (South Scotland) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 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)

The Deputy Presiding Officer: The result of the division is: For 18, Against 89, Abstentions 0.

Amendment 10 disagreed to.

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

Higher Education Governance (Scotland) Bill

The Deputy Presiding Officer (John Scott):

The next item is a debate on motion S4M-15838, in the name of Angela Constance, on the Higher Education Governance (Scotland) Bill.

I call the cabinet secretary to speak to and move the motion.

18:19

The Cabinet Secretary for Education and Lifelong Learning (Angela Constance): For the purposes of rule 9.11 of the standing orders, I wish to advise the Parliament that Her Majesty, having been informed of the purport of the Higher Education Governance (Scotland) Bill, has consented to place her prerogative and interests, so far as they are affected by the bill, at the disposal of the Parliament for the purposes of the bill.

I am pleased to be able to present the Higher Education Governance (Scotland) Bill at stage 3 and to seek Parliament's support for it. The bill enables key principles and values to underpin governance in our higher education institutions—transparency, democracy, inclusion, participation and accountability. The bill is in step with a modern Scotland where participation in democratic processes must be nurtured and encouraged.

No one with even passing knowledge of the bill can have failed to notice the often vigorous debate on its provisions, but I have listened carefully and consistently to all the views offered. Indeed, a range of constructive ideas has influenced alteration of the bill as introduced and amended at stages 2 and 3.

I have been, and remain, surprised at the level of opposition to the bill from some. It is important to remember that the bill's origins flow from a substantial review of higher education governance in Scotland led by the principal of Robert Gordon University, Professor Ferdinand von Prondzynski, and it is also important that we all pause and reflect on the purpose of the bill and its intended benefits.

First, staff and students will get a say in future in who the best person is to lead the institution that they study and work in. With the election of a powerful chair, or senior lay member, in every institution, greater transparency and inclusivity will be introduced to the appointment process for that pivotal role.

The process between stage 1 and stage 2 of the bill was intended to give everyone with an interest in its measures the opportunity to co-design the

detail of how that should work in practice. That applied particularly to the role of chair. I listened carefully to a wide range of views on that issue before agreeing that having some form of selection would enhance the election part of the process.

Annabel Goldie (West Scotland) (Con): The cabinet secretary advocates a *raison d'être* for her bill, particularly in relation to what she considers to be the role of the chair. Is she aware of the following definition? It comes from the European Institute of Business Administration:

"A good chair knows who she works for and is ultimately accountable to the organisation of which board she leads. Not its stakeholders—shareowners, customers, employees, executives, but the institution itself."

How does that definition reconcile with the form of governance proposed in the bill?

Angela Constance: Miss Goldie has raised that issue before at previous debates in Parliament, and that is a point on which I differ from her. I think that a higher education institution is something far broader than a business, and it is important that the chair or senior lay person is accountable to the governing body but also to that wider community of staff and students.

We talked about the selection process earlier, and that is one of the reasons why I have included in the bill measures that afford institutions the ability to select candidates for election, so that they can demonstrate their ability to drive the further success of our higher education institutions.

I have also listened carefully to concerns about how the new senior lay member might impact on the traditional role of rector. It was never the intention of the Government to abolish the role in those institutions that have a rector, despite the rigorous attempts by some to portray the bill's measures as such, so at stage 2 I also ensured that measures were included to protect the statutory and historical role of the rector in our ancient universities.

Rectors and senior lay members on the governing bodies of HEIs currently play different but complementary roles. This bill does not change that. With both the roles elected in future, it will be the responsibility of each autonomous institution to ensure that the campus electorate is clear on the dovetail that exists between the two roles. Some stakeholders have raised concerns that students and staff in institutions will be confused about those roles and about what they are voting for, but I have complete faith that students and staff will have little difficulty in working that out.

Next, the bill aims to ensure that the composition of each governing body is

representative of the entire campus community. With a majority of lay members, staff members, student members and union members, a fair and balanced blend is created. The bill also ensures that academic boards or senates will feature a majority of elected staff and students, and adequate student representation in particular is very important.

I believe that the bill features a definition of academic freedom that protects the rights of staff while giving institutions a key role in assessing the reasonableness of any expression of academic freedom. That is an important balance, because academic freedom cannot be construed as a licence to break the law.

It is a fact that higher education institutions are autonomous, but in a tough financial settlement the Scottish Government has identified over £1 billion of direct grant investment in Scotland's higher education sector, which will be delivered next year. Ensuring that access to higher education is free, teaching is of a high quality and research is supported to enable our institutions to contribute to our economic strategy is a price that is well worth paying when it comes to our overall aims of creating a fairer Scotland and a more prosperous economy.

As a society and a Government, we are entitled to expect higher education institutions to adhere to the highest standards of governance, and to be ambitious in seeking ways to continuously improve. Excellence is not a given, so I hope and expect that all of our institutions will embrace the changes that this bill introduces.

At its heart, the bill is about ensuring that all voices on campus are heard, are equal, and are empowered to contribute to decision making. We have heard before—and may hear again from some members today—about how bad an idea campus elections are, and about how talented people will be put off from applying for the post of elected chair or senior lay member. When I was preparing for today's debate, I was reminded of the 1865 rectorial election at the University of Edinburgh, at which Thomas Carlyle faced up to Benjamin Disraeli. I am sure that members will agree that that was a shortlist that was not lacking in talent.

Thomas Carlyle won that election and gave an inaugural address to the students of the university on 2 April 1866, almost 150 years ago. Of course, there were no women in attendance, as women were not admitted to Scottish universities until 1892. However, I can still whole-heartedly agree with the view that Carlyle expressed in that address that

“universities have, and will continue to have, an indispensable value in society”.

That observation stands the test of time, but the nature of higher education institutions has changed, along with the expectations that students, staff and the public beyond the campus have for them.

This bill represents another step on the journey for our higher education institutions, which continue to be world leaders in teaching and research. It embraces the contributions of all in the campus community to ensure growth, prosperity and greater equality in future. I commend the bill to the Parliament, and I hope that members will support its passage at stage 3.

I move,

That the Parliament agrees that the Higher Education Governance (Scotland) Bill be passed.

The Deputy Presiding Officer: I call Iain Gray. We are quite tight for time, so Mr Gray has seven minutes.

18:29

Iain Gray (East Lothian) (Lab): In all the different stages of the bill, it is important that we recognise that, whatever our views on the merits or demerits of the bill, it is good that we have been debating universities, their governance and their importance to Scotland.

Universities are central not just to our education system, but to our culture and our history, firstly, of course, as institutions in which students study, and they are highly successful in that regard. During the debates around the bill, many colleagues have pointed out that we have five universities in the top 200 in the world, which is more top universities per head than any other country—we should be proud of that.

Students seem to feel that universities in Scotland are doing the right things, too, since student satisfaction surveys show Scottish universities doing better than universities are doing in the rest of the United Kingdom. Our universities seem to be doing a good job in turning out students who are ready and prepared for future life, since students from Scottish universities have higher average starting salaries than those from other universities in the UK. A higher proportion of them also find their way into graduate-level jobs—not all of them do so, but our universities certainly do well in that regard.

Of course, our universities are also centres of excellence with regard to research. In the days of the referendum debates, it was a commonplace observation that we punched well above our weight in accessing UK-wide research resources—around 15 per cent of those resources in some years, which is far more than our population share. Further, we are one of the

world's leading countries when it comes to publishing peer-reviewed research papers.

Finally, universities are a critical and central part of our economy, firstly through their own investment, as they employ more than 38,000 people. We need only walk around the south side of Edinburgh to see just how much the University of Edinburgh is investing in construction around its estate. Secondly, they are important with regard to the work that they do with companies—and the work that they do to start up companies—to try to turn some of that great research work into good business, too. Indeed, Scottish universities account for some 28 per cent of spin-out companies in the UK—again, we punch well above our weight.

