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Tuesday 30 January 2018

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Scottish Parliament

Tuesday 30 January 2018

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

Time for Reflection

The Presiding Officer (Ken Macintosh): Good afternoon. The first item of business today is time for reflection. Our time for reflection leader is the Rev Christine Barclay, rector of St Peter's church in Linlithgow and St Columba's church in Bathgate.

The Rev Christine Barclay (St Peter's Church, Linlithgow and St Columba's Church, Bathgate): Presiding Officer and members of the Scottish Parliament, thank you for the opportunity to address you this afternoon.

Here we are at the end of January. The days are lengthening and we are heading towards springtime. Christmas may be just a memory. Trees and decorations are down, presents have been put away and thank you messages have been delivered. Yes—Christmas has a tick in the box; it is done for this year. However, in the Christian calendar we will still be in the season of Christmas until the feast of Candlemas on Friday, when we will celebrate Christ, the light of the world, being presented in the temple. So before we leave the season, we should look again at the characters in the Christmas season before we put them away for another year. They were not just for that first Christmas; they have a message for us every day, as God leads creation and humankind forward.

Mary's amazing belief that God could—and would—keep his promise reminds us to have faith in God, who does not break promises, and to be obedient to our promises, however hard that might be.

What a journey Joseph had. He reminds us that our doubts can be so valuable, for they can help us to be honest with God and with ourselves.

The shepherds, who lived on the margins of society, remind us of God's love for the forgotten and left behind in our world.

The magi—who, TS Eliot wrote, had a long, hard journey, at the worst time of the year—remind us of those who are up against the powerfully corrupt, who are prepared to do whatever they have to to those who stand in their way. The gifts that they brought to lay at the feet of Jesus also remind us of the gifts that we all bring: offerings of our time, talents and experience. That

is a very special reminder to those of us who have the privilege and opportunity of serving others.

Finally, there is Jesus, our central character, who St John referred to as

"the light of the world"

and who came to take the world out of darkness. That is a reminder to us, here and now, that Jesus's light always overcomes darkness. There is so much darkness in our world today. How can each one of us walk with and guide forward those whose lives are dark or lack hope? Each person is precious.

May God inspire and strengthen you all for your service to our nation.

Business Motion

14:04

The Presiding Officer (Ken Macintosh): The next item of business is consideration of business motion S5M-10172, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a timetable for the Gender Representation on Public Boards (Scotland) Bill at stage 3.

Motion moved,

That the Parliament agrees that, during stage 3 of the Gender Representation on Public Boards (Scotland) Bill, debate on the group 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:

Group 1: 20 minutes.—[*Joe FitzPatrick*]

Motion agreed to.

Topical Question Time

14:04

Police Investigations and Review Commissioner

1. **Daniel Johnson (Edinburgh Southern) (Lab):** To ask the Scottish Government what its response is to the reported allegations of “government interference” in the independence of the Police Investigations and Review Commissioner. (S5T-00900)

The Cabinet Secretary for Justice (Michael Matheson): I fully support the independence of the Police Investigation and Review Commissioner.

The PIRC has made clear that there has been no interference in the publication of her audit report. I am clear that decisions about the timing of the audit report remained with the commissioner at all stages, and it was for her to consider whether the points that were raised were relevant or not. She decided that it was appropriate to proceed as planned, and the Scottish Government fully supports the principle that the PIRC is independent in making such decisions

There is regular dialogue between the Scottish Government sponsor teams and non-departmental public bodies. It is part of that to encourage public bodies to consider their role in the wider context of public services.

Daniel Johnson: I note the cabinet secretary’s response. However, last month, Scottish Government officials were rebuked by the PIRC for interfering with her independence following a specific request from an official. When did the cabinet secretary become aware of that request? What steps has he taken to ensure that that will not happen again? Following the stories of Government meddling in the Scottish Police Authority and now the PIRC, can he guarantee that this is the last story about interference with the police that will come out of his department?

Michael Matheson: I became aware of the emails on this matter on 25 January—last Thursday. That is when we were advised of the PIRC’s plans to publish the response to the freedom of information request.

I recognise that the PIRC believes that aspects of the email that was sent by my official on 30 November could be perceived as being Government interference with her independence. I also recognise that it is important that there should be no room for ambiguity in communications. I fully support the independence of the Police Investigations and Review Commissioner.

The aim of the email from my official was to identify risk that the PIRC should consider. Officials were aware of a number of on-going investigations of complaints against senior officers, but they had no knowledge of the content of the audit report when the email was sent on 30 November.

The member will recognise that the PIRC has made clear that there was no interference in the publication of the report. I am clear that decisions about the timing of the report remained with the commissioner at all stages, and that it was for her to consider whether the points that were raised were relevant. She decided that it was appropriate to proceed as planned, and I fully support her independent decision making in those matters.

Daniel Johnson: I note that the cabinet secretary has twice said that there was no interference. However, the critical fact is that the request was not successful, so the crucial question is whether the Government attempted to interfere in an independent body. That was the view of the PIRC in December, when she said:

“My perception of your remarks is of governmental interference with my independence.”

A failed attempt to interfere is morally no different from a successful attempt to interfere. Does the cabinet secretary accept that attempts to interfere in the independence of key public bodies such as the PIRC are completely unacceptable?

Michael Matheson: I will quote the PIRC on this matter:

“There have been no incidents of government interference and the release of the audit document went ahead within the planned timescale.”

I have already recognised the PIRC’s perception of the email from my official. The member will recognise that the Government will have on-going engagement with public bodies on a range of issues. It is appropriate for officials, when engaging with public bodies that are sponsored by the Government, to highlight issues of risk for them to consider. However, I am clear that, when such issues have been highlighted with the PIRC, it is entirely for the commissioner to determine whether they are relevant and to make decisions on that basis. That is exactly what happened in the case that we are discussing, and the commissioner proceeded with the timeframe that she had set out. I fully support that and recognise that it is an important part of the independence of the PIRC.

Liam Kerr (North East Scotland) (Con): Michael Matheson can stand there and claim that the report was not delayed and that there was no interference, but it is no defence to say that the Government tried to stop the report and failed. An attempt at interference is still interference.

We now know that there is a deeply embedded culture of secrecy and central interference, and that the tone is set from the top. Michael Matheson should have the good grace to realise what that means. If he does not, we should spell it out. He has fallen short of the standards expected in high office and does not have the moral credibility to do his job. When will he do the honourable thing and resign?

Michael Matheson: I will continue to do the honourable thing, which is to do my job properly. As I set out to Mr Johnson, officials were aware that the PIRC was undertaking an audit of the SPA’s complaints process. The PIRC informed them in late November that the audit would be published in December. Officials were aware of a number of on-going investigations into complaints against senior officers but had no knowledge of the contents of the audit report when the email was sent on 30 November. They aimed to identify potential risk for the PIRC to consider. It was clear from the PIRC’s response on 5 December that the report would be published at the end of December.

It is legitimate for the Government to highlight potential risk that might be relevant to the work of a public body. That is not a new thing in the Government but something that has gone on in the Government for many years and under different Administrations. However, the decision on what action was appropriate in light of the issues concerned was clearly a matter for the PIRC. As an independent body, the PIRC has made it clear that there has been no interference in the publication of the audit report and that the PIRC decided that it was appropriate to proceed as planned with the publication of the report. I fully support the independent decision making of the PIRC on that matter.

George Adam (Paisley) (SNP): On this point, it is important to get the facts across. Can the cabinet secretary confirm that at no point did the Scottish Government interfere in the report that was done by the PIRC or the date of its publication?

Michael Matheson: At no point has the Scottish Government interfered in that report or in any report by the PIRC. The PIRC is an independent body. It has been made clear that there was no interference by the Scottish Government in respect of this particular publication. As I have mentioned several times, the report’s release went ahead as planned, according to the timescale. The Scottish Government is clear that decisions about the timing of the audit report remained with the commissioner at all stages, and that it was for her to consider whether the points that were raised by officials were relevant or not. She decided that it was appropriate to proceed as planned. The

Scottish Government fully supports the principle of the PIRC making such independent decisions.

John Finnie (Highlands and Islands) (Green): Can the cabinet secretary outline how he would characterise relationships between him and the PIRC? As he has made very clear what he considers does not constitute political interference, can he outline some examples of what would constitute political interference?

Michael Matheson: My view is that the PIRC's role in taking forward investigations in such matters is entirely independent of Government. Clearly, the PIRC is a sponsored division because it is funded by the Scottish Government to support it in its role, and we provide it with support and guidance, as we do for any other public body in the public sector landscape. That is not peculiar to the PIRC or the justice portfolio—it happens right across Government. When I was a health minister, for example, I worked with sponsored bodies in the health sector, and it is the same for other parts of the public sector. That support and guidance are key parts of the relationships that Government has with public bodies. However, it is equally important to recognise the independent nature of those bodies. Determinations on the matters that we are discussing are entirely a matter for the PIRC, as are consideration of whether any views expressed by the Government are relevant, and decisions on what action it will take.

Liam McArthur (Orkney Islands) (LD): Government officials having suggested that the PIRC hold back a report because the timing was not convenient is extremely serious. Even given that the interference was unsuccessful, does the cabinet secretary accept that it shows the unhealthy consequences of concentrating power in the hands of so few, and that the temptation to intervene would be less were power to be shared more widely?

Michael Matheson: The timing of the report's publication was for the PIRC. When the Scottish Government official sent the email to the PIRC, that person had no knowledge of the report's content or its terms of reference regarding the timescale for dealing with the complaints that it was dealing with. The detail of that became known to the Scottish Government when the embargoed copy of the report was provided. It is wrong to try to suggest that that was because there were critical aspects within the report and that the Government just did not think that it was convenient. The Government did not know what was in the report, in the first place.

It is important that the PIRC is able to take forward matters in a timeframe that is appropriate for itself. I know that members have raised concerns in the past about the time that it takes for the PIRC to investigate certain complaints and

issues. The reality is that that is entirely a matter for the PIRC. We should accept that it is appropriate, if it will take a long time for a thorough and detailed investigation, for the PIRC to be given the time and space to allow that thorough and detailed investigation to be undertaken on complaints with which it is dealing.

I will continue to defend the PIRC and to make sure that it has the right to be independent in those matters and has appropriate time to investigate complaints, as and when that is appropriate.

Margaret Mitchell (Central Scotland) (Con): The PIRC is the latest example of the cabinet secretary interfering in the decisions of a public body.

On 24 January, I asked the minister very specifically whether he had sought legal advice before interfering in the SPA decision. His response was that he had taken "appropriate advice from members". I ask him which members he sought advice from, specifically whether the First Minister was one of those members, and what advice was given. This is the fourth opportunity that the cabinet secretary has had to come to the chamber to tell us categorically whether or not he sought legal advice.

Michael Matheson: In relation to the PIRC report, there was no legal advice for me to take because the issue was an email exchange between officials.

In relation to the wider point, Government officials and I take advice from officials on an ongoing basis on a range of matters. That includes legal advice.

I am sure that Margaret Mitchell will also recognise that Governments do not publish the details and nature of the legal advice that we receive. That is not the position of only this Government; it has been the position of previous Governments, which is the same as the United Kingdom Government's position on such matters.

I have taken advice from appropriate officials, including legal advice as and when it was necessary, on a range of matters relating to my portfolio.

Rona Mackay (Strathkelvin and Bearsden) (SNP): For the avoidance of doubt, can the cabinet secretary say when he first became aware that the PIRC was undertaking an audit of SPA complaints and when he first saw the report?

Michael Matheson: I first became aware of the audit that was being undertaken by the PIRC when it published the details at the end of June 2017. I received an embargoed copy of the report on 27 December 2017.

Mary Fee (West Scotland) (Lab): Given that the independence of the PIRC is set out in law, has the cabinet secretary examined whether there have been any breaches of the civil service code in relation to the incident? If not, will he do so?

Michael Matheson: Breaches of the civil service code are for the civil service to deal with.

Gordon Lindhurst (Lothian) (Con): I will follow up on that. Is not it the case that, by failing to take records of crucial meetings, Michael Matheson and his officials may have breached the ministerial and civil service codes? Surely, the right thing for him to do to is to take responsibility and resign.

Michael Matheson: I did not have any meetings about the particular report that Gordon Lindhurst refers to.

Fulton MacGregor (Coatbridge and Chryston) (SNP): Is the PIRC properly resourced to deal with the current investigations?

Michael Matheson: The PIRC is taking forward a significant level of work and dealing with demand that has been placed upon it because of the range of complaints that it is now dealing with.

Since the PIRC was created in 2013, we have increased its budget by some 20 per cent. This year alone, I provided the PIRC with an additional £100,000 to deal with the additional demands that it faces.

At the end of 2017, I received a business plan that had been put together by the PIRC on the increasing demand that it is facing and the resources that are necessary to meet that demand. I have given consideration to that. With the support of Parliament, I intend, if the budget is agreed, to increase the PIRC's budget by more than £1 million in the forthcoming financial year. That would increase its budget by almost 30 per cent, in order to allow it to increase the range of staff that it has to deal with the investigations and demands that it is experiencing at present.

Maurice Corry (West Scotland) (Con): Meddling in the decision making of independent bodies cannot be tolerated. The public will be most appalled at the sustained cover-up, which appears to have been sanctioned from the very top. How does Michael Matheson expect to continue day-to-day working with those who have accused him of governmental interference with their independence?

Michael Matheson: I have absolutely no idea what cover-up Maurice Corry is trying to make reference to, but I will quote what the PIRC has to say on the matter. It said:

"There have been no incidents of government interference and the release of the audit document went ahead within the planned timescale."

The emails that the member and others have made reference to were brought to my attention on Thursday 25 January for the first time. Did I have knowledge of the engagement between my official and the PIRC? No—I had no knowledge of that. Did I ask the official to make representations? No—I did not. I hope that that clarifies things for the member in terms of my involvement in the matter.

Neil Findlay (Lothian) (Lab): I understand why the minister will be confused. There are so many cover-ups that he does not know which one we are talking about.

On a related issue, in November, Her Majesty's inspectorate of constabulary in Scotland delivered to the cabinet secretary its report on undercover policing in Scotland. Why has the report still not been published? Is that another case of the minister deciding when a report will be released?

Michael Matheson: As I have said, the report will be published in due course.

Mike Rumbles (North East Scotland) (LD): Is it the case that the cabinet secretary fails to recognise that he and his officials are attempting to interfere in the independence of independent bodies because he or his officials routinely communicate like this with independent bodies?

Michael Matheson: As I have made clear, it has always been the case that Governments engage with a range of non-departmental public bodies on a range of issues across Government. That is no different in the current Government to how it was in previous Governments, including when the Liberal Democrats and the Labour Party were in control in Scotland. I have no doubt that it remains the case with the UK Government as well. Offering guidance and support and exchanging information are normal parts of the Government's work and normal parts of the engagement process. I am sure that Mike Rumbles will recognise that that is not peculiar to this Government. It has always occurred in the relationship between Governments and public bodies.

ScotRail Stop-skipping

2. **Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** To ask the Scottish Government what its position is on concerns regarding the occurrence of stop-skipping by ScotRail. (S5T-00908)

The Minister for Transport and the Islands (Humza Yousaf): I completely understand the frustration that stop-skipping can cause for the customer experience. I fully expect the performance issues to be addressed immediately, and I regularly speak with Alex Hynes, the

managing director of the ScotRail Alliance, to stress that very point.

In an answer to a question last week from Alex Rowley, I mentioned that Alex Hynes has instigated an independent review as part of ScotRail's recovery measures, which I very much welcome. The review, which is under way, will look at steps to recover performance and aim to reduce stop-skipping. Once the findings are published, I will of course look at the recommended steps for improvement and how that information is made publicly available.

The practice, of course, is undeniably and understandably unpopular. My officials at Transport Scotland will therefore continue to monitor and challenge ScotRail on it to ensure that it is minimised.

Just to put the matter in some context, I add that I am sure that the member would like to note that, over the past year, about 0.78 per cent of services ran stop-skipping, against the circa 763,000 services that were booked. That means that 99.22 per cent of services did not skip their stops.

Christine Grahame: Can the minister advise me now or afterwards how many stop-skippings were due to breakdowns on the network or breakdowns of other rail providers? Given that the matter is not all under ScotRail's control, although I am not excusing it, is there not an argument for integrating the network and ScotRail?

Humza Yousaf: The member raises a good point. I do not have the exact figures to hand, but I will look them out with my officials. Time and again, independent reports such as the report by the Reform Scotland think tank have shown that 54 per cent, or the majority, of delays are down to Network Rail and the infrastructure. Of course, Network Rail is still a reclassified body under the United Kingdom Government's Department for Transport and is not within the devolved control of this Parliament or indeed this Government. However the member is right that that is not an acceptable excuse. ScotRail and the ScotRail Alliance must work on minimising stop-skipping.

To put the issue in context, there were significant improvements on stop-skipping in the last railway year, as ScotRail managed to get the figure down to 0.4 per cent of services. That figure has increased because of the poor autumn and winter performance. When the independent review has been conducted, I will of course share the recommendations with members around the chamber in an appropriate way.

Christine Grahame: I note what the minister says about Network Rail's part in this. However, I was a victim of unannounced stop-skipping on the Borders railway, when the train whizzed past Newtongrange, where my car was, so I had to go

on to Shawfair and take the next train south. Had I been picking up children, it would have been a different matter from me just being very cross. Will the minister seek to end this practice, because the impact on individuals on the train—elderly people, people who have children to pick up, people with job interviews—can be substantial? They can lose 45 minutes if they have to go to another station and take a train back.

Humza Yousaf: The member's example is one that is experienced too often by people on the railways. I am not dismissing that concern in the slightest. In some instances, the ScotRail Alliance feels that stop-skipping has to take place because the infrastructure might fail or there might be a points, signal or rolling-stock failure. Therefore, in order for the entire network not to be out of kilter, a train might have to skip a stop. What is clearly unacceptable, and what happens far too often, is the failure in communication around that. People can already be on the train and then have their stop skipped. If people knew in advance that their train was not going to stop at X, Y or Z station, they could perhaps plan their journey ahead.

There is clearly a failure in communication as well as the performance not being good enough, but I give the member the absolute assurance that, as part of the independent review that is being taken forward by Nick Donovan, the ScotRail Alliance is considering how to minimise the practice.

The Presiding Officer (Ken Macintosh): Another six members have questions on this issue, which is clearly of some interest. If the minister can make his replies as brief as possible, we will see how many questions we can get through, although I do not think that we will get through them all.

Jamie Greene (West Scotland) (Con): Around 20 trains a day in Scotland miss their stops, which causes great inconvenience to those on the trains who are unable to get off, and to those who are waiting at stations. What conversations is the minister having with ScotRail to ensure that the practice is minimised? Will he ensure that ScotRail gives passengers more foresight that a station will be skipped and better information on alternatives? How are passengers who are affected by the practice adequately compensated for any inconvenience, or cost incurred, as a result of their stop being missed?

Humza Yousaf: I hope that I answered Jamie Greene's questions in my reply to Christine Grahame, but I emphasise that I will reiterate the member's point to Alex Hynes. That will be part of the independent review. Once the review recommendations come my way, I will certainly look at them and have a discussion with Jamie Greene about them.

Jamie Greene is absolutely right to highlight the point around communication, as that is such a frustration for passengers. Passengers whom I have spoken to completely understand that things can go wrong on any rail network—whether that involves infrastructure or rolling stock—but they are not prepared to accept the lack of communication in 2018, in the 21st century, when we have smartphone technology. The message should be getting out to passengers.

The member mentioned that 20 services a day were affected. To put that in context, that is about 0.8 per cent of services, so the vast majority still run to the stations that they are meant to. Notwithstanding that, the member's points are well made.

Jackie Baillie (Dumbarton) (Lab): The minister knows that passengers on ScotRail services to Dumbarton, Helensburgh and Balloch are frequently affected by station-skipping, and that scheduled services often whizz past Cardross and Dumbarton Central stations without stopping, which leaves passengers stranded. Even the promise to abolish station-skipping during rush hour has been broken. I point out to the minister, as gently as I can, that 0.8 per cent might sound small, but that is 64,000 journeys, and it feels like most of them are happening in my patch. Will the minister ensure that statistics are published for each line and end the practice of station-skipping at key stations, such as Dumbarton Central and Cardross?

Humza Yousaf: I am not sure about the figures that Jackie Baillie quoted, but I certainly have not been dismissive—I hope that that was clear in the tone of all my responses. I have said that I find the practice unacceptable. I have tried to give some context about why stop-skipping might sometimes be necessary, to ensure that the network is not out of kilter for the rest of the day, but I agree with the member that the figures are too high.

When I spoke to Alex Hynes, he mentioned that he would continue to be in dialogue with Jackie Baillie, and I think that another meeting with her has been arranged—if not, I think that a meeting will be coming her way. I know that stop-skipping will be on the agenda.

I want to correct the record, because the member was wrong when she referred to the promise that was made. It was never said that stop-skipping during peak time would be abolished; it was said that the practice would be minimised. However, that has not happened, and we must ensure that we get back to a position in which stop-skipping is minimised. ScotRail achieved that in the spring and summer of 2017, but autumn and winter performance has not been where we wanted it to be.

I hope that the member understands that I am not dismissing passengers' very real frustrations. As soon as the independent review has been conducted, I hope that we can get ScotRail back on the trajectory of improving performance.

John Finnie (Highlands and Islands) (Green): Given that stop-skipping is scored less harshly than a late arrival, does the minister accept that the franchise agreement encourages the practice?

Humza Yousaf: No, I do not, because it still counts towards a public performance measure failure. The member's colleague Mark Ruskell made the same point to me and I said that I would reflect on it when it comes to future franchises and consideration of how we can disincentivise stop-skipping. Stop-skipping counts as a PPM failure—that is important—and ScotRail is judged on its PPM statistics.

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): Will the minister look into the situation in my constituency, where scheduled trains are terminating at Hamilton Central and not continuing to the halt at Larkhall via Chatelherault and Merryton? It is not quite station-skipping; it is just missing out the final three stations, but it is an all-too-regular occurrence, which has left many of my constituents stranded, out of pocket and incredibly upset, especially if they have annual season tickets.

Humza Yousaf: Yes, I will look into the situation and I will mention it to Alex Hynes, the MD of the ScotRail Alliance. I will encourage him to meet the member. She is absolutely right, it is a source of frustration if a train does not stop at the final three stops when it was expected to do so. I accept and do not minimise or dismiss the concern.

I will arrange for Alex Hynes to speak to the member about the issue. I know that she has had good engagement with him about other issues, including antisocial behaviour at Hamilton Central.

Colin Smyth (South Scotland) (Lab): Given that the performance data on stop-skipping and overcrowding, and even the targets towards which ScotRail works, are not routinely published, does the minister accept that it is time for ScotRail and the Government to come clean to the travelling public and publish the statistics on stop-skipping on a routine basis, so that we can properly assess performance?

Humza Yousaf: I do not accept Colin Smyth's characterisation. A plethora of statistics are published routinely—sometimes members need to be pointed in the right direction in that regard, and I will reflect on that.

I am not dismissing the member's concern. However, we are very up front with our figures, which is why I have been able to give him figures

period by period. I can break down the figures by line and service, as well, and I am more than happy to do so, because we have nothing to hide, in that we want to see ScotRail improve and are working hand in hand with ScotRail on that. When the independent review is published, I will be more than happy to speak to Colin Smyth, in his new role overseeing transport issues for the Labour Party, about the recommendations.

Fulton MacGregor (Coatbridge and Chryston) (SNP): I have some sympathy for people who are concerned about stop-skipping, given that Coatbridge Sunnyside and Coatbridge Central have been subject to the practice in recent weeks, to the annoyance of many commuters.

Does the minister agree that last year's Treasury announcement that rail funding for Scotland will be £600 million less than is needed over the five years from 2019 is a major factor and risks doing serious damage to rail projects, performance and infrastructure?

Humza Yousaf: Yes. The member makes a good point. Any shortfall in funding will impact on infrastructure and the maintenance of the railway. We will continue to have a dialogue with the United Kingdom Government about that.

Notwithstanding that, there is clearly an imperative for ScotRail to improve its performance and to reduce the practice of skipping stops, and I know that Alex Hynes takes that seriously. We will continue to focus on the issue while having conversations with the UK Government on what is a very damaging settlement for Scotland's railways.

The Presiding Officer: That concludes topical questions. I thank the minister for taking all members' questions. There was clearly a high level of interest, and we had some time in hand.

Gender Representation on Public Boards (Scotland) Bill: Stage 3

14:34

The Presiding Officer (Ken Macintosh): The next item is stage 3 proceedings on the Gender Representation on Public Boards (Scotland) Bill. In dealing with the amendments, members should have the bill as amended at stage 2, which is Scottish Parliament bill 16A, the marshalled list and the groupings. The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for the first division will be 30 seconds. Members who wish to speak in the debate on the group of amendments should press their request-to-speak buttons as soon as possible after I call the group.

Amendment 1, in the name of the Cabinet Secretary for Communities, Social Security and Equalities, is grouped with amendments 2 to 5.

The Cabinet Secretary for Communities, Social Security and Equalities (Angela Constance): I am pleased to have reached stage 3 of the Gender Representation on Public Boards (Scotland) Bill with only a small number of technical amendments to be considered. The bill sets a gender representation objective for public boards that 50 per cent of their non-executive members are women—an objective that, I am pleased to say, has met with almost unanimous cross-party support. That support speaks to what is at the heart of the bill, which is equality for women.

The amendments that I am speaking to this afternoon are all technical amendments to schedule 1 and are intended to ensure consistency and to add one public authority.

Amendments 1, 3 and 5 amend the entries in schedule 1 for health boards, the National Library of Scotland and special health boards, to ensure that the excluded positions for those boards are consistent with those for the boards of other public authorities. There is a great deal of variation in the composition of the boards of our public authorities and in the arrangements for determining their membership. In some instances, a board will require that people holding certain positions in another organisation or forum are members, or it may include members who are directly elected or nominated to the board. Those positions are excluded from the bill in order to avoid interference in elections or other selection processes.

Amendment 2 adds the Independent Living Fund Scotland to the list of public authorities that are covered by the bill.

Amendment 4 is a minor technical amendment that adds a Scottish statutory instrument number to the entry for the Scottish Social Services Council—again, for consistency.

I ask members to support amendments 1 to 5, and I move amendment 1.

Mary Fee (West Scotland) (Lab): I am happy to support all the amendments in the group. As has been previously stated, amendments 1, 3 and 5, along with amendments 2 and 4, are minor amendments that will improve the clarity of the Gender Representation on Public Boards (Scotland) Bill. By explicitly excluding individuals and including organisations, they add further clarity to the legislation.

Amendment 1 amends the provision for health boards to exclude specific members, and amendment 3 amends the provision to exclude specific members from the National Library of Scotland. Amendment 5 would also amend the bill to make an exclusion. Amendment 2 adds the newly established Independent Living Fund Scotland to the list, and amendment 4, as the cabinet secretary has said, is a small technical amendment relating to the entry for the Scottish Social Services Council.

During the Equalities and Human Rights Committee's evidence sessions, there was a call from many witnesses for the bill to be as clear as possible, to ensure that it was well enforced. These minor amendments strengthen the bill and improve its clarity by providing greater detail in the wording, so I am happy to support them.

Jamie Greene (West Scotland) (Con): My only brief comment is that Conservative members will support the amendments, as they are largely technical in nature.

The Presiding Officer: Does the minister wish to make any comments in winding up?

Angela Constance: No.

Amendment 1 agreed to.

Amendments 2 to 5 moved—[Angela Constance]—and agreed to.

The Presiding Officer: That ends the consideration of amendments.

As members will be aware, at this point in the proceedings I am required, under the standing orders, to decide whether any provision in the bill relates to a protected subject matter—that is, whether it modifies the electoral system or franchise for Scottish parliamentary elections. If it does, the motion to pass the bill will require support from a supermajority of members. In my view, no provision of the Gender Representation on Public Boards (Scotland) Bill relates to a

protected subject matter, and therefore the bill does not require a supermajority at stage 3.

Gender Representation on Public Boards (Scotland) Bill

The Presiding Officer (Ken Macintosh): The next item of business is a debate on motion S5M-10159, in the name of Angela Constance, on the Gender Representation on Public Boards (Scotland) Bill at stage 3.

14:40

The Cabinet Secretary for Communities, Social Security and Equalities (Angela Constance): I am delighted to open this afternoon's stage 3 debate on the Gender Representation on Public Boards (Scotland) Bill. The bill will make Scotland the only country in the United Kingdom to have a statutory objective for women's representation on public sector boards.

It is unacceptable that women are still underrepresented in senior positions in the boardroom, paid less than their male counterparts and subjected to sexual harassment and violence. Young women who are growing up in Scotland today should not have to accept those things as inevitable. Women are not a minority; at nearly 52 per cent of the population in Scotland, they represent the majority. Our voices should and need to be heard in decision-making spaces, whether in the boardroom, on the floor of this chamber or elsewhere. We know that greater diversity in the boardroom leads to better performance by encouraging new and innovative thinking and better decision making. In other words, it is the smart as well as the right thing to do.