Of course, universities are also part of our history and our traditions, including our democratic tradition. It was in the 1960s that George Davie coined the phrase, “the democratic intellect”, but he was talking about the history and traditions of our universities, particularly the ancients, where the link between society and its intellectual leaders was important. Internally, our higher education institutions see themselves very much as communities involving academics, students and other staff.

Perhaps that democratic tradition is best symbolised by the rectors in our ancient universities. The cabinet secretary referred to that, but I am not sure that she picked the best example when she picked Thomas Carlyle, who was, of course, notoriously opposed to democracy in almost any form, and was a precursor of fascism. She might have been better to reach back to the first rector of the University of Edinburgh, who was William Gladstone, a well-known democrat. Nevertheless, the post of rector is an important democratic institution that is unique to Scotland's universities.

We have supported the principles of this bill throughout its passage, because we believe that we need to revisit and modernise those democratic principles that we have found in our universities. We agreed with the Government that the voluntary code that had been created had not proven to be satisfactory. Although the higher education institutions argued that it was enough, examples such as the one that my colleague, Mark Griffin, referred to earlier—with the University and College Union trying to find out how principals' pay had been derived and discovering not transparency but a refusal to co-operate and a redaction of the proceedings of remuneration committees—demonstrated that the voluntary code was not enough. We accepted the Government's view that we had to go further, so we have supported the bill.

However, as I said earlier, it has not always been easy to support the bill, which has not been without its problems. When it first arrived with us, it was full of ministerial powers and discretion, although ministers said that they did not want those powers. That caused two problems: the potential loss of autonomy for the institutions, and the potential reclassification of the universities as public bodies, which would have hurt their finances. It was kind of ironic that, towards the end of consideration of amendments, the cabinet secretary steadfastly fought against Mr McArthur's reimposition of a modest amount of ministerial discretion when it came to applications for exemptions, because, originally, the bill was little more than that.

In fairness, that has been sorted by, for example, the complete removal of several sections of the bill and the provision of more clarity on the format of the elections that will be required for chair. More consensus in reaching that point would have been nice. Throughout the passage of the bill, the cabinet secretary has depended less on the dialectic of debate and, instead, has dug herself into a series of ditches from which she has defended herself. It has not been an ideal legislative process, although, in our view, it has got us to a bill that encompasses the principles that we said at the beginning that we would support—the election of chairs of court in higher education institutions, and proper and guaranteed representation for students and for staff and their representatives. For that reason, we will support the bill this evening.

18:36

Liz Smith (Mid Scotland and Fife) (Con): It will be no surprise that we do not support the bill. Not only do we continue to believe that there is absolutely no need for it, given the Scottish Government's complete inability to provide evidence for its rationale, but we believe that several measures that it will put in place will actually diminish rather than enhance democratic principles and reduce the effectiveness of university governance in some institutions.

The cabinet secretary repeatedly says that the bill is about making the

“framework of governance ... more modern, accountable and inclusive”—[*Official Report, Education and Culture Committee*, 9 February 2016; c 16.]

but she has persistently failed to produce the necessary evidence about what is so wrong with the existing system.

In particular, we object to the straitjacket into which the Scottish Government is attempting to place university governance, thereby failing to acknowledge that diversity is one of the sector's

greatest strengths. The dismissive approach towards our small, specialist institutions—which, incidentally, happen to be some of our very best—is disturbing and reflects an inability on the part of the cabinet secretary to understand the factors that have delivered the academic excellence of those institutions. That is not a good thing, and it is little wonder that some of those institutions have been so angry.

On some issues, the cabinet secretary has not paid attention to the concerns that were raised by Ferdinand von Prondzynski and her predecessor, Mike Russell, both of whom were the architects of this unfortunate bill but who at least understood the need for special circumstances in order to preserve diversity in the institutions.

When the bill was first mooted, the Scottish Government made it clear that its only intention was to make some minor amendments to legislation to allow transparency when it came to the governance and management of universities, and their accountability for large sums of public money. Interestingly, and perhaps tellingly, universities have approximately another 500 or so lines of accountability to non-Scottish Government organisations, none of which have had any issues with university governance. I would suggest that that lays bare the farce that the bill has become.

Annabel Goldie: On the issue of the model of governance, as proposed by the bill, I have, in vain, asked the Scottish Government to give me an example of where that model can be found anywhere in the world. Silence prevails. Can the member help me? Is she aware of the existence of such a model of governance anywhere in the world?

Liz Smith: I am afraid that I cannot help Annabel Goldie, because we have not had an answer to that question. It remains in the mists of time. I really do not understand where the Government is getting the information from. It is very disturbing. The other stakeholders do not seem to have a problem with governance, and I question again why the bill was considered necessary.

Let us be generous. If we are to accept that some changes were required, we would hope that they could be made with clarity and rational thinking. However, that is far from the case. Indeed, I feel very sorry for our universities, which will undoubtedly be faced with additional constitutional and administrative burdens, all because of the Scottish Government's meddling. In some cases, the bill will diminish rather than enhance universities' democratic accountability. That is very sad, not least because those universities are some of our finest institutions in Scotland. The last thing they want to be bothered about just now is having to worry about an

unnecessary bill, when there are many other things that they want to get on with—leading the field on an international basis, in knowledge exchange and in research and development. I think we can all feel pretty sorry for them.

Overall, the approach that has been taken has displayed a degree of ignorance about what makes a university good. It has undermined the crucial trust that exists between a chair and the board and how that underpins policy making. I accept entirely what Annabel Goldie has been saying about that throughout the afternoon. The bill dilutes that trust, not least because there remains an overlapping electorate for chairs and rectors, with the result that it is hard to see where the responsibility really lies. That is never a good thing in any institution.

I am disappointed and, in some ways, very saddened by the approach that the Scottish Government has taken. I think that I can echo the feelings of every institution across the land when it comes to what has happened with regard to the bill. They have lobbied very reasonably and very often. It has all fallen on deaf ears. That is deeply regrettable, and I hope that the Scottish Government will consider the matter again and bring the legislation back to the Parliament in the next session.

18:41

Stewart Maxwell (West Scotland) (SNP): For a relatively modest piece of proposed legislation, the Higher Education Governance (Scotland) Bill has generated considerable comment. Members of the Education and Culture Committee have certainly heard a number of concerns, some of them justified, others not.

It is important to remember what lies at the heart of the bill: the ambition to democratise, modernise and bring greater transparency to our higher education institutions. It is about making Scotland's world-class universities even better, by ensuring that they adhere to the highest standards of governance.

It is for that reason that the Education and Culture Committee's stage 1 report recommended supporting the general principles of the bill. Indeed, the committee's report was informed by a range of views from across the sector, and it was clear at stage 1 that, although the bill's overall aims were worth while, more clarity was needed on a range of issues.

I am therefore pleased that the Scottish Government listened carefully to the concerns that were raised in the report and took steps to amend the bill accordingly. The cabinet secretary worked to address concerns about the possible unintended consequences of the bill, and the

reclassification issue has been a good example of that. In response to the stage 1 report, the Scottish Government said that it had considered the risk to HEIs of being reclassified as public bodies, and it subsequently amended the bill at stage 2 to minimise the risk of reclassification by the Office for National Statistics.

Another criticism that was levelled at the bill, which was reflected in the committee's stage 1 report, was the apparent risk to the role of rectors at the ancient universities. Again, the Scottish Government responded positively to those concerns. I was pleased to introduce amendments at stage 2—along with the cabinet secretary—that I believe protect the statutory rights and responsibilities of rectors and ensure that their position is complementary to that of the senior lay member.

As the cabinet secretary has said, it was never the Government's intention to diminish the role of rector; in fact, the work of the rectors at Scotland's ancient universities is viewed very positively, and it is hoped that the extension of the elected chair model will benefit all of Scotland's HEIs.