The Gender Representation on Public Boards (Scotland) Bill sets an objective for public boards in Scotland of 50 per cent of non-executive members being women, and it places a duty on Scottish ministers and public authorities to encourage women to apply for board positions. The bill also requires that, if there are two or more equally qualified candidates for a position, a woman should be appointed if doing so will help the board to meet its 50 per cent objective.

One of the most common arguments that I have heard from those who do not favour the legislation is that appointments should be made on merit. I want to make it crystal clear that appointments to our public bodies are made on merit and will continue to be made on merit. We want the very best people with the right skills and experiences to sit on Scotland's public boards, and that means ensuring that we reach out to and attract diverse and talented people, women included. It is when boards do not reflect the diversity of Scotland's communities that we should be concerned about merit. Let me also make it clear to those who have

wrongly portrayed the bill as seeking to impose quotas—which it does not—that it sets out a 50 per cent gender representation objective and requires steps to be taken to meet that objective.

I am grateful to the members and clerks of the Equalities and Human Rights Committee, which scrutinised the bill at stages 1 and 2. Our engagement with the committee has been constructive and helpful, and the bill that we have before us now is stronger as a result of that engagement. I thank all those individuals and organisations, such as Women 50:50 and Engender, who provided written and oral evidence to the committee. I also thank the Delegated Powers and Law Reform Committee and the Finance and Constitution Committee as well as the Commissioner for Ethical Standards in Public Life in Scotland.

We are in an enviable position in Scotland right now with regard to the gender balance of ministerial public appointments. A lot of positive progress has been made. In 2004-05, 34.5 per cent of regulated ministerial appointments were held by women, and that figure has now increased to more than 45 per cent. The change has not happened by accident; it is down to the shared ambition and action of all those involved in public appointments, including ministers, the commissioner's office, the Scottish Government's public appointments team and public authorities.

I know that a number of stakeholders have been instrumental in challenging us and helping us to make our appointments process more inclusive. We also benefit greatly from applicants taking the time to give us their feedback. Our approach has been shaped by the progress that has been made to date and by the commitment and energy of public authorities and others.

Jamie Greene (West Scotland) (Con): On that point, I welcome the significant progress that has been made to date, but why does the cabinet secretary feel the need to use legislation to go 4 percentage points further to get to 50 per cent? It is a genuine question and I will be happy to hear the response.

Angela Constance: The strength of our commitment and this Parliament's willingness to legislate will send a strong message about how much we value equality of opportunity and how it should be embedded in our culture, in our aspirations and in how we do business. Legislating in this area is important because it means that our direction of travel is firmly secured for the future. The bill is about locking in the gains that we have worked hard to achieve and working harder to achieve further progress. I often quote Zadie Smith, who said:

“progress is never permanent, will always be threatened, must be redoubled, restated, and reimagined if it is to survive.”

Legislation is the only way that we will achieve and maintain women’s equal representation on public boards.

At stage 2, the Scottish Government lodged a number of amendments directly in response to the committee’s recommendations. We have introduced a new duty on the Scottish Government to produce statutory guidance to support the implementation of the bill and to report to Parliament on the operation of the act every two years as a minimum.

I am pleased to say that we also accepted Mary Fee’s amendment to add a definition of “woman” to the bill so that it was inclusive of trans women without needing them to provide a gender recognition certificate. We did that because we want the bill to break down barriers and not create them. I am grateful to Mary Fee, who has advocated passionately for the bill to be inclusive of trans women, and to the Scottish trans alliance for its support and expertise.

I was also pleased to accept two amendments from Alex Cole-Hamilton, both aimed at making it crystal clear that the bill is not intended in any way to inhibit action to tackle the underrepresentation of other groups of people on public boards. I remain confident that the positive impact of the legislation will be felt not only by women but by other groups who are underrepresented, including disabled people, minority ethnic people and younger people. We want our boards to reflect the myriad of people’s backgrounds and experiences.

Of course, no element of gender inequality exists in isolation. The lack of female representation on boards is a symptom as well as a cause of wider gender inequality. All the steps that we are taking to promote gender equality across society more generally, such as tackling violence against women—both through legislation and by challenging and changing culture—addressing gender stereotyping, investing in childcare, tackling persistent pregnancy and maternity discrimination and appointing the First Minister’s new advisory council on women and girls should support actions that enable women to play an equal part in businesses, the boardroom and the workplace.

Kezia Dugdale (Lothian) (Lab): The cabinet secretary has laid out clearly the strength of the bill and what it will do to deliver equality for women. Will she share with us any understanding that she might have of why the Tories are so steadfastly against the bill?

Angela Constance: I am disappointed to say to Ms Dugdale that I can share no understanding of

why the Tories have refused to support the bill. I have said before that I think that it is misguided of the Tories. I think that they have misunderstood what the bill is about and how the actions in the bill will proceed. I do not know whether that is misguided or malicious, but I hope that, during the debate, the Tories will have cause to reflect. It would be a great message to send out—particularly to women and girls who are growing up in Scotland today—that, when it comes to advancing gender equality in Scotland, the Parliament stands united.

During the stage 1 debate, we talked about the bill being a moment, and I believe that it is. Is it a panacea for women’s inequality? Of course not. Does it mean that we can all now sit back and stop fighting for equality? Absolutely not. I wholeheartedly believe that this is a moment that the Parliament can be proud of. That is especially true as we think of the women who campaigned, almost 20 years ago, to make sure that women played an equal part in the new devolved Parliament. The Scotland Act 2016 gave us a tiny part of equality legislation, but it gave us a big opportunity to show how we can use the powers that are at our disposal to create a fairer and more equal country. I believe that we have done that this afternoon.

At moments like this, it is right to look at where we have come from and what we have achieved. This is an important year for women’s history. It is the centenary of women in Britain first getting the vote and being allowed to stand for election to Parliament. During this year, we will celebrate and reflect on the historical importance of those firsts, the events that led up to them and the women who helped to make them a reality. Without their sacrifices and tenacity, we would not be having the debate at all.

This is a time to reflect, but it is also a time to act, and the best way of honouring those women is to make damn sure that we keep believing in equality for women, that we keep fighting for it and that we move from those firsts to a last—the last time that we need to take action to remedy or mitigate the inequality that women face—so that women can take their rightful place in a society that values their contribution equally.

I move,

That the Parliament agrees that the Gender Representation on Public Boards (Scotland) Bill be passed.

The Presiding Officer: I call Annie Wells.

14:52

Annie Wells (Glasgow) (Con): Thank you Presiding Officer. I wanted to take part in today’s debate but, as you can hear, I might struggle.

During the stage 1 debate, I outlined the reasons why I could not support the Gender Representation on Public Boards (Scotland) Bill—*[Interruption.]*

The Presiding Officer: Would you like to take a drink of water and see if that helps?

Annie Wells: I think that I have actually lost my voice.

The Presiding Officer: Do you want to keep trying?

Rhoda Grant (Highlands and Islands) (Lab): On a point of order, Presiding Officer. Would it be acceptable for somebody else to read Ms Wells's speech for her?

The Presiding Officer: Thank you for that point of order. I was just about to ask the same thing. Ms Wells, would you like to continue, would you like someone else to open, or would you like me to move to the Labour speaker and then come back to the Conservative speakers?

Annie Wells: I really want to take part in today's debate but I do not think that I am going to be able to. Could I ask Alison Harris to speak on my behalf?

The Presiding Officer: Ms Harris, I will give you a few moments. I will take the Labour Party opening speaker and I will come back to you.

Ms Wells, it is on the record that you wished to speak in the debate and that, despite personal difficulties, you persevered.

I call Monica Lennon.

14:53

Monica Lennon (Central Scotland) (Lab): I have had a quick sip of water and I seem to be speaking fine. I hope that we hear from Annie Wells through the medium of Alison Harris very shortly.

I am pleased to speak in support of the Gender Representation on Public Boards (Scotland) Bill. I begin by paying tribute to the Equalities and Human Rights Committee for its diligent work. I thank all the stakeholders and the cabinet secretary for her leadership on this important issue.

I firmly believe in the effectiveness of positive action to increase women's representation. The Scottish Labour Party's record on using positive action to further women's representation is strong, and includes our use of all-women shortlists. It has consistently been shown that positive action is the only measure that works to substantively increase the number of women in politics. Voluntary measures simply do not have the same effect, and they preserve the status quo.

Like many colleagues across the chamber, I am a proud supporter of the Women 50:50 campaign, which was co-founded by my colleague Kezia Dugdale.

As I set out in my contribution to the stage 1 debate on the bill, it is a sad and stubborn fact that women remain underrepresented at practically every level of public life in Scotland—in the Scottish Parliament, the UK Parliament, our local councils, the media and, yes, on our public boards too.

Women make up half the population; we are not a minority. It should not need saying that we should also make up half the decision makers. The move to make it a legal obligation for Scottish ministers and public bodies in Scotland to improve the gender balance of our public boards is, we believe, a welcome step. The bill is far from being the panacea for women's inequality, but nonetheless it is important to ensure that the public bodies that oversee our taxpayer-funded services reflect the citizens whom they serve. Good governance can occur only if public bodies are accountable to and representative of those whom they are appointed to serve.

It is also clear that, aside from the Conservatives—although they have time to change their minds—there is widespread agreement among the parties on the need for the bill.

I will focus the remainder of my comments on the substantive content of the bill and the work of the committee at stage 2. Having read the committee report and the bill as amended, we are reassured that the issues that were raised during stage 1 have been satisfactorily resolved.

Specifically, I congratulate Alex Cole-Hamilton on his amendment clarifying the tiebreaker concern. We shared the concerns that arose during stage 1 that a potential unintended consequence of the bill could be the elevation of gender at the expense of other protected characteristics. During the stage 1 evidence sessions, groups, including Inclusion Scotland, expressed the valid concern that those with disabilities or other protected characteristics under the Equality Act 2010, including race and religion, would run the risk of being forgotten or sidelined by the bill unless the language was clarified.

The bill now clarifies that "protected characteristics" refers to those listed under the 2010 act, and that if there are two equally qualified candidates, the position may be given to a candidate who is not a woman if they have another protected characteristic. Improving women's representation means very little if the women who are being appointed are mainly middle-class, white women who have similar

backgrounds and a similar outlook. Improving representation needs an intersectional approach and will lead to meaningful change only if boards are committed to changing the culture.

In the chamber today, there has been further scrutiny of Police Scotland and the Scottish Police Authority. I am mindful, from my time on the Public Audit and Post-legislative Scrutiny Committee, of the example of Moi Ali, a black or minority ethnic woman who sat on the Scottish Police Authority board. By all accounts, Moi was a very experienced and respected board member, but she was treated quite awfully during her time on the SPA. In evidence to the committee, she agreed that she had been bullied. When I asked whether all the things that had happened to her would have happened had she been a man, she said no. She gave examples of male colleagues taking similar actions to those that she took, but she was the only one who was treated a certain way.

That is an example of a high-profile woman's voice on a public board not being valued. Although that has not been the experience of every woman on a public board, it draws attention to the risk that the culture can discourage women from applying for such positions in the first place. In my view, a lot more work needs to be done to ensure that boards are leading inclusive recruitment processes and that increasing the representation of protected groups leads to meaningful culture change.

The cabinet secretary has already paid tribute to my colleague Mary Fee and the Scottish trans alliance. A further strength of the bill has been the clarification of the term "woman". At stage 2, amendment 10, in Mary Fee's name, added a definition to the bill to ensure that the legislation is inclusive of trans women, including those who do not have a gender recognition certificate. That is important.

The stage 2 amendments in the name of the cabinet secretary were very welcome. They included an amendment on guidance for public authorities on how to deal with the tiebreaker issue in the appointment of candidates following the amendment of section 4. The commitment from the Government to report on the progress of the legislation is reassuring and will allow Parliament to scrutinise the legislation's effectiveness.

In light of the stage 2 amendments, we are more than satisfied that the concerns raised during the stage 1 evidence sessions have been addressed. The bill is sensible and necessary, and I have to admit that I am baffled as to why Conservative members persist with their opposition to it. Even at this late stage, I urge them to reconsider their position. Maybe Annie Wells could nod—we could take that as a yes. If Conservative members care

about fairness and improving the representation of protected groups, they should vote for the bill.

I am delighted to have the opportunity to reaffirm my support and that of the Scottish Labour Party for the bill. Creating legislation that gives women greater rights to representation is a bold move, and I hope that it is the first step towards creating an equal playing field for all women at all levels of public life.

As the cabinet secretary said, next month will mark 100 years since some women in this country first gained the right to vote. That is a landmark to be celebrated, yet it is a reminder that, despite how far we have travelled in 100 years, the slow march towards true equality of representation for women still has some way to go.

Unfortunately, measures such as the bill are still required. At the heart of the Gender Representation on Public Boards (Scotland) Bill is the aim of promoting equality in Scotland; for that reason alone, I am proud to support it.

The Presiding Officer: Thank you. I now call Alison Harris. I am grateful to her for giving voice to Annie Wells's words.

15:01

Alison Harris (Central Scotland) (Con): During the stage 1 debate, Annie Wells outlined why she could not support the Gender Representation on Public Boards (Scotland) Bill. She wants to again stress that although we can agree on a vision for gender equality, it will not always be the case that we agree on the means of achieving it.

Annie Wells truly appreciates that the bill is well intentioned but she cannot be persuaded that it will address the deep-seated societal, economic and cultural barriers that prevent women from applying for such positions in the first place; nor can she be persuaded that, following the stage 2 amendments, the bill will be an effective and clear piece of legislation.

The Scottish Conservatives have worked constructively throughout the bill process to ensure that the bill is in the best shape that it can be in. We have agreed to all the stage 3 amendments, as they are minor changes to schedule 1 and relate to affected public authorities. However, based on its basic principles, we will be voting against the bill as a whole.

As a member of the Equalities and Human Rights Committee, Annie Wells was pleased to see positive changes being made at stage 2, although unfortunately she was unable to attend the stage 2 proceedings due to ill health. In particular, she was pleased to see the committee agree to Mary Fee's amendment 10, which sought

to broaden the definition of “woman” so that the legislation would be as inclusive as possible, recognising that not all trans women possess a gender recognition certificate.

Annie Wells was also pleased that the Scottish Government, having listened to the concerns of the committee, committed to issuing guidance to support the operation of the legislation. She welcomed Alex Cole-Hamilton’s amendment 1, which highlighted the need to address the tiebreaker situation whereby two candidates of equal measure, one a woman and the other a man with a protected characteristic, may compete for the same position. That was an important addition to the bill that recognised feedback from the committee evidence sessions.

Despite wishing the bill to be in the best shape that it can be in, Annie Wells is still of the opinion that remaining ambiguities will prevent the bill from being a robust piece of legislation.

How the bill will operate in practice is key, and despite her support for the bill including other protected characteristics, Annie Wells remains unconvinced that there can ever be true clarity over the tiebreaker scenario, although there has been a significant addition to the bill. She appreciates that guidance will cover that issue, but as our colleague Jamie Greene pointed out at stage 2, how will the guidance be able to state clearly to whom greater weight is to be allocated? The cabinet secretary stated in response that there will be no automatic preference and—using a term that is as subjective as “equal measure”—that

“the appointing person could give preference to the man if they consider that to be justified.”—[*Official Report, Equalities and Human Rights Committee*, 21 December 2017; c 6.]

Annie Wells is also unclear about the effectiveness of a bill that sets legislative targets that require mandatory reporting yet does not impose sanctions or penalties for non-compliance.

Much was said in the stage 1 debate about language and whether it is appropriate to use the terms “quota” or “statutory quota” in relation to how the bill will operate. This is where Annie Wells finds the bill’s objectives confusing. It sets out a legislative objective of having women make up 50 per cent of non-executive members of public boards by the end of 2022, and it goes as far as it can go within the parameters of European Union law. If it set out mandatory quotas, that could be construed as positive discrimination and therefore unlawful.

Although the target is aspirational, at stage 2, the Scottish Government strengthened the provisions on reporting so that there will be a statutory duty on public authorities to report on

their progress, which makes the objective more than merely aspirational.

Monica Lennon: Will Alison Harris take an intervention?

Alison Harris: No. Sorry—I am just reading this on behalf of Annie Wells.

On the flip side, if there is no statutory quota and we are merely setting aspirational targets, why are we creating legislation? As highlighted in the committee’s report, with no sanctions and penalties in place, we run the risk of having

“a Bill without the appropriate teeth”

that

“risks the appearance of legislation for legislation’s sake.”

Looking more broadly at what the bill is trying to achieve—gender equality—Annie Wells of course wants vast strides to be made. Women face similar barriers to getting on to public boards as they do in relation to private boards and employment generally, so we should be focusing on the deep-seated issues. For example, just two of Scotland’s 40 London Stock Exchange listed trading companies have at least 33 per cent of board positions filled by women and only five of the 103 executive directors at those businesses are female.

In a 2015 podcast, the Chartered Institute of Personnel and Development explored whether businesses should have mandatory quotas for women in senior positions and listened to the opinions of female business experts. As well as the issue of tokenism—companies creating non-executive roles that do not do anything useful just for the statistics—the experts highlighted the need for well-thought-out organisational designs that enable women to be brought through the pipeline in ways that break institutional barriers. As Annie Wells has said previously, companies that are doing that, such as the FDM Group, are the exemplary models that we should push.

In project 28-40, a United Kingdom-wide survey that looked at the barriers that women face in the workplace, improved childcare and flexible working were cited as central to enabling women’s career progression. Legislative changes are all well and good, but our cultural expectations about gender run deep and they need to be addressed in tandem with any legislation. That includes creating transparency on the gender pay gap and ensuring that, in education, women get the best start in life.

To conclude, Annie Wells would like to reiterate her support for achieving equal representation of women in all walks of life, but she does not believe that statutory quotas are the right means to achieve that. She has questions over how effective the bill will be in practice and is

concerned that its existence could potentially delay the long-term change that is required to promote gender equality, on public boards and more widely.

Although we may go back and forth over semantics and what exactly a statutory quota is, in essence, the bill sets a legislative target. Annie Wells believes that, instead of getting drawn into creating legislation when many people still have questions over its operation, it is absolutely essential that we focus on tackling the issue of gender inequality more broadly. Positive action does not have to mean putting through legislation for legislation's sake. We need to promote educational reform and make improvements in childcare and society's attitude more generally if we are to make a real difference for girls growing up in Scotland today.

The Deputy Presiding Officer (Christine Grahame): Thank you very much—heroic stuff. Getting somebody else to read your speech is actually a good way to avoid being challenged—I will remember that one.

15:09

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): As convener of the Equalities and Human Rights Committee, I can say that the committee was pleased to have the opportunity to scrutinise the Gender Representation on Public Boards (Scotland) Bill and to seek the views of interested parties. I express my gratitude to all the committee members for their contributions, and to the many agencies and witnesses that submitted written and oral evidence. We have paid close attention to that evidence. Our gratitude also goes to the clerks, who put in a heroic effort.

Unfortunately, not everyone has agreed on a determined way ahead, but the majority are clear and the objections are more about form than they are about matter. I must say, however, that I am now more confused about the Scottish Conservatives' position. Are they suggesting that they would support the bill if there were sanctions and if the bill were to be extended to private boards? Perhaps they can address that in their closing speech.

At stage 2, a number of amendments were lodged by members of the committee and the cabinet secretary to address concerns that had been raised in the stage 1 inquiry. I am glad to see their inclusion in the bill. When the bill was introduced, the latest data showed that women made up 42 per cent of public boards' membership: women now make up 45.8 per cent of their membership. That is serious progress by any measure, but we need to do more. We need a

statutory target that enshrines our commitment to gender equality. The bill will allow us to do that.

The word "quota" makes some people nervous. It need not, because what we are trying to do will work to everyone's advantage. There will be no losers. Private sector boards are generally responding enthusiastically, although some continue to try to remain in the past. However, if they fight against the prevailing trend, they are the ones that will suffer. They may find that their clients seek other suppliers and that their boards will be disadvantaged by a lack of female representation.

As Engender pointed out to the committee:

"Research by Close the Gap found that employers who take concrete steps to address women's inequality in work led to several benefits, including: 1) reduction in costs through lower turnover; 2) improved employee morale and motivation; and 3) higher levels of productivity."

There are no losers. It goes on:

"In their paper 'Gender Equality Pays', Close the Gap reports 'The business benefits of increasing the gender diversity of the workforce lie in better decision-making and problem-solving capacity, as a variety of perspectives are brought to the table, and companies benefiting from women's 'market proximity'."

There are no losers, under the bill.

Engender also said that

"By reflecting the people they serve, gender-balanced boards can drive excellence and efficiency in public service delivery."

That will put more pressure on private companies to be convinced by the public sector lead that is being taken through the bill.

I am convinced that only a statutory quota will promote a situation in which equality becomes the norm. Equality is not the norm. I want the Scottish Government to be a leader, and to seek to move forward on an issue that sits at the heart of the Scottish National Party's agenda and, I hope, the Scottish Parliament's agenda.

The Representation of the People Act 1918 began the process of women being eligible to vote—albeit that they could do so only as long as they were landowners and had their husbands' permission. How we have moved on. It has taken only 100 years, but I am not prepared to wait another 100 years. I sometimes think that a terrifying number of people still think that the 1918 act should be the case and that for them the idea of an independent woman is not only strange but totally inexplicable—a bit like the Tory position on the bill.

In its evidence, Engender told us:

"A contributing factor to occupational segregation and men's overrepresentation in senior positions, including public boards, are assumptions made about women's and

men's capabilities and preferences. However, research from Catalyst, a non-profit organisation working to accelerate progress for women through workplace inclusion, found that 55 percent of women aspired to be in a senior leadership position."

We should create the opportunities for that 55 per cent and, I hope, more.

Engender added:

"Achieving gender balance on public boards has the potential to influence occupational segregation through challenging gender norms and perceptions around public authority, and providing children and young people with a more diverse range of role models. Equal representation will also drive excellence in public service delivery as decision makers better reflect the populations they serve."

There are no losers under the bill.

Finally, Talat Yaqob from the smashing organisation Women 50:50, of whose steering group I am a member, told the committee that

"Soft and gentle approaches involving training and development have been done for decades, and they have not got us to 50 per cent."—[*Official Report, Equalities and Human Rights Committee*, 21 September 2017; c 17.]

I agree with her.

Rory McPherson from the Law Society of Scotland told us:

"after 10 years of voluntary schemes, we are yet to achieve gender diversity on public boards. Against that background, the Law Society supports the bill".—[*Official Report, Equalities and Human Rights Committee*, 21 September 2017; c 19.]

So does the committee.

I believe that what the committee—and the Government—has come up with, and what working together has brought us, have moved us forward. The bill sets out clear ambitions genuinely to get rid of outdated notions—some of which we have heard today—and to replace them with new traditions that are built on equality and fairness.

I will support the Gender Representation on Public Boards (Scotland) Bill when it comes to the vote at 5 o'clock.

The Deputy Presiding Officer: I advise members that there is time in hand, so I can be generous with speeches. Members will not hear me say that very often.

I call Alexander Stewart, to be followed by Mary Fee.

15:15

Alexander Stewart (Mid Scotland and Fife) (Con): No one can fault the intention of the bill. The ambition to make public boards more representative is something that, I am sure, we all support. However, the problem with the bill is that it is unlikely to achieve its objectives, and I do not

believe that it will make a meaningful difference to girls and young women who are growing up in Scotland today. It is yet another example of legislation that has not been completely thought through.

There is undoubtedly an issue that needs to be addressed. At the moment, women make up only 45.8 per cent of the membership of public boards, despite accounting for half of Scotland's population. For all its faults, the bill has at least highlighted that issue and given it the attention that it deserves, which is something that should be welcomed as we move forward.

However, the bill's sole focus on public boards might lead one mistakenly to think that the problem relates only to them, which could not be further from the truth.

Alex Cole-Hamilton (Edinburgh Western) (LD): I am grateful to Alexander Stewart for giving way. I was struck by his remark that the bill will not achieve anything, which came hot on the heels of Annie Wells's speech—delivered by Alison Harris—which said that the issue is about legislative quotas. Either the bill will not do anything or it is about legislative quotas. It cannot be both. Which is it?

Alexander Stewart: The bill will not fix the underlying problem. It will take us some way on the journey, but it will not take us to where we want to be and where Alex Cole-Hamilton wants us to be, so—as I have said—quotas are not the way forward

The situation is, in fact, much worse in the private sector. Recent figures show that just two of Scotland's 40 Stock Exchange listed trading companies are hitting the already not-very-ambitious target of having at least a third of company board positions filled by women.

Christina McKelvie: Will the member take an intervention?

Alexander Stewart: I would like to continue.

Staggeringly, 13 of those businesses have no women executive directors whatsoever. The fact that the issue occurs in both the public and private sectors to a worrying degree makes it clear that there must be other fundamental factors that act as barriers to women getting on to boards, other than unacceptable discrimination with regard to gender.

The lack of ability to work more flexibly, the lack of affordable and high-quality childcare, and specific barriers that make it difficult for women to enter some occupations all contribute to underrepresentation of women on boards.

Gillian Martin (Aberdeenshire East) (SNP): I am very grateful to Alexander Stewart for taking

my intervention. Does he agree that one of the problems around the culture of attracting 50:50 representation to boards is that women cannot see themselves in such positions? If you can't see it, you can't be it. That goes way back to when women were children looking at situations that they could not access.

Alexander Stewart: The world is full of women who lead in all sectors. The ambition of women is very much there, and has happened because we have created the opportunity for them to move forward. However, as I said before, creating quotas is not the right way forward.

That is not to say that businesses are not trying to tackle the situation. They are attempting to break down such barriers, which has been focused on by many organisations and individuals. Businesses that are taking such positive steps have recognised that there is both discrimination and a clear opportunity to work within the workforce.

Nevertheless, the issue of making public boards more representative still needs to be addressed, but the bill is very confused in terms of how it would achieve that aim. It mixes a variety of different approaches that seem to contrast with what it is trying to achieve. Although the bill sets a voluntary target that 50 per cent of all non-executive board members should be women by 2022, it also includes a mandatory quota and places duties on public authorities in an effort to achieve that objective.

The requirement on public authorities to report on the actions that they have taken to meet the target will not be enough. There is, effectively, no sanction for non-compliance. That is poor, and will make the law difficult to enforce. What is the point of the duty if it is difficult to enforce?

Gail Ross (Caithness, Sutherland and Ross) (SNP): Will the member take an intervention?

Alexander Stewart: No. I would like to make some progress.

Even if we assume that the duties on public bodies will be enforceable, situations in which two candidates are exactly equally qualified for a role are likely to be few and far between. It is therefore still unclear whether the tiebreaker measure will make a meaningful difference to the promotion of women on public boards.

There is a more fundamental issue, which is that the bill does not even set out to make public boards fully representative of Scotland as a whole. Women are, of course, not the only group that is underrepresented on public boards. It is estimated that disabled people make up 19.6 per cent of the population, but in September 2017 they made up only 7.9 per cent of the membership of public

boards. Moreover, ethnic minorities make up 4 per cent of the population, but that is not reflected in their membership of public boards. Furthermore, young people do not have the opportunity to sit on public boards. The bill does nothing to address those issues of discrimination. That was highlighted during the consultation on the bill.

In conclusion, I am happy to support the amendments to the bill, because they improve it with regard to the issues of equality. However, like my colleagues, I cannot support the bill in its entirety. All of us want to see equality with regard to the representation of women on public boards and in employment generally, but I do not think that that cause will be advanced by the use of statutory quotas, which are not the right way to go about achieving the bill's aims and objectives.

15:21

Mary Fee (West Scotland) (Lab): As my colleague Monica Lennon said in her opening remarks, the Scottish Labour Party fully supports the bill.

During the stage 1 debate, members from across the chamber recognised that there was a need to amend the bill, and I am glad that that need for change was recognised at stage 2. At stage 1, I highlighted the need for the definition of a woman in the bill to be amended to include a person who has the protected characteristic of gender reassignment who is living as a woman. I would like to take this opportunity to thank the cabinet secretary and Scottish Government officials for their willingness to engage constructively at stage 2 with the Equalities and Human Rights Committee in order to amend and improve the bill. I am particularly grateful to the cabinet secretary for supporting my amendment to ensure that the bill is inclusive of all women, including trans women who do not possess a gender recognition certificate. I would also like to take the opportunity to thank the Equality Network, Stonewall and the Scottish trans alliance for bringing the issue to my attention.

The vital importance of ensuring that the bill is inclusive of trans women is highlighted by the research that Stonewall published last week, which highlights that more than half of trans people have hidden their identity at work for fear of discrimination. In addition, I would like to thank my colleagues on the Equalities and Human Rights Committee for the important role that they played in scrutinising the bill and strengthening it at stage 2 through their amendments.