The remuneration of chairs was another key issue that was raised at stage 1, with a call for further clarity on the need for introducing a statutory power to set the level of remuneration. The cabinet secretary sought to build a consensus among stakeholders and supported amendments to ensure reasonable remuneration for elected chairs, while removing the requirement to have ministerial powers in that area. That is a welcome step, and I note that the National Union of Students Scotland has highlighted it as an important aspect of widening access to the role of elected chair.

When considering the bill, it is worth remembering that its proposals are underpinned by the recommendations that were put forward by Professor von Prondzynski, following his 2012 review of higher education governance, which gathered evidence from a range of experts based in Scotland, the rest of the UK, Europe and beyond.

The bill is not about the Government taking control of universities; rather, it is about ensuring that every voice on campus is given the chance to be heard. It is about ensuring that students and staff—the lifeblood of our higher education institutions—are placed at the very heart of the decision-making process.

It is to be welcomed that the introduction of the Higher Education Governance (Scotland) Bill has sparked debate on a range of issues facing HEIs, including equality, diversity and senior pay levels, an issue on which research published by the University and College Union has shone light in

recent weeks. Those are undoubtedly important matters, and I would expect further examination of them during the next session of Parliament.

I believe that strengthening the democratic processes at our universities is a good thing. I look forward to the bill, if it is passed, ensuring that Scotland's higher education sector continues to go from strength to strength.

18:45

John Pentland (Motherwell and Wishaw)

(Lab): As we have heard, the passage of the bill has not been a great advert for the Scottish Government's competence and grasp of educational matters, but then again, what is? Matters that should have been thrashed out in co-operation with institutions' staff and students have been pushed through, despite frequent opposition over reasonable concerns. In particular, there was significant apprehension about the impact of changes that could adversely affect institutions' financial status. The institutions were not easily mollified by Scottish National Party reassurances, particularly given the Scottish Government's track record of such reassurances turning into expensive mistakes. Doubts remain about some aspects of the bill, and dissatisfied parties abound, who will be looking for outcomes that give substance to such doubts.

Despite the messy management of its passage, at the heart of the bill lies a good intention, which is to create more democratic, diverse and accountable governing bodies that operate with greater openness and transparency. A primary objective in the process, which has been supported by Scottish Labour in amendments that it lodged, was to ensure that the operation of the governing bodies is opened up to staff and students and clearly works for their benefit. Where such representation existed, we wished to ensure that powers that were already in the hands of staff and students were not undermined.

The role of elected chairs should strengthen transparency and democracy in universities. The bill as it was initially drafted neglected the role of the rector and gave rise to strong criticism from the universities that have rectors elected to chair their university courts and to represent students or, in one case, staff and students.

Stage 2 amendments made provision for election of the senior lay member position and for retention of an elected rector in the four institutions where the rector has the right to chair the court. For many, that was second best to having a rector who is elected by all staff and students, who chairs the court and who has full leadership responsibilities. Although it was not the preferred option, it has been accepted as a compromise that

will work. For the other institutions, the provisions are a major step forward in representation and have been welcomed even by those who have concerns about the final shape of that representation.

There is no doubt that there have been problems in our higher education institutions—what the University and College Union calls “a disconnect” between principals and senior management on the one hand, and staff and students on the other. The bill should go some way towards bridging that disconnect.

With some much-needed changes that took on board major concerns, the Scottish Government has somehow managed to muddle through and retain a bill that is worth supporting—or is, at the very least, passable. Of course, it was too much to hope that the Government would have improved it further by accepting all our amendments. Our amendments today included Mark Griffin’s amendment 43, which would have extended staff and student representation to relevant sub-committees of the governing body, and Cara Hilton’s amendment 48, which would have strengthened diversity and fair representation. The bill is weaker and poorer as a result of their rejection.

18:48

Liam McArthur (Orkney Islands) (LD): Our university sector is genuinely world class, but that does not mean that our universities cannot be improved. Adapting to changing needs, expectations and circumstances is the only way to protect and enhance standards and reputation.

In our HE sector we have something to celebrate, value and respect. One of the sector’s great strengths, of course, is its differences: from the variety of institutions to the diversity of staff and student populations. It is absolutely right, therefore, that governance of our universities properly and transparently reflects that diversity. That means giving an effective voice to students and staff in the decisions that affect their institutions, which will ensure that governing bodies look, sound and act like those whom they represent.

How that is achieved is a legitimate question, and it is territory in which politicians should tread with care, but “care” has not been the Government’s watchword. From the outset, the Government has not been clear about what the problem is that ministers are trying to fix. Little evidence has been produced to justify the approach or to explain which international comparators we are trying to emulate. Ultimately, the Government has been unable to explain how the bill will make our university sector better.

Proposals have been unveiled—often with little or no consultation—only to be withdrawn or heavily amended once the full implications have been spelled out. That has left universities in collective despair, and that applies not only to principals, rectors and chairs of court but to others, too. Liam King, who is president of the students’ representative council at the University of Glasgow, captured the frustration that is felt by many when he said:

“I am perplexed ... as to how the Scottish Government has managed to botch this Bill so profoundly. From inadvertent clauses that risked turning Scotland’s universities into public bodies to utter ignorance of [the] relationship between the role of Rector and role of ‘chair’ of court. This Bill has been an unmitigated disaster”.

He went on to conclude that the process

“has been ramshackle and embarrassing, and ultimately threatens to undermine a proud Scottish tradition, democracy in Scotland’s universities, and good governance”.

Fortunately, the cabinet secretary backed down from her game of chicken with the Office for National Statistics over the threat of financially disastrous university reclassification. However, a mess has still been made, notably in the confusion that has been created by the overlapping roles and mandates of rectors and elected senior lay members. That has been the case despite solemn promises by the minister not to meddle, and despite the committee convener’s efforts to salvage the situation.

Even then, it may have been possible to limit the damage if only the Government had accepted my amendment on exemptions, which would have enabled the Royal Conservatoire of Scotland, Glasgow School of Art and other institutions that have a strong case to be exempted from provisions in the bill to have that case heard and, where appropriate, respected. That would have been in keeping with the diversity of the sector.

Stewart Maxwell: Will the member give way?

Liam McArthur: I do not really have time, I am afraid.

All the evidence shows that the best-performing universities worldwide are those that exercise the greatest level of responsible autonomy. Universities should be accountable and transparent, and they should reflect the diversity of the communities that they serve. How that is best achieved, however, should not be second-guessed by ministers using the blunt instrument of legislation.

Given the complete absence of any evidence for why legislation is needed, and the potential for the bill to hinder rather than help our world-class universities, I cannot support it at decision time this evening.

18:52

George Adam (Paisley) (SNP): As I said in speaking to my amendments at stage 3, practically every single part of the bill has caused storm and fury. During stage 1, we discussed potential ONS reclassification and concerns about whether the bill provided for too much ministerial control. The cabinet secretary listened to the debate and came back at stage 2 with amendments to remove those elements from the bill. However, the storm and fury continued in relation to other issues in the sector.

I was led to believe in my interactions with the sector itself that it wanted the issues of ministerial control and potential ONS reclassification dealt with at stage 2. When those issues were addressed, that should have enabled us to see a way forward and to work together to progress the bill. However, we ended up in a situation in which other issues continued to arise.

I am first and foremost a back-bench MSP representing my constituency. I went to see Craig Mahoney, the principal of the University of the West of Scotland in my constituency. For the first half-hour of our discussion, we effectively went through the academic argument that has been going on between Universities Scotland and the Government for the past six months. Eventually, however, we talked about how UWS could move forward as a modern institution, how the bill could make a difference and how the university could manage the new structure.

At that point, I believed—I am not putting words into the principal's mouth—that we had reached a better place than we had been before. What we need to do in considering the bill today is sit back and say, "Right. How will this work practically in the real world rather than here in the chamber?"