The importance of the bill cannot be overstated: it is one important step towards achieving gender parity. It will act as a comprehensive, effective and robust lever to promote gender parity on public

boards. Voluntary measures to promote gender parity on public boards have closed the gap somewhat, but the bill will introduce a duty to ensure by 2020 that women make up 50 per cent of non-executive board members. In the centenary year of the extension of the franchise to some women—I repeat that only women over 30 years old were given the vote—the bill highlights that, despite the gradual and hard-fought-for improvements over the past 100 years, women in Scotland still have to fight for equal representation.

The bill is not simply about having token women in the room or around the meeting table: it is about real and tangible equal representation. Furthermore, it is about equal representation for decision making, authority and power. The fight for gender equality endures. In Scotland today, men continue to hold the power in decision making and to dominate public life, and men continue to be the majority in our boardrooms, in our Parliament and on our public boards. The bill will empower women by promoting through 50:50 gender representation the redistribution of decision-making authority on our public boards.

I welcome the Scottish Government's amendment to the bill at stage 2, which requires Scottish ministers to report on the operation of the eventual act to the Scottish Parliament. That level of parliamentary scrutiny is essential, given the role that is played by Government ministers in making appointments to public boards. The ability of Parliament to question Government ministers is good for the bill, for Parliament and for democracy as it promotes greater accountability and transparency in decision making.

I reiterate my support for the Gender Representation on Public Boards (Scotland) Bill, which will ensure gender parity on public boards by 2020. We must remember the importance of representative public boards, because when women are seen to succeed, more women engage and participate in the public sphere. I believe that the promotion of 50:50 gender representation on public boards can signal a symbolic shift in all areas of society to empower more women to become engaged in public life in Scotland and to hold positions that have decision-making authority.

15:27

Gillian Martin (Aberdeenshire East) (SNP): I am not just happy but delighted and proud to be speaking on the bill, which is hugely important in its context and has implications beyond the actual legislation. The bill should have a number of positive knock-on effects that go beyond its remit that I think are equally important and that underpin its importance. In my speech, I will draw on the work done by the Economy, Jobs and Fair Work Committee on the gender pay gap, which

concluded last year, and on the on-going work being done in the cross-party group in the Scottish Parliament on women in enterprise, which I convene.

In a wider sense, targets are essential in encouraging gender representation, and they have been shown to work. One piece of evidence that we heard in the committee's gender pay gap evidence sessions touched on that issue. Professor Ian Wall spoke about efforts to increase gender diversity in science, technology, engineering and mathematics research in higher education. He said that the uptake of the programme by women was slow until funders began to make gender diversity a prerequisite to achieving certain types of funding. It meant that they went out to attract women in and put measures in place to allow women to access the research. Professor Wall made this statement, which I will always remember:

"encouragement is good, but compulsion works."—
[*Official Report, Economy, Jobs and Fair Work Committee*,
7 March 2017; c 22.]

Ultimately, within the constraints of the Scottish Government's powers, we must deal in both encouragement and compulsion. They can work in tandem and must do so, which is why I disagree with the suggestion in Annie Wells's speech that they are either/or. We are able to legislate on the matter, but the legislation can inform or encourage a change of culture.

The oft-quoted Kinsey report on the gender pay gap shows that diverse boards lead to better business performance in the private sector too. Tanya Castell from Changing the Chemistry gave evidence to the committee that went deeper than that. She noted that it is not only gender representation on boards that matters but an organisation's wider culture. An organisation with a more diverse board might perform better, but that might be a result of an inclusive culture throughout the organisation rather than just at its highest levels.

The move today, with this bill, is hugely important, because it will allow a conversation to take place about gender representation on all boards across the public and private sectors.

The bill can be seen as one part of a wider initiative by the Scottish Government. The other initiative that is relevant is the Scottish business pledge, which includes nine ways for Scottish businesses to be more fair and progressive. One of those is about developing a balanced workforce by having gender parity on boards, and there is a commitment to eradicating the gender pay gap. That is not just about equal pay; it is about giving women the opportunities for promotion that their male counterparts get.

Before I go on, I want to say that the phrase “token woman” really upsets me, because it suggests that there are no women with enough talent to be put in at board level. I would like to pay tribute to the overlooked women of generations who had that talent—who would never have thought of themselves as a token woman—but were never fortunate enough to get a seat in the boardroom.

Members across the Parliament recognise that better and more equal gender representation is an economic issue, but I would emphasise that women’s representation is also an intersectional issue, as the business pledge recognises. To develop diverse businesses and reap the benefits of diversity, we must consider women’s representation—by women of all ages and from all backgrounds—at all levels of work. Then we will do better business, make better products and give better services, our country can realise its potential and, ultimately, companies and organisations will make better decisions.

One way in which increasing women’s representation on public boards will help us to achieve cultural change is through the development of a new generation of women mentors. From my work as convener of the cross-party group on women in enterprise, I know that mentoring regularly comes up as a topic of discussion. Research conducted last year by Women’s Enterprise Scotland showed that 43 per cent of women who owned businesses identified mentoring as the main support needed to grow their business.

Changing the culture by bringing more women with experience on to public boards in Scotland will encourage women to take their place on private sector boards as well. That is a significant opportunity that this bill engenders.

I welcome the bill, both for its effects on public boards in Scotland, which are significant, and for the message that it sends across the country and beyond. I hope that the message will be an important part of changing our general culture of work to achieve gender equity across Scotland, in both the public and the private sector.

I am not just supportive of the bill; I will be voting at decision time with huge pride at what has been put before us.

15:32

Alison Johnstone (Lothian) (Green): I would like to apologise for missing the beginning of the debate due to a misunderstanding on my part. I regret missing the cabinet secretary’s opening speech. I appreciate that she has a deep personal commitment to the issue, for which I am grateful.

I am glad to have the opportunity to confirm the Scottish Green Party’s support for the bill. I thank the committee, for the work that it has led to bring the bill to this stage, the clerks, the Scottish Parliament’s information centre, all those who gave evidence and the stakeholders who worked to improve the bill.

As a co-founder of Women 50:50, campaigning for at least 50 per cent representation by women in our Parliament, in our councils and on public boards, I believe that passing this bill today brings us an important step closer to achieving that. I take the opportunity to thank Talat Yaqoob and all my colleagues on that excellent group as we continue to work together.

We know that targets and quotas are successful. The international evidence, highlighted by Engender and others, is clear that targets and quotas can be used to great effect to bring about change. That is really important.

In November in this Parliament, I hosted an event that focused on the disproportionate impact that austerity is having on women. Austerity is gendered. That night, we heard from organisations, including Engender, Scottish Women’s Aid and One Parent Families Scotland, from academic experts, including Dr Morag Treanor of the University of Stirling, from the women’s budget group and from the University of Glasgow’s social support and migration in Scotland research team about the impact that cuts are having on women—70 to 85 per cent of cuts in public spending on benefits, taxation, pay and pensions have impacted on women.

I cannot dissociate that from the way that our national life is managed.

Christina McKelvie: Does the member agree that a two-child family cap and a rape clause are also serious barriers to women’s progress in Scotland today?

Alison Johnstone: Absolutely. They are wholly discriminatory and absolutely appalling, and I know that that is the majority view in this Parliament.

We have heard that women have borne the brunt of welfare reform. Changes to vital social and economic support are typically not planned with women’s needs and interests in mind. Women still carry out the majority of hidden domestic work, caring and emotional labour, if you like—work that is hard to quantify in any economic analysis, but which is hugely valuable.

When women are not adequately represented on public boards, it minimises opportunities to create more gender-sensitive public services and it is a declaration of our indifference to that wider lack of representation. I have said this before and I

will say it again: as a councillor in Edinburgh, when schools and nurseries were being closed, my surgeries and the meetings were full of women, but when it came to taking the votes, where were they? Largely, they were absent because they are not represented in the numbers they should be in all chambers.

The bill is a really important step, but we should recognise it as being a starting point for further action to improve diversity on public boards and in public life more generally. Patrick Harvie, in the stage 1 debate on the bill, said that, as a party, the Greens know that

“intentions alone do not result in gender balance.”—[*Official Report*, 30 November 2017; c 66.]

We have gender-balanced candidate selection mechanisms in place and we make sure that we have gender balance at the top of our regional lists as well as throughout them, but I am in Parliament with five male colleagues, so there is more to be done.

Where I will agree with the Conservatives is on the fact that this is not all about legislation. Culture change and support in the background are essential too, because if someone is a candidate at the top of the list and is a single parent with caring responsibilities—92 per cent of whom happen to be women—how can they possibly go out and canvass and campaign if they do not have adequate childcare support, for example? We have to look at the issue in the round, but I am absolutely determined that the bill is a very positive and important step.

Globally, almost 77 per cent of parliamentarians are men. Are we actually suggesting that they are all there purely on merit? Gillian Martin rightly pointed out that we refer to “token women”. Has anyone ever referred to “token men” in a quota?

We have a limited set of statistics that show changes in the demographic profile of some boards, but they do not give us great insight into how gender intersects with other protected characteristics. We must acknowledge that many people face multiple barriers to making their voices heard and taking up public leadership positions. We know from the available statistics that the percentage of disabled people on boards reduced from 15.3 per cent in 2013-14 to 7.9 per cent last year, and even that higher figure of 15.3 per cent was not representative, as disabled people make up nearly 20 per cent of Scotland's population.

As Engender stresses,

“It is extremely important that the full diversity of women in Scotland be represented in public office.”

We need strategies to enable the representation of women from minority ethnic, minority faith and

refugee communities and women with different sexualities. We have to make sure that we are striving towards being truly representative in public life, because that will bring significant benefits. As bodies develop and strengthen their strategies to encourage women to become members of public boards, it is crucial that those strategies consider that intersectional approach, and I warmly welcome Mary Fee's comments.

The Conservative approach, if I understand it, is that we should just wait until this Parliament is properly gender representative. At the rate that we are going at, that would take 50 years. That is too slow for me. I warmly welcome the progress that we are making today.

15:39

Gail Ross (Caithness, Sutherland and Ross) (SNP): As a member of the Equalities and Human Rights Committee, I begin by once again thanking everyone who gave evidence to our committee, either in writing or in person, the clerks, SPICe and my fellow committee members.

Like Gillian Martin, I am delighted to be able to speak in this important debate at stage 3 of the Gender Representation on Public Boards (Scotland) Bill. The bill introduces the “gender representation objective”, which aims for 50 per cent of non-executive members on public boards in Scotland to be women. To me, that is a step forward for common sense. Women represent 52 per cent of the population, but we still find ourselves vastly underrepresented at every step of the decision-making process in public organisations and private companies.

To take politics as an example, women make up 29 per cent of local councils and only 17 per cent of members of the European Parliament, and only 35 per cent of members of this Parliament are currently female.

Addressing the underrepresentation of women on boards is a key priority of the Scottish Government. I thought that it would be a key priority of the Scottish Parliament as well, but unfortunately we are not agreed, either as a committee or in the chamber.

The Scottish Government has been working to improve gender balance in public life for a number of years. Our cabinet has a 50:50 gender balance and our manifesto committed to continue to support the work of Women 50:50. In her opening remarks, the cabinet secretary also laid out many other initiatives that we support.

We need to support people who have a contribution to make to public life, whether they are male or female. We have to use encouragement, education, confidence building

and everything else at our disposal to achieve a gender balance, but we now need to go further. As the convener of our committee, Christina McKelvie, has already mentioned, Talat Yaqoob from Women 50:50 said:

“Soft and gentle approaches involving training and development have been done for decades, and they have not got us to 50 per cent.”—[*Official Report, Equalities and Human Rights Committee*, 21 September 2017; c 17.]

Public boards will have to provide evidence through a reporting system to show how they have altered their criteria for membership to reflect the skills and attributes that women have to offer. Concerns have been raised that having perceived “quotas” runs the risk of putting a candidate in a position for the sake of satisfying a target, but I reject those concerns because the merit is undeniably there. We must take action to remedy the factors that impede women from reaching the positions that they undoubtedly have the knowledge, qualifications and experience to hold.

The bill does nothing to change the fact that appointments will be made on merit and the best person for the job will be selected. However, the stipulation of targets, such as this one, leaves less room for the things that have precluded women from these roles in the past, such as gender stereotyping, which plays a harmful role, unconscious and unquestioned bias, which are prevalent, and many women’s lack of confidence in their own abilities. That obstacle coincides with other issues that discourage women from these roles, such as caring responsibilities, the gender pay gap and the sexual harassment crisis that we currently face in all walks of life.

Although welcome advances have been made in achieving gender equality, we are not there yet. I hope that the bill, when passed, will move us closer to reaching that aim. It matters, because data show that fairness in gender balance leads to better, fairer decisions and better outcomes for organisations and public service delivery. I truly believe that the bill is significant not just in the positive impact that it will have on practical decision making, but in its symbolic value in promoting gender equality. Gender balance needs to be fixed in many other walks of life; no one is saying that it is a panacea, but it is a start.

The Conservatives say that the bill is no use without sanctions, but there is no explanation of what those sanctions would be. Public boards are responsible for millions of pounds of public money. Would the Conservatives have us fine them? On the one hand, the Conservatives advocate voluntary measures but, on the other, they want to impose sanctions. Which one is it?

Jamie Greene: To clarify—as a few members have raised that issue—we are not proposing that there should be sanctions on public boards.

However, if there are no sanctions—if the bill does not provide the ability to enforce its objectives on public boards—what is the point of the bill?

Gail Ross: I am quite confused by that intervention. He asks, if there are no sanctions on public boards, how can we realise the objectives of the bill? My question is: what sanctions on public boards would you want to see? How would you sanction them?

We want to see a reporting mechanism that shows how public boards have encouraged women to apply for positions that are currently dominated by men. I hope that by shining a light on the public sector, as we hope to do, we can encourage gender equality in the private sector as well.

In my speech in the stage 1 debate, I mentioned several pieces of evidence that the committee heard. I will not repeat them all, strong as the evidence was, but I leave members with a quotation from Suzanne Conlin, from the Scottish Women’s Convention, who said:

“One of the reasons why we think the bill is important is that women tell us that it is.”—[*Official Report, Equalities and Human Rights Committee*, 21 September 2017; c 2.]

A great deal of thought and scrutiny, in the committee and in this chamber, have gone into the bill. We think that the bill is the best mechanism for promoting gender equality on public boards that we can currently provide. I am glad that the stage 3 amendments were agreed to. Like Gillian Martin and everyone on the Scottish National Party benches, I will be proud to support the bill today, and I urge other members to do likewise.