During the Education and Culture Committee's evidence sessions, many positive things were said about our world-renowned university sector. The very spirit of the bill was to ensure democratisation, that the full campus should be represented, and that everyone would work together to make that better. As I said at stage 1, Mary Senior of UCU said:

"No one is questioning that Scottish universities are good—they are good. What we are saying is that they could be so much better if staff, students and trade unions were fully involved in how they operate."—[*Official Report, Education and Culture Committee*, 6 October 2015; c 11.]

That is what the bill is all about; it is its heart and soul. We are giving opportunity to the full community. Little as I like to say it, not every idea that I have is the best in the world. However, when we work as a group, we have others with us who have better ideas. That is the ideology that we are talking about just now. We are modernising institutions and bringing them into the 21st

century, which is the most important part of the bill.

We have to be mindful that those organisations are getting £3 billion: £1 billion is from the Scottish Government, £1 billion is from the United Kingdom Government, and research and commercial activities make up the other £1 billion. Two thirds of the universities' budget comes from the public purse and we have to find a way of accounting for that.

Liz Smith: Will the member take an intervention?

George Adam: Unfortunately, I have only about 10 seconds left.

I believe in the bill; it is a way forward for our higher education institutions. I want to work with them to see how we can move on from here.

18:56

Cara Hilton (Dunfermline) (Lab): I am pleased to speak in this evening's stage 3 debate on the Higher Education Governance (Scotland) Bill.

The bill is by no means perfect, and it would have been enhanced greatly if many of the amendments that we discussed this afternoon had been passed. However, the bill provides a real opportunity to improve and strengthen the democracy, transparency and accountability of Scotland's vital university sector.

We know the contribution that our universities make to the academic, economic, social and cultural life of our nation, and the support that they provide to keeping tens of thousands of people in work across Scotland. However, there is no doubt that they could benefit from being more open and accountable. I therefore welcome the opportunities that the bill provides to address current shortfalls in university governance and to improve accountability and transparency in decision-making structures.

Liz Smith: Given what the member has just said, can she tell me why it took two hours and two minutes for Labour to make its first contribution this afternoon?

Cara Hilton: I confess that I am a wee bit confused by that intervention so I will pass.

The bill will give staff, students and trade unions a real voice and a real say in the future of the universities in which they learn, teach and work. It is only right that public institutions that receive millions of pounds from the taxpayer every year are run in a way that is open, democratic and transparent. As I said during the stage 1 debate, when we look at some of the issues that have hit the headlines recently, such as job losses and

senior management pay, it is easy to see why that is necessary.

The decisions that governing boards make would undoubtedly be better if they better reflected the diversity of the student and staff populations but, right now, 65 per cent of governing board members are men, while women and other groups continue to be seriously underrepresented.

Research published today by the University and College Union—"Holding down women's pay"—shows that four Scottish universities are paying their female employees at significantly lower rates than they pay men. At the University of the Highlands and Islands, female lecturers are paid £18,000 a year less than their male colleagues. At the University of St Andrews in Fife, women lecturers are paid £8,699 a year less than their male counterparts. It is outrageous that, almost 50 years after the Equal Pay Act 1970, such staggering pay inequality still exists in Scotland's universities. Once more, that highlights why improving transparency and accountability in the sector is so important.

In that respect, I am disappointed that the cabinet secretary opposed my amendment to introduce quotas on university boards. It is unacceptable that, while women make up more than half the student and staff population, only a third of governing board members are women. Although we have seen progress, the fact remains that there is much more to do to achieve gender parity in our universities.

This is a real missed opportunity, and the Government's approach on it seems out of step with the commitments of the cabinet secretary and the First Minister to support the 50:50 campaign. Having more women on the governing boards of universities would not in itself address the pay gap that was set out in the report that I mentioned, but I am confident that it would lead to more urgency in addressing the situation.

I am disappointed, too, that the Scottish Government did not accept Alison Johnstone's and Mark Griffin's amendments on regulating pay for senior managers. Greater scrutiny alone is not enough to tackle the unreasonable pay increases that we have seen at the top of the scale. It cannot be right that university principals on three-figure salaries are taking inflation-busting pay increases while their staff are told to accept less than inflation, year in, year out, and are forced to take strike action just to get a basic 2 per cent increase.

The Higher Education Governance (Scotland) Bill is not perfect and could have been improved in many ways. However, for all its flaws, it provides a greater chance to improve university governance for the better. I hope that, if the bill is passed, it will make a real difference to university students and

staff. I hope, too, that we can revisit the debate in the next session of Parliament so that we can take real steps to tackle the issues of diversity in Scotland's universities and ensure that they are governed better in future.

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

19:00

Mary Scanlon (Highlands and Islands) (Con):

It has been quite a long day. When the cabinet secretary mentioned Thomas Carlyle, I thought that I would look up one or two quotes on my iPad. He said:

"the cheerful man will do more in the same time, will do it better, will preserve it longer, than the sad or sullen."

I liked that one. I also liked the quote where he said:

"All great peoples are conservative."

So there we are.

Angela Constance: Will Mrs Scanlon give way?

Mary Scanlon: Of course.

Angela Constance: I just wondered whether she had a quote about cheerful women.

Mary Scanlon: The cabinet secretary is very knowledgeable about the time that Thomas Carlyle was writing, so she will know that we can assume that what he said applied to men and women. There are enough of us today to take on his comments.

This is my last stage 3 debate. After this will come my last members' business speech, in Cara Hilton's members' business debate, and tomorrow I will make my last speech in the Parliament. I wish that I could be more consensual in this final stage 3 debate.

Stewart Maxwell: Go on.

Mary Scanlon: I would like to, but I just cannot.

As we normally do on these occasions, I thank the clerks of the Education and Culture Committee and, in particular, I thank the convener, Stewart Maxwell. It was not easy to gain consensus across the committee on the bill. It was fairly complex and difficult to understand; there was very little information, and clarity was way out there on the horizon somewhere. Stewart Maxwell did as well as any convener could in bringing it together at stage 1.

Since 1999, the Parliament has passed significant legislation on issues such as mental health and smoking in public places. Across the political divide, we have often disagreed on the policy approach to addressing problems through

legislation, but this is the first time since 1999 that I have found legislation looking for a problem. The cabinet secretary said earlier that she was

“surprised at the level of opposition to the bill from some”.

I have to correct her and say that it was not just some universities; it was every single higher education institution in the whole of Scotland. It is also incredible that the Government's justification for the bill is that it consulted one man—Professor von Prondzynski. He certainly has a lot to answer for.

As others have said, the code of governance is to be reviewed this year. There is no doubt that progress has been made. Universities Scotland has said that the code has already delivered nearly 400 positive changes, with 72 per cent of universities having two or more student governors and 94 per cent having two or more staff governors. In August this year, we will have 50:50 gender balance for chair positions in Scottish universities, when another woman takes up a place. The 50:50 is happening.

I hope that in the future, when politics students look at this legislation, they do not use the bill as a shining example of what we do. The fact is that, on the face of the bill at stage 2, there was a duty on the universities to advertise on the internet. Thankfully, it has been removed today, but I am quite embarrassed that someone came up with the idea of telling our world-class universities that they have to advertise on the internet. Also on the face of the bill, in primary legislation—it is all there in nice, bright purple—the universities are told to tell people where to get their application forms. It is a little bit embarrassing.

Presiding Officer, I see that you are indicating that I should wind up—I have probably done enough winding up. In concluding, I thank my colleague Liz Smith, who has worked extensively across the sector, consulting and putting forward points of concern for higher education in Scotland.

19:05

Mark Griffin (Central Scotland) (Lab): As Iain Gray set out at the beginning of the debate, Labour supports the general principles of the bill. The bill has the laudable aims of ensuring that the structure of governance of our universities continues to develop and adapt to maintain the first-class university provision in which we should all take pride.

From the start of the process, we have offered our support in particular for the inclusion of trade union and student representatives on governing bodies as a democratisation of higher education institutions' governing bodies. We believe that that is central to ensuring that we meet our aims of

greater transparency and accountability in the sector.