15:45

Alex Cole-Hamilton (Edinburgh Western) (LD): I, too, thank the clerks, SPICe and all the witnesses who helped our committee to get the bill into the form that it is in this afternoon. This is a first for me: it is the first time that I have spoken in the stage 3 proceedings of a bill that I helped to steward though every part of the parliamentary process. That experience has set a standard against which I will measure every bill with which I am involved during my parliamentary career.

Given the hugely important nature of the bill and the cultural change that it seeks to foster, it was gratifying that, in the main, the members of the Equalities and Human Rights Committee, of which I am deputy convener, were able to set aside their party differences and come together to make the bill as good as it could be.

I am grateful to the cabinet secretary, her advisers and the bill team for the access and fair consideration that they gave me in respect of the changes that I sought to bring about at stage 2, in

particular the inclusion of references to protected characteristics. Members have been kind in recognising those changes.

In the earlier iteration of the bill, section 4(4) left open to interpretation the means by which an appointing person could disregard the imperative to appoint a woman in the event of a tie. It suggested that the appointing person could decide to select a man over a woman in the event of a tie if there were

“a characteristic ... particular to that candidate”,

other than merit, that commended his appointment.

To my mind, and in the view of many stakeholders, the subjective interpretation of the subsection offered a loophole that could entirely undermine the spirit of the bill. An appointing person might say, “I appointed him because we’ve been friends for years and he deserves this”; theoretically, a friendship could have been the characteristic that was cited as a reason to disregard the gender representation objective.

The amendment that I lodged, which provided that section 4 would explicitly refer to “a protected characteristic”, addressed the issue. It also answered the significant concerns that other minority groups had raised throughout the committee’s consideration. Minority groups feared that leaving the bill unamended would threaten efforts to increase diversity in other ways. They argued that if the sole focus were on appointing a female candidate in the event of a tie, the opportunity to appoint someone with a disability or from an ethnic minority background might be closed off. The wording of the amendment, which was arrived at in collaboration with the Government, answered both issues and I am grateful for the fair hearing that was afforded to me.

On sanctions, I have listened with interest to the Conservative line of attack. The amendments in relation to the reporting duty, which I helped to draft, created an imperative for organisations to consider how they will deliver on their duties under the bill. That is a tried-and-tested technique. In addition, I point out to the Conservatives—often the self-styled guardians of the public purse—that if we imposed sanctions we would financially penalise public organisations. I see no sense in that.

I acknowledge my colleague Mary Fee’s work to amend the bill to ensure that the definition of “woman” in the bill recognises trans women.

It is fair to say that the bill was stewarded through our committee in a spirit of consensus across all parties—that is, until the Conservative members came ashen faced to our meeting before

the stage 1 debate to reveal that, after all their efforts to help to scrutinise and improve the bill, their party would not be supporting it.

As we heard, the principal controversy for members of the Tory party has been to do with the view that the bill will lead to affirmative action, with the establishment of the gender representation objective somehow equating to the imposition of a quota. Their suggestion is that, once enacted, the legislation will impede a male applicant of higher calibre than a woman. That is nonsense. By any stretch of the imagination, the bill has nothing to do with quotas. Indeed, the section that covers the issue—the very heart of the bill—could not be clearer. It states:

“(1) The appointing person must determine whether any particular candidate is best qualified for the appointment.

(2) If no particular candidate is best qualified for the appointment, the appointing person must identify candidates it considers are equally qualified.”

It goes on to make provision for the appointing officer to select a woman in the event of a tie, if that board has not achieved the gender representation objective.

If that first section on merit did not exist, that would not be acceptable, nor would it be legal. The phrase

“best qualified for the appointment”

trumps everything and holes below the waterline any assertion that boards would be compelled to put a 50:50 target ahead of talent, so I am baffled by the position taken by the Conservatives. No other interpretation of the bill can take us away from the reality that merit has supremacy over gender in the bill that we are debating today.

Jamie Greene: Will the member take an intervention?

Alex Cole-Hamilton: I was about to ask Jamie Greene to come in, actually. If he will hold on for just two seconds, I will invite him to answer that point. During the committee’s consideration of the bill, Annie Wells herself stated that gender did not trump merit when she said:

“As far as I can see, merit sits at the heart of the bill.”—*[Scottish Parliament, Equalities and Human Rights Committee, 28 September 2017; c 12-13.]*

I would therefore welcome an intervention from Jamie Greene to speak on behalf of Ms Wells on that point. As I told her at stage 1, I agreed with what she said in September, so why does she not?

The Deputy Presiding Officer: Mr Cole-Hamilton is extending an invitation to you, Mr Greene.

Jamie Greene: I accept the invitation to intervene. I cannot comment on behalf of Annie

Wells, although I will try to elicit from her before my closing remarks her view on that specific point.

I guess that I want to ask Mr Cole-Hamilton a question about the definition of the terms “best qualified” and “equally qualified”. On the face of it, those seem like subjective terms, and I wonder how an appointing person will address those very issues in the event of a so-called tie-break, when preference in that situation will be given to a woman candidate. I have concerns that those terms are unclear, unspecified and undefined.

Alex Cole-Hamilton: I thank Jamie Greene for that slightly long intervention.

The Deputy Presiding Officer: We have time in hand.

Alex Cole-Hamilton: Thank you, Presiding Officer.

I am not sure how the Conservative Party goes about appointing people, but I hope that there is some system to it. Usually, when one is involved in an appointment process, one scores people against a person specification and gives them a ranking, which can sometimes be very sophisticated with hundreds of points awarded, and then one can calibrate that against two equally qualified people and identify them by their scoring. I certainly hope that the Conservatives take that seriously when they appoint people within their party.

I find both Annie Wells’s conversion against the bill and that of Jamie Greene, presumably at the hands of their whip, singularly depressing. The bill may represent just a light touch on the tiller in terms of the actual impact that it will have in the make-up of public boards right now—on which, as we have heard, we are making significant progress towards parity, which is gratifying—but it is absolutely vital. It is as necessary as it is welcome. It builds in a mindset that will ensure that our struggle towards parity in gender representation in the engine rooms of our society is both continuous and lasting.

Next week, we will celebrate the centenary of women’s suffrage. One hundred years on, we see in every aspect of our lives the frontiers that we must still contend with if we are to bring about full gender equality, whether that is in the struggle around equal pay, in sexual harassment or in gender stereotypes. I am proud to have played just a small part in this Parliament’s efforts to push back on at least one of those frontiers in the bill that we debate this afternoon, and I urge members to support it.

15:53

David Torrance (Kirkcaldy) (SNP): I welcome this opportunity to speak in today’s debate on the

Gender Representation on Public Boards (Scotland) Bill in order to raise the importance of the issue of gender equality and make equal representation a statutory duty. Throughout history, Government institutions have suffered from unequal gender representation, and that continues to this day in most advanced democracies. On average, globally, the representation rate of women in national Parliaments is less than 20 per cent and the percentage is significantly smaller at lower levels of government. Despite the general picture, there are some exceptions, such as Rwanda, Sweden and South Africa—key countries that we are lagging behind significantly. In essence, one half of the world’s population is underrepresented and that is unacceptable.

Throughout history, Governments have achieved little in promoting diversity and actively supporting minority ethnic, faith and refugee communities, women from working-class backgrounds, disabled women, younger and older women, and lesbian, bisexual and transgender women. Therefore, I am proud that this Parliament and Government have made unprecedented progress. If we are to progress as a democracy, the female 52 per cent of the Scottish population should be given equal representation in our elected bodies and public boards, as well as in the private sphere.

Recent research highlights some key facts that support the bill. Globally, women generate 37 per cent of world gross domestic product while making up 50 per cent of the global working-age population. They are underrepresented in all areas of the economy, which highlights the underlying gender imbalances in our society, as well as in our global and national economies.

The facts are well known. Evidence from all over the world has shown that all forms of diversity are central to a productive workforce, which has knock-on effects for the population as it leads to better democratic practices by addressing the debate about who governs. Research has shown that the gender gap in this country’s councils has shrunk; female representation on Scottish councils has increased from 24 to 29 per cent since 2012. However, women continue to represent less than one in three councillors as of the May elections in 2016 and, at present, 76 per cent of local councillors in Scotland are men. Equal gender representation leads to vibrant cultures, greater innovation and creativity. To do that, we need to change our government representative system that discourages rather than applauds that key initiative.

One of the main shifts in the equal representation of genders has been attributed to the adoption of positive measures that aim to

improve women's representation and participation. Benefits of the bill mirror the benefits from the results that have been achieved by those actions. They have been proven to create diversity through the women who are elected to office, to bring women's issues to the heart of policy making, to change the gendered nature of the public and private spheres, and to set examples for those interested in politics.

I have been a member of the Equalities and Human Rights Committee since the beginning of this parliamentary session and we have heard hours of evidence. Evidence from Engender suggested that a gendered power balance in the wider public domain has a major impact on equality of outcomes across Government. We found that women stop putting themselves forward for positions on public boards following multiple unsuccessful attempts to secure interviews for positions for which they are clearly qualified, and it is believed that that is due to gender discrimination. Increasing the number of women in positions of power, including on public boards, is one step towards combating that, but it must be accompanied by supporting measures.

By encouraging equal representation of genders in public bodies, we challenge normative gender roles and stereotypes and perceptions of public authority. Positive measures have proved to be successful in several countries around the globe. Uganda, which stands out as an example of that, has a representation rate of 35 per cent, which rose from a rate of 3 per cent before the implementation of quotas. South Africa adopted voluntary gender quotas and, although they were optional, the representation rate in the South African National Assembly rose from 4 to 25 per cent. Similarly, Bolivia's legal candidate quotas symbolise a step forward in equal gender representation by requiring political parties to nominate an equal number of women and men as candidates in elections.

The trends are similar in advanced democracies, especially with regard to public bodies. International evidence has demonstrated that equal representation of genders adds different perspectives to policy making and increases the prospect of gender-sensitive public services. The Nordic model, for example, applies equal gender representation laws to all public commissions, committees and boards. The knock-on effect is that the public sector is encouraged to change organisational cultures in order to increase the demand for women on boards and chairs.

The role of political parties will be crucial in levelling the playing field if we are to adopt the legislation. Legally binding measures are a must in order to break down obstacles to women's

participation. Although we are making steady progress, the pace of change remains slow.

Over the past few months, the committee carefully drafted a report that made several recommendations to improve the details of the bill. They included ensuring that the law would be understood and accessible, that there would be adequate monitoring of progress and that the bill would be applicable to trans women. The bill is designed to tackle a variety of economic, cultural, social and political factors that discourage women from applying for certain positions. We need to ensure that the laws are being properly implemented so that the bill's aims are achieved. The Scottish Government is committed to enforcement and will hold our public officials to account. We must compensate for institutional and cultural obstacles as a result of gender imbalances to assess systemic discrimination.

I welcome the support of members in the chamber today for this vital piece of legislation. It is our job as policy makers to promote justice and women's interests in public life and to ensure incremental positive changes. We must continue to work with organisations that play a direct or indirect role in enforcing gender equality laws, including women's organisations, grass-roots institutions and the courts, as well as individuals in our daily lives.

The bill will lead to unprecedented opportunities by uncovering barriers to social and economic resources, training opportunities, quality employment and career progression. At decision time today, I will support the bill.

16:00

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): I am pleased to speak in the debate. The Scottish Conservatives agree that there should be more women on public boards, but this bill is not the way to do it. The bill has ambui—ambiguity—I cannot say it.

Gail Ross: Ambiguity.

Rachael Hamilton: Thank you. As my colleagues have highlighted, can there ever be true clarity over the tiebreaker scenario? Alex Cole-Hamilton gave us his subjective view on the process of point-scoring applicants to overcome the tiebreak situation, but that is not exactly a solution.

There is no doubt that there should be a drive for equal representation on public boards. As we have heard, Scotland is getting there, with women making up 45.8 per cent of public boards' membership. Day by day, month by month and year by year, improvements are being made,

albeit slowly, and it is important that we see such improvements.

Nevertheless, the bill risks covering problems in society. It may create a false impression that everything is fine when, in reality, it is not. I hope, as we all do, to see 50:50 gender representation on public boards and in other walks of life, too. However, the bill may make it harder to identify the root causes of gender discrimination, because we would no longer have an outcome to measure progress against. The focus must be on the root causes. I, too, pay tribute to the fine and able women who have fallen through that net.

Monica Lennon: We have heard a lot from the Conservatives about their technical concerns about the bill, but it has not escaped my notice that the Women 50:50 website, which lists the MSPs who have signed up to the campaign's objective of women representing 50 per cent not only of public boards but the Parliament and our councils, shows that not a single Scottish Conservative MSP has backed the campaign. Why is that?

Rachael Hamilton: Monica Lennon will know that I am part of the women2win initiative in the Scottish Conservative Party, in which my colleague Annie Wells is instrumental. Through the initiative, we are seeking to improve the gender balance in our party.

How do we eliminate weak male attitudes that gender stereotype women? Many such attitudes start at the grass roots and not on boards, in those environments where prejudices are formed and gender stereotyping is perpetuated. It is those stereotypes and prejudices that we must challenge daily.

As politicians and as a society, we must question our actions, and, to make that progress, we need to continually challenge unacceptable attitudes. That is happening—the end of last year and the beginning of this year have highlighted that. The #MeToo movement has uncovered sexist and misogynist behaviours in Hollywood. Last year, those same behaviours were exposed in Parliament, and this year they were exposed in the business community. There is no longer a place for such attitudes and behaviours to hide, and there should not be. Our own Parliament has just carried out a survey and will take action shortly to ensure that those attitudes are stamped out.

The bill will also not address what is happening in the private sector. Despite the positive progress on public boards, the situation has worsened in the private sector. Just two of Scotland's 40 listed trading companies have hit the target of having at least 33 per cent of their board positions filled by women. Only five of the 103 executive directors at

those businesses are female—down from eight last year.

Christina McKelvie: Is Rachael Hamilton saying that the Tory position is that the bill should be extended to private boards? Instead of dancing around the daffodils and being here in 50 years' time, saying the same things, that is the only way that we are going to deal with this.

Rachael Hamilton: May I ask Christina McKelvie whether she believes that it is acceptable that the Scottish ministers recently appointed one woman member to a board of seven at Crown Estate Scotland? Was that because it was an interim measure or because they are not dealing with their own ingrained attitudes?

Gail Ross: Will the member take an intervention on that point?

Rachael Hamilton: I would like to make some progress.