All parties and all members who have spoken in the chamber today have recognised the importance of the higher education sector to Scotland's economy and our international standing. We should be listening to the sector's views and responding to its concerns. The value that we place on our higher education system is part of our cultural DNA. We extol the virtues of our historic and new universities, and it is with great pride that we talk about our contribution to the world—not just in educating our own young people, but in the world-leading research and dynamic entrepreneurship that are recognised across the globe. It is in that context that we must view the bill.

That context has seen our universities continue to succeed in an increasingly competitive international climate, and we must be cautious in attempting to improve the way in which our institutions operate. We should avoid diminishing or restricting the freedom that has contributed to their success.

Scottish higher education has a long history of having staff and students at the heart of its mechanisms of governance. Staff and students are full members of the university's governing body, the court, in every institution. According to Universities Scotland, 94 per cent of institutions have two or more staff members on their courts and 72 per cent have two or more student members of court. We all recognise that the approach that we must take should seek to build on that record rather than suggest that there is a problem with university governance that requires a top-down overhaul.

What the Government presented, throughout the various stages of the bill, has caused the process to be unnecessarily difficult. The cabinet secretary said that she was surprised at the level of opposition, and I am surprised at how difficult it was for us to support the bill as it was drafted, given our support for its general principles. I think that bad drafting, ministerial overreach and, at times, genuine incompetence have put unhelpful pressure on the coalition of support that has existed for the bill.

I am pleased that the cabinet secretary has recognised many of the drafting mistakes and that the committee was able to help to rectify them. The issue of ONS reclassification, the clash with the role of the rector and the incoherence of the Government's role in managing our universities have all been overcome. Nevertheless, I am disappointed that we have not chosen to further strengthen and improve the bill at stage 3.

We supported the representation of staff and students on the remuneration committee. In light of the Government's failure to get to grips with pay and conditions packages in our colleges, it would seem that it is content to allow other public bodies to set their own terms. We felt that having those at the top and bottom ends of the pay scale deciding on pay increases for senior management could have been a crucial check on excessive pay, and we are disappointed that the Government has chosen to reject that approach.

The cabinet secretary is to be commended for accepting that mistakes have been made and that there have been issues with the drafting, and for listening to the committee, the sector and voices in the Parliament, but the repercussions of the Government getting it wrong on higher education governance are so serious that we will be watching carefully. The implementation of good ideas has never been the Government's strong point—curriculum for excellence is a case in point—which is why we will be scrutinising every detail as the policy moves forward in practice.

Despite a bad start and the rocky road that the bill has been on to get this far, we must ensure that our world-class universities are supported with the freedom and the framework that will allow them to continue to provide the first-class education and groundbreaking research for which they are revered. That is why we will support the bill.

19:11

Angela Constance: I thank members for today's stage 3 debate and record my thanks to the Education and Culture Committee. Unlike Mary Scanlon, I will not embarrass its convener, Stewart Maxwell. I also pay tribute to all our stakeholders, including the NUS, the UCU and Universities Scotland.

Mark Griffin and Iain Gray said that the bill has not been without its problems; there have, of course, been a few twists and turns and a few bumps on the road on the journey that we have taken, but that means that the final destination is to be appreciated all the more. I thank Iain Gray for his opening remarks. I say to Mark Griffin that had he lodged at stage 2 some of the amendments that he lodged at stage 3, they could have been developed, so he might want to reflect on that.

I was not surprised to hear that Liz Smith, Baroness Goldie and Mary Scanlon will oppose the bill to the bitter end—it is their democratic right to do so. They have been very active participants in the debate on the bill and have pursued their views with tenacity. The reality is that I could have turned water into wine and would still have failed

to persuade some Conservative members of the merits of the bill, but I had hoped for some acknowledgement of how far we have travelled through inclusion in the bill of measures that address the widest possible range of views from people who have interests.

In its briefing, NUS Scotland said that although it remains unconvinced of the need for any attempt to shortlist candidates, it recognises that the proposed model seeks to find a compromise among stakeholders, and it has been very supportive of the Scottish Government's attempts to find a compromise. I flag that up to John Pentland in particular, in order to make the point that we have tried very hard to achieve a level of consensus, particularly in advance of the final stages of the bill. From the word go, extensive efforts were made to communicate and to engage with everyone who has an interest.

There have been a lot of very valuable and informed contributions throughout the course of this afternoon. Both Cara Hilton and Alison Johnstone made very powerful contributions acknowledging that universities have to be at the forefront of tackling inequality both within and outwith those institutions. However, I have to say to Cara Hilton in particular that if a matter is outwith the legal competence of the Scottish Parliament, there is indeed a limit to those often-debated ministerial powers.

I want to emphasise how much support the bill actually has. We have to remember that there is a wider university community beyond principals and chairs of court, important though their opinions are. Many HEI staff and students and other stakeholders, including MSPs, signalled their appetite for change and for the modernisation of governance structures. I am grateful to them all for their forbearance and for their solidarity in support for the bill throughout its passage. We have, in the closing debate, touched on the statutory and historical role of rector and how it has been protected. I want to pay tribute to Catherine Stihler. Although we have not always agreed on every detail, she has made a very worthy contribution to the debate and has sought to make her contributions constructively and meaningfully.

It is important to look to the future, although Liam McArthur seemed to be determined in his speech to revisit past debates. However, I am going to resist the temptation to point out some of his efforts to introduce "blunt" legislation, some of which I consider to have been rather illiberal, at times. It is important that we now set aside our differences of opinion and collaborate to make the bill's provisions work in the long-term interests of our institutions and the HE sector. Universities and other HE institutions play a vital role in the well-being of our society and economy, and I have

made it clear throughout the bill's progress that their autonomy is something that we all value and want to maintain.

This Government continues to make a substantial public investment in higher education because our institutions are high-quality organisations that contribute hugely to our ambitions to be a fairer Scotland with a more prosperous economy. However, we know that time stands still for no one. Our institutions are good, but now is the time to refine governance arrangements to maintain the excellence for which they are renowned. Any institution that exists as part of a nation's fabric must move with the times and ensure that it remains capable of contributing to how the nation wishes to develop its culture and values. In 21st century Scotland, there is an appetite for greater participation in the democratic processes that affect our lives and futures, and for people who have a stake in the future of their communities to have a say. The bill ensures that that will happen in relation to the HE sector.

I encourage our higher education institutions to focus on the positives that the bill will introduce. Fundamentally, the bill is about modernisation—focused, discrete and targeted modernisation that will help to create stronger unity of purpose and a sense of community on campuses. The bill seeks to strengthen the wellbeing of our universities by ensuring that more responsibility for governance, success and excellence is taken by more of those who have a direct interest in those outcomes. In short, the bill seeks to ensure that all voices on campus are heard.

For anyone who is still reluctant to embrace the changes that the bill introduces, I will finish with a quotation from Socrates that I hope everyone will heed:

“The secret of change is to focus all of your energy, not on fighting the old, but on building the new.”

Enterprise Bill

19:19

The Presiding Officer (Tricia Marwick): The next item of business is consideration of motion S4M-15818, in the name of John Swinney, on the Enterprise Bill, which is United Kingdom legislation.

Motion moved,

That the Parliament agrees that the relevant provision of the Enterprise Bill, introduced by amendment in the House of Commons on 2 February 2016, which relates to apprenticeships information sharing, so far as these matters fall within the legislative competence of the Scottish Parliament or alter the executive functions of the Scottish Ministers, should be considered by the UK Parliament.—
[John Swinney.]

The Presiding Officer: The question on the motion will be put at decision time.

Armed Forces Bill

19:19

The Presiding Officer (Tricia Marwick): The next item of business is consideration of motion S4M-15761, in the name of Michael Matheson, on the Armed Forces Bill, which is United Kingdom legislation.

Motion moved,

That the Parliament agrees that the relevant provisions of the Armed Forces Bill, introduced to the House of Commons on 16 September 2015, relating to MOD firefighters, so far as this matter is within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.—[*Michael Matheson.*]

The Presiding Officer: The question on the motion will be put at decision time.

Decision Time

19:19

The Presiding Officer (Tricia Marwick): There are four questions to be put as a result of today's business. The first question is, that motion S4M-15837, in the name of John Swinney, on the Land and Buildings Transaction Tax (Amendment) (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees that the Land and Buildings Transaction Tax (Amendment) (Scotland) Bill be passed.

The Presiding Officer: The Land and Buildings Transaction Tax (Amendment) (Scotland) Bill is passed. [*Applause.*]

The next question is, that motion S4M-15838, in the name of Angela Constance, on the Higher Education Governance (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Boyack, Sarah (Lothian) (Lab)
 Brennan, Lesley (North East Scotland) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 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)
 Hyslop, Fiona (Linlithgow) (SNP)
 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)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McDougall, Margaret (West Scotland) (Lab)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (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)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 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)
 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

Brown, Gavin (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Davidson, Ruth (Glasgow) (Con)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Rennie, Willie (Mid Scotland and Fife) (LD)

Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)

The Presiding Officer: The result of the division is: For 92, Against 17, Abstentions 0.

Motion agreed to,

That the Parliament agrees that the Higher Education Governance (Scotland) Bill be passed.

The Presiding Officer: The Higher Education Governance (Scotland) Bill is passed. [*Applause.*]

The next question is, that motion S4M-15818, in the name of John Swinney, on the Enterprise Bill, which is United Kingdom legislation, be agreed to.

Motion agreed to,

That the Parliament agrees that the relevant provision of the Enterprise Bill, introduced by amendment in the House of Commons on 2 February 2016, which relates to apprenticeships information sharing, so far as these matters fall within the legislative competence of the Scottish Parliament or alter the executive functions of the Scottish Ministers, should be considered by the UK Parliament.

The Presiding Officer: The next question is, that motion S4M-15761, in the name of Michael Matheson, on the Armed Forces Bill, which is UK legislation, be agreed to.

Motion agreed to,

That the Parliament agrees that the relevant provisions of the Armed Forces Bill, introduced to the House of Commons on 16 September 2015, relating to MOD firefighters, so far as this matter is within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.

Childcare Costs

The Deputy Presiding Officer (John Scott):

The final item of business is a members' business debate on motion S4M-15741, in the name of Cara Hilton, on childcare costs spiralling in Scotland. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes the annual childcare costs survey published by the Family and Childcare Trust; understands that the report provides the most comprehensive analysis of childcare costs and availability in Britain; is concerned at the finding that, while average childcare prices have risen only in line with inflation in the rest of the UK, with the cost of a part-time nursery place for a child under two up by 1.1%, in Scotland the price rose by 4.1%, with the average price of a part-time nursery place for a child under two and an after-school club for a five year old now costing £7,933 a year; is further concerned that, in Scotland, only 13% of local authority areas report having enough childcare for working parents and only 9% can provide childcare needed for disabled children and that the cost of childcare is rising at a significantly faster rate than anywhere else in the UK; welcomes the expansion of preschool early education and childcare in Dunfermline and across Scotland but recognises too what it considers the lack of progress in ensuring that childcare is available that fits in with the lives of working parents and for children of all ages, and notes the calls of the Family and Childcare Trust for the Scottish Government to improve access and affordability for parents to ensure that parents and carers across Scotland have access to flexible, quality and affordable childcare for children of all ages.

19:22

Cara Hilton (Dunfermline) (Lab): One of the biggest challenges facing mums and dads in my Dunfermline constituency and in communities right across Scotland is the cost, quality, availability and flexibility of childcare. It is particularly ironic that we are debating the issue in the evening, because virtually no childcare is available for mums and dads who work at nights and at weekends—at hours that do not fit in with what is on offer from most childcare providers—or indeed when working hours change from one day to the next, as they seem to have done in Parliament in recent weeks.

Like many working mums, with three children of primary school age, I manage to juggle childcare only due to a combination of out-of-school care, granny and grandma, friends and my husband, but not everyone has that support network. Childcare challenges certainly do not end when children start school, but at least the days of paying out more for childcare than for rent or the mortgage are largely over. However, Scottish parents still face an average school club bill of £53 a week for each child and, according the Family and Childcare Trust survey, school club bills for parents in Scotland have risen by 8.5 per cent in the past year alone.

On pre-school childcare, the Family and Childcare Trust found that the average cost of 25 hours of childcare for a child aged nought to two is £111 a week in a nursery or £102 a week with a child minder, and the figure reduces only slightly for children aged two and over. Many parents who have more than one child in childcare will be paying double that or more.

A parent with two children who are under the age of five will pay a staggering £900 a month for 25 hours of childcare. That adds up to over £10,000 a year. If a parent works full time and needs full-time childcare, the sum will be higher still. With nursery costs for children who are over two years old up 4.1 per cent last year in Scotland—that is higher than anywhere else in the United Kingdom outside London—the bills keep on rising.

Childcare costs are the biggest single bill that parents face, and it is little surprise that, for many mums and dads who are faced with such high childcare costs, there is little option but to reduce their hours at work or give up their job or career altogether. That impacts on not just parents, but on our society and our economy.

Many parents will struggle along and end up in debt. A report by Save the Children found that a third of low-income parents get into debt to pay for childcare. Other families find the money by cutting back on food, day trips and holidays. Many more manage only by working opposite shifts, which undermines family life and home relationships.

It is not just a question of costs. The Family and Childcare Trust research found that just 13 per cent of Scottish local authorities have enough childcare to meet the needs of working parents. That contrasts with the situation in England, where 45 per cent have enough childcare, and Wales, where 40 per cent have enough childcare.

Liam McArthur (Orkney Islands) (LD): Does Cara Hilton agree that it would be helpful as the next stage forward if local authorities were under some obligation at least to map the provision in their areas so that the level of unmet need could be quantified and steps could be taken to address that?

Cara Hilton: Liam McArthur must have seen my speech already, as I will turn to that issue shortly.

Things are getting worse. The figure that I mentioned is down 2 per cent on last year's figure, and it compares with 23 per cent in 2014. It is also a concern that just 9 per cent of local authorities have enough childcare for parents with disabled children. Only 4 per cent can cater for parents with atypical work patterns.

All of that highlights why there is an urgent need for genuine national oversight of childcare policy to

ensure that the needs of parents in Scotland can be met. Despite the obligation in the Children and Young People (Scotland) Act 2014 for local authorities to consult and publish plans for childcare for both under-fives and out-of-school care, 16 local authorities in Scotland told the Family and Childcare Trust that they had no information about local childcare supply and parental demand for it. If local authorities and providers have little knowledge of the needs of local parents, how can they intervene to fill the gaps in provision?

It was Scottish Labour that first introduced free early learning and childcare for three and four-year-olds. My motion welcomes the Scottish Government's extension of provision to 600 hours, but the reality is that, although that is great for children's development, it has very little impact on the childcare costs of the majority of working parents. Few jobs fit around a space that is available for three hours a day during term-time only, and many parents continue to pay a childminder or nursery while their child uses their free space—that is often the only way to keep their childminder or private nursery space available.

Other parents are unable to access their free hours at all due to their work patterns and a lack of free spaces available in private nurseries. Moreover, many councils have a lack of enthusiasm for allowing childminders to become partner providers.

The fair funding for our kids campaign has found that as many as one in five children are not getting the place that they are entitled to. That has been backed up the National Day Nurseries Association, which has said that 43 per cent of private nurseries have had the number of free places that they can offer to parents capped. On average, there is a waiting list of 11 children for each free space that children are entitled to but cannot access.

Throughout Scotland, thousands of parents are unable to access their free entitlement because of the lack of flexibility that still exists. It is a concern that the Family and Childcare Trust report found little evidence to suggest that action is being taken to address that.