That is evidence that there is still something very wrong at the grass-roots level. Do these organisations provide an environment that promotes equal opportunities, that offers flexible working hours and that supports women who are returning to work?

More work needs to be done to explore solutions to barriers to women entering the workplace. Women are still underrepresented in our workforce, which can be because of a lack of flexible working hours, a lack of affordable quality childcare, occupational segregation or a lack of opportunities for men and women to network. Those issues are the same ones that prevent women from appearing on public boards. They should be focused on, and an innovative and dynamic approach to work culture should be evaluated and addressed. We should move to an approach that works for everyone, including private and public boards. With developments in technology, a solution that works for everyone should be easy to find.

The bill might be supported, but I fear that it would not do anything to tackle the issues that have resulted in a gender representation imbalance. The contrast between public and private boards highlights a huge issue in respect of approach. We must therefore explore further the reasons for that difference and understand where things are going wrong. When we uncover the causes, we can work towards a solution.

My colleague Annie Wells highlighted another issue with the bill in that it might create issues of positive discrimination. The evidence that has been gathered has highlighted that some people feel that mandatory quotas are discriminatory. If the bill sets out mandatory quotas, it could be

construed as supporting positive discrimination, which is unlawful.

It is that ambiguity—ambigu—

Gail Ross: Ambiguity.

Rachael Hamilton: —thank you—that the bill has the potential to create. Legislation should not be passed while those issues are still prevalent and questions are being asked about whether the bill will do harm.

The Scottish Conservatives cannot support the bill because it is not the right way to achieve 50:50 representation. That does not mean that we do not want to see gender balance—of course we do, and of course we must work towards that goal. However, to do that we must focus on root causes and not on this ambiguous bill.

16:07

Jenny Gilruth (Mid Fife and Glenrothes) (SNP): I thank the members of the Equalities and Human Rights Committee for all their work on the bill.

It is a privilege to speak in today's debate, particularly in a week that will see two pieces of landmark legislation change the lives of women in Scotland for the better. As the cabinet secretary said, it is a moment that the Parliament can be proud of.

Outwith the Scottish National Party, there is an assumption that to sit on these benches requires an initiation ceremony consisting of running a Braveheart marathon, chasing a haggis while clad in a kilt and bellowing "Freedom" into the abyss. For me, as a 21-year-old with no political party of preference, it was women's representation that consistently informed my political beliefs. I saw the inequality that underpins a Scottish Parliament in which 65 per cent of all MSPs are male; the unfairness that allowed an all-male corporate body to exist; and the sexism that continues to this day in this place, given that the average salary of a female staff member at Holyrood is 11 per cent lower than that of her male counterpart.

Equal opportunity was, of course, one of the founding principles in the establishment of Holyrood. I suppose that I should declare an interest as a token woman on the SNP benches—as opponents of the bill have argued. I was elected in 2016 alongside some extremely talented colleagues including Gail Ross and Gillian Martin, following my party's decision to take action to tackle the underrepresentation of women in the SNP. The issue has been contentious in my party historically. Therefore, the Labour Party must be given due credit for the fact that, in 1999, it twinned its candidates, because of which Holyrood

has always been regarded as having a more equal number of women political representatives.

In 2005, the SNP did not have a great record on female representation. Out of our 27 MSPs, only nine were women. Across Holyrood, however, female membership stood at 39 per cent because of Labour's use of positive discrimination—indeed, during session 2, 56 per cent of all Labour MSPs were women. At Westminster, however, the picture was markedly worse. Following the 2005 general election, only one in five of all members of the Westminster Parliament was a woman. In early 2006 the annual "Sex and Power" report found that it could take another 200 years for women to reach political equality in UK politics.

Here we are in 2018, 100 years on from when most women were first bequeathed the power to vote but less than a year after Muirfield golf club finally decided that perhaps it was time to allow women to join—only, of course, after losing the right to hold the Open golf championship. I am sure that the two events were unconnected.

According to SPICe:

"The aim of the Bill is to improve the representation of women in non-executive positions on public boards. It sets a target for public boards, the 'gender representation objective', that women should be 50% of non-executive board members. There is a duty to try and achieve the objective by 31 December 2022."

In some instances, that might mean that a woman is chosen over a man if—and only if—they are equally qualified. However, as fellow members of the lesbian, gay, bisexual, transsexual and intersex community here know well, we do not start from a level playing field. If we did, men like Harvey Weinstein would not exist.

Across the water, in Fife, the national health service board comprises five men, five women and—how could I forget?—a female chair in the Rt Hon Tricia Marwick. Fife College's board is relatively similar, with seven women, eight men and a male chair.

Critics could argue—and they have argued today—that the situation is not really that bad and that we do not really need legislation to fix something that is not broken. Indeed, as Alexander Stewart—who is not in the chamber—commented at stage 1:

"Women currently make up 45.8 per cent of the membership of public boards but account for only 34.9 per cent of members of the Scottish Parliament ... That raises the question of whether quotas are the right way to tackle the root cause of gender inequality."—[*Official Report*, 30 November 2017; c 70.]

However, as Alex Cole-Hamilton argued, the bill has nothing to do with quotas. Indeed, that argument misses the point entirely, because all it takes is a change in membership or another

election to impact on any organisation's equality credentials. I am sure that I do not need to remind Mr Stewart and his Conservative colleagues of his party's dismal record on female representation, with only 19 per cent of their MSPs and just over 20 per cent of their MPs being women. That is simply not good enough for the party of opposition or, indeed, of government. As Annie Wells commented during the stage 1 debate:

"At the most basic level, those in positions of power in Scotland should reflect the society that we seek to represent."—[*Official Report*, 30 November 2017; c 55.]

I agree with Annie Wells.

The bill will make Scotland the only part of the UK with a requirement for gender parity on public boards. It is a step in the right direction. As Gail Ross said,

"no one is saying that it is a panacea, but it is a start."

We should also remember that the Government is limited by the powers of this Parliament. As the cabinet secretary said last November:

"with our current powers, we have legislative competence and ability only in relation to public sector boards."—[*Official Report*, 30 November 2017; c 42.]

We are limited by the powers of this Parliament to fully progress gender representation. Imagine the possibilities if we had more powers.

We should not forget the sexual harassment allegations that rocked Holyrood to its core at the end of 2017. The Scottish Parliament Corporate Body has now been dragged into the 21st century as a result. The Deputy First Minister set a precedent by stepping up and responding as the most senior male member of the Scottish Government at the time. He said:

"it is the conduct and behaviour of men that need to change if we are to end the sexual harassment and abuse of women, whether in their workplace, their social life or their home."—[*Official Report*, 31 October 2017; c 3.]

Sexual harassment is about a power imbalance. For sexual harassment to flourish, all that is needed is the conditions that enable inequality. Those conditions occur in this building every day, with all-male witness panels, women being paid less than men and a parliamentary committee with 10 male members and one female MSP—Gail Ross, who is now sitting beside me. The bill will be pivotal in tackling societal structures that prevent women from contributing fully to the wider civic life of our country.

Two weeks ago, in Glasgow, I heard the cabinet secretary address a room full of women at a Scottish Women's Convention event on sexual harassment. She described this as "a watershed moment" in Scottish politics and said, "Let's seize it." That is what the bill is about. Time is up.

16:13

Kezia Dugdale (Lothian) (Lab): Like other members, I welcome the opportunity to speak in a very important debate on a significant bill that I hope we are going to pass at decision time. I put on record my thanks to all the organisations and groups that have fed into the committee process and that have, indeed, fought for decades to get us where we are today.

It is a very welcome bill and one that Women 50:50—of which I am a co-founder with Alison Johnstone—has been fighting for. It is one of the three things that we exist to do, and we are pleased to tick it off today.

Today will represent the end of the beginning rather than the end itself. If I needed any reminder of that fact, I would only have to look to the evidence that was given to the Economy, Jobs and Fair Work Committee this morning, from which we learned that the Scottish Government spends £2 billion every year on economic development of which just £400,000 goes towards women in enterprise. That reminds us of how important it is to have a balance of gender in our decision making, so that we make decisions that reflect women's needs and the needs of wider society.

When we pass laws, they have two purposes: they are either symbolic and are intended to drive cultural change or they have a practical effect on some existing injustice. The bill does both of those things—it is symbolic because it sends out a message that gender equality is good business but it will also have a practical effect because it will overcome the existing inequality in the composition of our boards.

In order to make sure that that happens, we need really good guidance, we need that guidance to be on a statutory footing and we need it to be well understood. I know that Engender has made those points to the cabinet secretary. As welcome as the bill is, we need to make sure that the desire to make it work in practice continues after today. I know that the cabinet secretary will offer leadership on that, as she has done up to this point.

In the time that I have left, I will tackle some of the persistent arguments against the bill that I have heard, mostly from Conservative members. I am sick to the back teeth of those arguments and they need to be faced down. The first group of arguments is around the whataboutery that the bill faces—the idea that, if we are going to address gender inequality, we should be doing something about inequalities around race, disability or sexuality. There is no hierarchy of inequality in society, and I am not going to stand for any suggestion that we should hold back the progress

of women because we are not doing enough for disabled communities or for people of a different colour or religion. We do not set groups who are unequal against each other; that is not what constitutes progress. However, that is somehow the argument that we are hearing from the Tories today.

Neither are we saying that the solution for those other underrepresented groups is quotas or targets. We are not here to suggest that we should apply quotas in relation to people with disabilities or, indeed, around race. The solutions for increasing the representation of those groups are complex and should demand our parliamentary time, but what we are talking about today is the historical underrepresentation of women in positions of power. We have an opportunity to address that today, and the Tory members should take it.

The other thing that the Tories need to recognise is that women are also black, disabled and lesbian, gay, bisexual, transgender and intersex. In progressing more women into these positions, we are diversifying our boards in the roundest possible sense.

If we want to pick a fight about groups with protected characteristics and whether we should set one group against another, what about all the other disadvantaged groups in society that we are not talking about? What about carers? What about care-experienced young people? What about class and sociodemographics? How are we going to address those other underrepresented groups when it comes to the composition of our boards?

There are other arguments that the Tories make against the bill. Time and time again, the one that we have heard today is that they want equality, just not now. When they are pushed to say what they are going to do about it, the answer is nothing.

At stage 1, we also heard the argument from the Tories that they made it against the odds, so why can everyone else not do so? Sometimes, we also hear an argument from the Tories that we need some sort of free market when it comes to the representation of women in public life. They seem to misunderstand the situation. We do not exist in a free market just now, because the status quo is skewed towards the advantage of men. With this bill, we are trying to create a free market whereby people of skill and merit can get to the top. That is how we can tackle the institutional barriers that women face.

The other argument that we have heard from the Tories, which we heard right at the start of the stage 1 debate, is that we should just do more on the structural roots of women's inequality—on childcare, flexible work and access to education—

as if it is the Tories who have the answers to those problems. It is the Tories who argue against resources for our local authorities, which provide the childcare; it is the Tories who argue against regulations to curtail zero-hours contracts and the impact that they have on women; and it is the Tories who will attack bursaries for students in further and higher education, which are needed to help women to access the education that they need.

I will end by picking up on one small part of Christina McKelvie's speech—the one area where I disagreed her. She said that there are no losers with this bill. I am afraid that Christina McKelvie is wrong; there are losers with this bill. They are middle-class, middle-aged white men who have held power for far too long. Perhaps that is why the Tories are against the bill.

16:19

Clare Adamson (Motherwell and Wishaw) (SNP): I add my thanks to the committee for its extensive work.

Last week, I was very upset because one of my feminist heroes passed away. Ursula K Le Guin was an American author. She was the daughter of an American anthropologist who taught at Berkeley and she grew up surrounded by intellectuals, scientists and First Nation friends of her family. That gave her a unique position and enabled her to challenge cultural norms, which she did throughout her writing career. *The New York Times* described her as an

“immensely popular author who brought literary depth and a tough-minded feminist sensibility to science fiction and fantasy”.

Last week, someone posted online a note that she wrote on being asked to write the foreword to a collection of new fantasy short stories. It said:

“I can imagine myself blurbing a book in which Brian Aldiss, predictably, sneers at my work, because then I could preen myself on my magnanimity. But I cannot imagine myself blurbing a book, the first of a new series and hence presumably exemplary of the series ... the tone of which is so self-contentedly, exclusively male, like a club, or a locker room. That would not be magnanimity, but foolishness. Gentlemen, I just don't belong here.”

It struck me how prescient that was. She talked about the locker room long before Trump's infamous comment. She mentioned the gentlemen's club, and we have just had the scandal of the Presidents Club. The fact that she wrote that in 1987 brought home to me how far we have come in some ways, but also how far we have still to go on representation of women and equality in our society.

A few members have said that they object to the bill because of its subjective nature, but they completely forget—

The Deputy Presiding Officer (Linda Fabiani): Excuse me, Ms Adamson, but your microphone went off. It is back on again.

Clare Adamson: A few members have said that they object to the bill because of its subjective nature, but they completely forget that the current situation is all about subjectivity. My colleague Gail Ross mentioned unconscious bias. Anyone who does not accept the importance of unconscious bias is denying the situation that we live in today. There is science on it—we can actually see unconscious bias in the brain when people undergo experiments on it. In 2012, Moss-Racusin and others did research that involved applications for science positions that were identical in every respect apart from the gender and name of the applicants. Science faculties were likely to rate male candidates as being better qualified than the female candidates, to want to hire the male candidates rather than the female candidates, to give the male candidates a higher starting salary than the female candidates, and to be willing to invest more in development of the male candidates than in that of the female candidates.

That unconscious bias has an impact not only on women who are in the final stages of their careers, as they reach the boardroom, but on women in every single position throughout their careers. Understanding that will allow us to make a difference to what happens. In the creative industries for example, orchestras have introduced blind auditions, which has seen an increase in the percentage of women in some of the world's major orchestras to almost 48 per cent, the amount having started from a really low base.

Unconscious bias affects not just the boardroom: it affects every aspect of our lives. Does it affect grant applications? Does it affect applications to the European Research Council for research money? Does it affect the way in which women are judged on the screen or in other aspects of life? The crux of the issue is that everything that is happening is subjective and is part of our culture, so challenging that culture in the way that we are doing today is important.

We know that the bill is not a panacea, as has been said many times. However, it is a measure of leadership in the area. Although we understand and know about the barriers to women getting on in all aspects of life, and which are no longer acceptable, we are putting down a marker in one area where we have control and influence. I hope that the message that comes out from passing the bill, which I fully support, is that women belong—they belong in the boardroom, they belong in every aspect of public life and they belong in our

industries and commerce. If that is what comes out of today, I will be extremely happy.