I know that the Minister for Children and Young People is well aware of those issues and is as keen to find a solution as I am, but it is frustrating for mums and dads who are already juggling work, family and childcare to listen to politicians in the Parliament saying that parents are hundreds of pounds a year better off thanks to free childcare when the spin quite often does not reflect the reality of parents' lives.

The reality for parents throughout Scotland is that childcare costs are spiralling faster than

anywhere else in the UK outside London. The cost of a nursery place has risen by up to 30 per cent in Scotland over this session of the Parliament.

Last year, the commission for childcare reform set out a bold vision for the transformation of childcare. The Family and Childcare Trust has also urged urgent reform of the system. I also highlight the fair funding for our kids proposal for a 10-year plan to transform childcare in Scotland. We know that investment in quality and affordable early learning and childcare is crucial not just because it makes work pay, but because it helps to close the attainment gap and supports our economy and employers. It seems that we all want change, and no one wants it more than mums and dads who are faced with huge childcare bills.

Once more, the debate is being shaped by point scoring over free hours. For May's election, parents are being promised more free childcare, with a doubling of free hours for three and four-year-olds by 2020. I do not have the time now to discuss the challenges in making that happen, but experts, providers, academics, children's organisations and, above all, parents agree that childcare has to be about affordability, quality and flexibility, as well as free hours.

Scotland needs a childcare policy designed to fit around the lives of working parents, not designed to fit on an election leaflet or pledge card. It is not just about free hours, good as those are. We need a childcare system that supports parents with children of all ages—a system that recognises that childcare challenges do not end when children start school, which supports parents not just with pre-schoolers but with babies and toddlers, which puts affordability and flexibility at its heart, and which supports working parents and our economy, too.

Whatever the result in May, I hope that we can work together across the political divide to deliver the childcare revolution that Scotland's families need and that Scotland's children deserve.

19:30

George Adam (Paisley) (SNP): I thank Cara Hilton for bringing this important debate to the chamber tonight. I also thank her for some of her comments on how we progress the issues and work together in order to deliver for the families throughout Scotland.

As far as I am concerned, we are coming from a place where the Scottish Government has an ambitious programme to give children the best start in life. As Cara Hilton mentioned, the amount of free childcare for three and four-year-olds has been raised from 415 to 475 hours and now to 600 hours. That will make a difference. In addition,

vulnerable two-year-olds will get that free childcare, too.

The Scottish Government is delivering for our families, who all receive the same provision. Our plans are ambitious. The First Minister recently went on record to say that she sees the biggest capital spend and investment in the future being on childcare. That may not be easy to show like a big, shiny new bridge or a road infrastructure project, but such investment makes a big difference to families throughout our nation.

On top of that, if the Scottish National Party forms the next Government, it wants to increase the free provision up to 1,140 hours before the end of the next parliamentary session. I mentioned capital spend. We are talking about investment £170 million-worth. That would make a difference.

I also have a personal interest in this issue. I know that I look too young, but I am a grandparent. My daughter, Jessica, is going back to education. She is looking at care for her daughter, Daisy, to ensure that she can do that. Daisy is coming up to one and a half, but eventually—when she is two or three—Jessica will get that opportunity. Therefore, I understand on a practical level how difficult it can be for families, but the Government is doing what it can to ensure that free childcare will make a difference in local areas.

Cara Hilton brought up some figures on the costs of childcare. It is just not the case that the average weekly cost of 24 hours of nursery childcare in Scotland is more than it is in England. In England, the cost is £113; in Scotland, the cost is £104. That is an example of where childcare in Scotland is cheaper. For 50 hours childcare a week, the regional average cost in England is £221; in Scotland, that cost is £203. Although the costs are quite a bit for families to deal with, the situation is not as bad as others have said that it is.

I see the Government's planned investment as the exciting part of the debate. To declare even more of an interest in this topic, my daughter plans to train as a nursery nurse. Part of the Government's investment is about ensuring that young women such as her, as well as young men, have the opportunity to get involved in the sector.

We have to remember that that is part of the debate—we must build the infrastructure to the stage that we can ensure that we deliver for all families in Scotland. At this stage, we have the Scottish Government commitment and there is upwards movement in the hours of childcare provided. The only issue is to see how we take provision to the next stage and ensure that we deliver for all the young people and families.

19:34

Iain Gray (East Lothian) (Lab): I congratulate Cara Hilton on securing this debate on a critical issue for families. The figures in the Family and Childcare Trust report, to which the motion refers, are both dramatic and damning. They show that childcare in Scotland is unaffordable and is getting more unaffordable, and that childcare is more unaffordable in Scotland than it is in the rest of the UK, in spite of the gloss that Mr Adam tried to put on that.

There are consequences for families across Scotland. Cara Hilton went through in detail some of the ways in which families deal with that, but there are probably two fundamental ways in which families deal with unaffordable childcare. One is that one parent, usually the mother, simply does not work. She gives up work or is unable to take up work, with all the consequences that that has for the family income and for career prospects. The second strategy that is often pursued is that grandparents take the strain. Last year, the Family and Childcare Trust produced a report that was based on a survey of how much childcare grandparents provide, and it was discovered that the majority of grandparents in Scotland provide some support for childcare and that the figure in Scotland is much higher than that in the rest of the UK.

We should ask ourselves how we got into this situation. We know how we got here, because the childcare alliance, to which Cara Hilton referred, undertook a significant piece of work when it set up its commission for childcare reform. It was clear about where we had gone wrong on childcare in recent years and it said that the single-minded focus on free pre-school hours to the exclusion of all else had had detrimental policy consequences for other and necessary forms of childcare. Providers too have told us in recent weeks that the underfunding of free childcare places has meant that additional costs have been passed on to parents and families who are paying for their childcare or for the additional hours that they need in order to work full time.

The childcare alliance was absolutely clear that what families need is childcare that is flexible all year round, is for all ages and is affordable, not just free. There is no reason why we cannot deliver that, because other countries do it. Other countries provide childcare in a way that means that childcare arrangements do not come to a grinding halt three times a year when the school holidays start, and in a way that people know will not bankrupt them, because there is a limit on the proportion of their income that they will have to spend on it. Those countries do not invest more public funds than we do; they invest similar amounts and get much more back for it.

The onus on the minister is to take the opportunity this evening to at least signal a shift in the Government's thinking—to say not that it will go into the election simply boasting about free pre-school hours, which on many occasions in recent years has really meant playing catch-up with the rest of the United Kingdom, but rather that it will present a plan to move forward and bring about the transformation in childcare that families in Scotland want and need, which we can achieve if we have the political will to do it.

19:39

Mary Scanlon (Highlands and Islands) (Con):

I, too, thank Cara Hilton, because any opportunity to debate childcare in the early years is welcome. In this institution, we talk about higher education and schools, but I have no doubt—after almost a couple of decades in this Parliament—that the most important part of the education process is pre-school, so I thank her for bringing the debate to the chamber.

The figures in the motion that jumped out at me were that only 13 per cent of local authority areas in Scotland report having enough childcare for working parents and only 9 per cent can provide childcare for disabled children.

A point that I took from the Care Inspectorate report—I read a few reports in advance of the debate—was that 29 per cent of children in urban areas are attending early learning, compared with 13 per cent in remote rural areas. As an MSP for the Highlands and Islands, I think that many people are missing out simply because of transport and other issues.

As I am talking about missing out, I note that my colleague Liz Smith has spoken for many years about the fact that some people get six terms of free pre-school childcare while others get four terms. The figure of 600 hours a year for two years is misleading because, if a child is born between 1 March and the end of August, they will get six terms; if they are born between 1 September and the end of December, they will get five terms; and if they are born between 1 January and the last day of February, they will get four terms. That is odd, and I know that Liz Smith has pointed it out regularly. I had not appreciated that paragraph 68 of the statutory guidance says that arrangements

“to commence closer to the child's third birthday are encouraged to support longer term aims to increase the amount of early learning”,

but I understand that that is at local authorities' discretion. I further understand that they would not receive any additional funding for that. If we are looking for a fair system in which everybody gets two years of pre-school provision, we have to look at the additional funding.

In the report by the Family and Childcare Trust that Cara Hilton has mentioned regularly, the 13 per cent of local authorities in Scotland that provide enough childcare for working parents compare with 43 per cent in England. Iain Gray talked about catching up. We are not just 1 or 2 per cent behind England; England's figure is three times higher than ours. I hope that the minister will address that issue today. I think that we are addressing that over the longer term.

When it comes to costing, George Adam mentioned more than 1,000 hours of provision, and Nicola Sturgeon has said that she would double childcare funding from £439 million to £880 million. Having spent five years in the Public Audit Committee, I ask how she knows that the cost will be £880 million. Will the cost be more? Will it be less? Where does that figure come from? If everyone was able to take up the childcare, it might cost a lot more. Just because the figure is doubled, that does not mean that it is an adequate figure to use.

In the short time that I have left in the debate, I will mention a hustings that I was at, probably less than a year ago. I heard that councils across Scotland pay varying rates for childcare to independent nurseries. Some nurseries were receiving £5 an hour for each child, and others were receiving less than £3.

That leads me to my next point. Another thing about this Parliament is that we have never ever properly valued the contribution that childcare, early years and nursery staff make. Those staff are more qualified and they are registered with the Scottish Social Services Council. The Care Inspectorate is rigorous in its inspections, and the quality of provision is excellent. We need to fund the councils and the councils need to fund the nurseries and, above all, we need to value the staff who look after children in Scotland day after day.

19:44

The Minister for Children and Young People

(Aileen Campbell): Like everyone else who has contributed this evening, I thank Cara Hilton for bringing this important debate to Parliament. Although we have differences, it is important—as she said in the closing remarks of her speech—that we work together on areas of commonality. Like Cara, I have a young family. You do not have to have a young family to understand the pressures of family life, but it is a practical, lived experience of the challenges that many people across the country face.

I am delighted to have an opportunity to debate childcare, because this Government has been ambitious in what it wants to do to ensure that all

our children get the best possible start in life and that we can make a significant difference for future generations of families.

We have massively expanded early learning and childcare by almost half from 412.5 hours a year to 600 hours a year, and we have committed to almost doubling that to 1,140 hours a year by the end of the next session of Parliament. That is equivalent to the number of hours that a child spends at school. The reason why we focus on hours is that we want to ensure that the provision is configured in a much more flexible way, in response to what families need.

On the points that Iain Gray made on the costs of childcare, the cost of 25 hours and 50 hours a week of childcare is lower in every area in Scotland than is the case in England and the rest of the UK. Scotland's childcare costs are lower, and we are trying to ensure that we are providing the resource that is necessary to help families even further.

We have fully funded that expansion, and have already invested £500 million in the first three years. Far from cutting expenditure, we have invested unprecedented levels of capital: £170 million to front load infrastructure changes, with local authorities receiving their final £30 million instalment in 2016-17, as agreed with the Convention of Scottish Local Authorities. It is absolutely vital that that full funding that is allocated by the Scottish Government is prioritised on the transformation that we seek over the next session of Parliament.

This is money well invested. With it, we are improving outcomes for all our children, especially those who will benefit most; supporting parents to work, train or study, especially those who need routes into sustainable employment; and reducing the burden of costs to parents, with an equivalent saving of £780 a year for those additional hours.

Our ambitions go beyond simply increasing hours. Our aim is to develop high-quality, flexible early learning and childcare that is affordable and accessible for all and is integrated with school and out-of-school care. That is why the Children and Young People (Scotland) Act 2014 introduced for the first time an entitlement for the 27 per cent of two-year-olds who will benefit most from early learning and childcare. That will make a significant contribution to closing the attainment gap and improving equality for all our children. That is also why we have introduced for the first time a requirement on local authorities to provide choice and flexibility, based on local consultations with parents, providing opportunities for employability support and family support.

If we are serious about giving children the best possible start in life, quality is non-negotiable. I

agree that that does not have to be just about free hours; it must also be about quality and flexibility. That is why we are making early learning and childcare part of the learning journey from birth, integrated with the earlier stages of the curriculum for excellence; supporting the development of an early learning and childcare workforce, which is—in response to Mary Scanlon—highly valued and based on specialist skills; introducing additional graduates from 2018 to support children who will benefit most; creating a new standard of training and induction for childminders, so that they can become integral to our expansion of funded entitlements; continuing to fund the University of Aberdeen and the University of Strathclyde to deliver early years-specific masters qualifications for primary teachers, in order to provide opportunities for teachers to specialise; and providing £1 million to invest in pilots of different types of early learning and childcare, as a way of finding out what works well for children and families.

Mary Scanlon: There is a significant range in the payments per hour, per child, from local authorities. I was quite shocked to learn that some were under £3 and some were over £5. If we value the workforce, surely nurseries have to be funded, in order to ensure that we financially value them, too. Is that something that the Government will consider?

Aileen Campbell: I am not sure of the point that Mary Scanlon is making. I do not know whether she is talking about the workforce or the funding that goes to private nurseries, which is a cause of concern. We are considering that issue across the board. We have a financial review that is examining the costs of delivering childcare.

I am not sure whether Mary Scanlon's point about the workforce concerned people's pay and their terms and conditions, but we want to respond to the challenges that were set out by Professor Siraj when we commissioned her to consider issues around the workforce. We absolutely have to recognise that a child's early years are their formative years, and that that workforce deals with children at a crucial point in their development. We need to speak loudly about the work that they do and ensure that they are recognised across the piece.

In less than three years, we have delivered significantly in making this transformation a reality. Last week, the Care Inspectorate published an initial overview of implementation from June 2013 onwards, which concluded that local authority efforts have been considerable and that local authorities have made significant achievements in making the new entitlements available. We are seeing improvement across local authorities. A number of local authorities are responding to

parental demands regarding the way in which they want childcare to be delivered.

Local authorities are working with partners, including third sector and private providers, in a number of innovative ways. For instance, in the Highlands the Care and Learning Alliance—with which Mary Scanlon is perhaps familiar—is providing a wide range of innovative solutions and services in partnership with Highland Council. The Scottish Childminding Association is promoting childminding with a number of local authorities, to ensure that flexibility is there for the families with which it works. Early Years Scotland is developing playgroup solutions and support for the involvement of parents, for example in Dumfries and Galloway. The National Day Nurseries Association has developed forums and partnerships with local authorities across the country, with the result that the majority of local authorities no longer stipulate session times from private nurseries. Glasgow City Council is trialling holiday cover, as well as creating 500 new partner providers. Jobcentre Plus is working to promote higher uptake, for example in Inverclyde. East Lothian Council and Midlothian Council are promoting outreach work with parents. Many local authorities, such as Fife Council, which Cara Hilton talked about, are expanding and opening their own centres to full days, year round, with options for parents to purchase additional hours. Those are just some examples that are happening across the country.

We are not complacent. Although the changes that I have outlined are positive, challenges remain. Improvement on flexibility is on-going, but we need to be imaginative and innovative in the way in which we respond to the parenting challenges that exist for many families across the country. We need to continue to listen to and engage and work with parents, as partners, on how we configure and develop the additional hours that we want to roll out over the next parliamentary session. As George Adam said, the investment that we are making in this area is significant and considerable. It is a mark of the seriousness with which this Government treats childcare as a way to promote family cohesion and allow parents to find training or job opportunities.

The First Minister made it absolutely clear that the biggest transformational investment over the next parliamentary session will be not in a road or a bridge, but in the transformation of early learning and childcare, through which we will invest in the future of our children and families and create real equality of opportunity for the future of our country. That does not mean that we will demur from the challenges that exist, which we need to overcome. However, if we work together collectively and draw upon common areas of interest, we can make this transformation happen and, importantly, we can

deliver for families and the children whom we want to have the best possible start in life.

Meeting closed at 19:52.

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