16:25

Rhoda Grant (Highlands and Islands) (Lab): The debate has been really good, and I hope that the bill is another step in the journey towards equal representation for women. It seems strange that, as we approach the centenary of women's right to vote, we still have battles about gender equality. I wonder how long it will take before we stop having to intervene and true equality is the norm.

I share Monica Lennon's pride that the Scottish Labour Party uses positive action to encourage women into politics. That creates more equal representation. However, we have to continue year on year. That is the only way to embed it in practice.

We need women not only on boards but in all key positions. Despite advances that have been made on the number of women on boards, we are still falling way behind on key positions such as the chairpersons of boards. Women make up only 25 per cent of such positions on regulated boards.

Members have talked about merit. If appointments to public boards were already made on merit, we would not be debating the bill: public boards would already reflect the communities that they serve. If members follow through to its conclusion the argument that appointments are made on merit, it follows that they also believe that women have less merit than men, because if they were equal in merit, they would already have equal gender representation on boards.

Alison Johnstone talked about how appointments have been made not on merit but on the basis of male positive discrimination. People appoint other people in their own image—often unintentionally. Like appoints like. Until we have positive action, we will never overcome that because men in suits will appoint men in suits. We all do it: we immediately form a bond with people who look like us and to whom we can relate, but not with those who are markedly different from us.

The people who work against positive action are often those who lose their place and the entitlement that they have unfairly gained by dint of their gender. I assure members that there are many women who merit appointment and are better qualified than the men that they would replace, if only they were given the same opportunity. Claire Adamson's example of blind auditions for orchestras shows that gender balance can be achieved based on fair criteria without any bias in an area in which male bias was very much in operation up until the blind trials.

As many speakers in the debate have done, I pay tribute to Mary Fee and her stage 2 amendments to ensure that the bill is inclusive of trans women. She rightly paid tribute to the work of the Scottish trans alliance and the other organisations that brought the matter to our attention at stage 1. As elected representatives, we depend on stakeholders to bring issues to our attention. That is how people can influence and improve legislation that goes through Parliament.

Members have also talked about Women 50:50, to which Monica Lennon paid tribute and which was co-founded by Kezia Dugdale, Alison Johnstone, Talat Yaqoob and others—women who fight for equal representation. It is not party political; it impacts on all women and it shows that women working together can make a huge difference.

Many members talked about the benefits that the bill will bring. They include not only getting women into their rightful place, but the greater benefits to society. Boards will reflect all of us in society, will have a much broader base of experience and knowledge and will be able to lead the way in making change.

Alison Johnstone spoke about cuts impacting disproportionately on women, as did Kezia Dugdale. If more women were making the decisions, those impacts would be much fewer and would be gender sensitive. If we had to have them at all, such cuts would be borne fairly across society and not just by those who are less able to fight for themselves.

Alex Cole-Hamilton spoke about his amendment, and others paid tribute to his work at stage 2 on what there was concern might be a tiebreaker provision. He made it very clear that other protected characteristics must be looked after and that the bill should not harm people or lessen their chances because of their ethnicity or disability. If we look at the statistics, we can see that representation of women on public boards is increasing, as is representation of people of minority ethnic origins. However, sadly we can see that representation by people with disabilities is falling. We need to challenge that, because it shows huge disparities. It is sad that we came from quite a high point on that but are now dropping, so it is very important that we deal with that.

The bill will also require people to take positive action to encourage women to come forward—for example, by making sure that boards are family friendly and that caring responsibilities are taken into account. Those are things that make it much easier for women to step up and take on such roles. However, what is most important is that women see other women in those roles and that they know that such roles are open to them.

Labour members support the bill, because it will make a difference. The Conservatives appear to be unclear about whether they are against the bill because it will do nothing at all or because it will do too much. We do not share their view. We hope that the bill will go some way towards redressing the discrimination that women face and that it will make sure that all our public boards are more reflective of our society. By passing the bill, we will lead by example.

16:32

Jamie Greene (West Scotland) (Con): I start by thanking Alison Harris for stepping in to assist my colleague Annie Wells. There is a little bit of me that secretly hoped that I, too, might have laryngitis today. In a debate such as this one, it is never easy to be the white, somewhat middle-aged and arguably middle-class man who is tasked with the job of speaking about a bill that seeks to address gender inequality in representation on our public boards.

Nonetheless, it is important that bills that pass through the Parliament are given due scrutiny and that members on all sides of the argument are given an opportunity to share their views and thoughts in a respectful manner. We also have a duty properly to scrutinise legislation and ask whether it meets the objectives of the policy behind it and whether it will create any unintended consequences once it has been passed.

In the stage 1 debate on the bill, I made it clear the Scottish Conservatives intended to work constructively with members throughout the bill process, and we actively participated in the stage 2 proceedings in committee. I thank those who responded to the consultation and who gave evidence to the committee, to whom I listened with interest. Conservative members did not use our votes against any useful or constructive amendments to the bill, in the spirit of allowing the legislation to be tidied up.

One does not need to be a mathematician to see that there is majority support for the bill and the concept behind it. It will come as no surprise that our position has been clear throughout and has not changed. However, it is not just the party's view that there should not be statutory targets; that is also the view of individual Conservative members, including our female MSPs, whom I consulted and whose opinion on the issue I value.

The cabinet secretary opened today's debate by stating that the bill is very much about the message that it gives out. However, the problem is that legislation also has consequences. It is not just symbolic; it becomes law. The argument is not so much about whether we, as a Parliament, want to see more diversity on our public boards as it is

about how that can best be achieved and whether this specific—for it is specific—and narrow piece of legislation will help us to achieve that.

Christina McKelvie: Will the member take an intervention on that point?

Jamie Greene: I want to make some progress first.

The argument over whether organic change will suffice or whether Government—and therefore the law—needs to intervene is one that plays out in not just Scotland but many countries, and it is our view that legislation is not required.

Christina McKelvie: Jamie Greene says that the bill will not address any of the issues that we are talking about. If the bill will not do that, can the Conservatives please tell us what they think would achieve the result that we want?

Jamie Greene: That is a very decent question to ask. As a Parliament, we—and, indeed, the UK Parliament—should be looking at a wide range of measures to address inequality across society, and I will come on to some of the specific issues that the bill does not address. It is important to identify what the bill does not do, rather than imagine what we think it does.

It is important to state that the issue is not, as it has been depicted as being, whether Conservative members want more equality. That is an oversimplification. Being anti-quota is not the same as being anti-equality. Anyone who knows me will know that, as a politician and a parliamentarian, I go out of my way to promote equality in Scotland. There has been much debate about whether the bill contains a quota. The point has been made that there cannot be positive discrimination. In that respect, the bill says that appointing persons have a duty to take steps to meet the objectives of the bill and to report on their actions and decisions.

However, we are at stage 3 and we are still discussing the lack of clarity on whether the bill provides for voluntary or mandatory targets. If what the bill provides is not a quota, what is it providing? It has long been our view that using mandatory targets or quotas as sticking plasters will distract us from tackling the underlying problem of why there is not greater diversity on boards—

Monica Lennon: Will the member taken an intervention?

Jamie Greene: I want to make some progress.

Although members might like to think that the bill is about symbolism and messaging, the problem is that its narrow focus on gender balance does not do the wider diversity issue any justice. For example, the bill goes no way to addressing

the problem of the continuous pipeline of female candidates that will be required to meet the needs of such a wide and diverse range of public boards. Many of the 69 public bodies to which the bill will apply are traditionally light in female representation in their general workplaces, and the bill does not seek to address that, nor does it address the issue of how we can nurture and develop opportunities for women in particular industries and in management positions.

It is also worth taking note of where we are today in the context of the objective of the bill. In 2013-14, women made up 35 per cent of public board members in Scotland. By last September, that figure stood at 45.8 per cent. I appreciate that that is a snapshot in time, but it is also a trend. There must be underlying reasons for why the trajectory has been positive. Good work is undoubtedly already being done on our public boards.

I have heard the argument that legislation is required because we need to future proof in case of future regression, but instead of addressing the bigger picture, we have created a backstop, whereby the focus is on achieving a numerical percentage. The bill does nothing to address how the management and executive arms of our public bodies will achieve greater gender balance, nor does it seek to address the wider issue of people with other protected characteristics being underrepresented on public boards.

My worry is that the drafting makes the bill something of a tick-box exercise. If, as a Parliament, we felt that Government intervention was required to ensure that we had diverse public boards, it could be argued that we should be debating a bill about diversity on public boards.

Monica Lennon: Will Mr Greene take an intervention now?

Jamie Greene: I am in my closing seconds.

Regardless of whether members agree with the principle of the bill, we have an important duty to pass legislation that is watertight and, in its current form, the bill could throw up a range of legal issues. For example, the bill does not address a number of issues that discourage women from going on public boards and from taking up non-executive roles.

The Scottish Conservatives will always champion gender equality. *[Interruption.]* We believe that there should be no barriers to women achieving the very highest levels in public office. *[Interruption.]* I think that the heckling does a disservice to the good work that my female colleagues on the Conservative benches have done on the issue.

Where we differ on the issue of gender equality relates to the approach that the bill takes. The bill is narrow, too focused and subjective in its wording. For that reason we are unable to support it this afternoon.

The Deputy Presiding Officer: I call Angela Constance. Will you take us up to 10 to 5 please, cabinet secretary?

16:40

Angela Constance: There have been some great contributions to the debate this afternoon. There was a particularly thoughtful speech from Clare Adamson and a particularly feisty one from Kezia Dugdale, to name but two.

The young Malala Yousafzai was particularly insightful—insightful beyond her years—when she said:

“We cannot all succeed when half of us are held back.”

Despite being nearly 52 per cent of the population, women in Scotland today are underrepresented on our public boards or quite simply missing from decision-making positions. Throughout the debate, we have been reminded of the causes and consequences of women’s collective lack of power and influence, so the position of no change has to be entirely unacceptable.

I said in my opening speech that, in my view, the Tories had completely missed the point of the bill and, as a consequence, had missed the moment. They have opposed the bill from the very start, but they brought forward no amendments at stage 2. Here we are at stage 3 and they have decided to become obsessed with technicalities. In fact, there were very important stage 2 amendments around strengthening guidance and around reporting requirements, particularly for ministers.

The Conservatives keep using the word “quotas”, which is the best example of how, at best, they have misunderstood the point of the bill. Quotas are about fixed proportions, but the bill seeks to bring in a gender representation objective if women are underrepresented, which is quite significantly different. We cannot select a woman to a position on a public board simply because she is a woman; to do so would be discriminatory, and positive discrimination is prohibited by EU law. The parliamentary process does not permit me to bring forward legislation that would not be compliant with the various safeguards that we all have to comply with.

Although it is not customary for ministers to talk about legal advice, I point out that there are processes around legislation that involve the Scottish Government’s legal department. There is

also a role for the Presiding Officer, committee scrutiny, the Lord Advocate and, indeed, the office of the Advocate General for Scotland. To come to stage 3 and imply that our legislation is somehow inadequate, or indeed unlawful, is shameful and points to people not doing their homework or not being awake throughout proceedings. The Conservatives also have the cheek to complain about there being no sanctions associated with the bill, but if they had been awake, they would have been alert to that debate and to the fact that neither the committee nor the Equality and Human Rights Commission recommended sanctions.

There are many reasons why I am confident that the bill will work. I am confident that public authorities will comply with the law. For the avoidance of doubt, I point out that the Crown Estate Scotland is subject to the legislation and is specifically mentioned in schedule 1. I am confident that the public sector will build on the progress that it has made thus far and will work harder to tap into the talents of the majority of our population. I am also confident that the public sector will follow the guidance that Parliament issues, pay heed to the legislation and report on progress, and that ministers will report on progress and, indeed, be accountable to the Parliament. I do not believe that any part of our public sector that is subject to the bill would risk the reputational damage that would be caused by not complying with the law of the land.

We have been reminded time and time again by Christina McKelvie and others that the Tories have failed to say what action they would support; indeed, they have failed to say what action they would support that we are not currently taking.

I have news for Conservative members. We are currently undertaking reform and a revolution in early learning and childcare. We also have our science, technology, engineering and mathematics strategy; our developing Scotland’s young workforce work; the work that we are doing on gender stereotyping; the world-leading work on tackling violence against women and girls; and our promotion of flexible working.

Rachael Hamilton: Will the minister take an intervention?

Angela Constance: Not just now.

If not this bill, what? If not now, when?

Perhaps Rachael Hamilton can answer this. The lack of progress in the private sector is most certainly not an argument against the bill.

Rachael Hamilton: Would the cabinet secretary comment on the college statistics today that show that the number of enrolments in college by women has dropped by 47 per cent—as opposed

to a drop of 25 per cent for men—since the SNP came into power?

Angela Constance: The last time that I looked at the statistics, I was not aware that women were underrepresented in terms of the make-up of college students.

Perhaps Rachael Hamilton, who shifted the issue from using the private sector and its underperformance in terms of gender equality as a reason not to support the bill, could say whether the Scottish Conservatives would support the Scottish Government in seeking additional legislative competence over the private sector to allow us to legislate on women's representation on private sector boards. Conservative members have spoken a lot about private sector boards without seeming to realise that we do not have legislative competence in relation to corporation law or employment law.

Alexander Stewart made what I can say was an interesting contribution about leading women. I hate to remind him, but there has never been a woman Secretary General of the United Nations. There has never been a woman governor of the Bank of England—Mark Carney is the 120th man to hold that position since 1694. There has never been a woman Secretary of State for Defence. There has never a woman President of the United States of America. Women are still underrepresented in this Parliament, in local government and in the private sector.

By introducing a legal requirement for a gender representation objective, we will drive change across the public sector, where we have powers. We will improve recruitment methods, making organisations work harder to find the most talented women and men to sit on our public boards.

There is nothing in the bill to prevent action to promote wider diversity on boards. The Scottish Government accepted an amendment from Alex Cole-Hamilton that stated that

“For the avoidance of doubt”.

Christine McKelvie, Kezia Dugdale and others spoke about how the advancement of women is good for other people who have protected characteristics. After all, women are not some homogeneous group.

We are doing work to improve diversity with our public appointments improvement programme. The Scottish Government has equality outcomes to improve diversity, with a focus on age—we do not have enough young people sitting on our public boards—and we need to address the underrepresentation of the black and minority ethnic community and people with a disability.

The bill seeks to redress the underrepresentation of women on our public

boards, ensuring that women's voices are heard where and when it matters so that they can shape services and decisions. Public bodies, colleges and universities touch every aspect of people's lives—they touch every aspect of women's lives. Women's voices need to be heard and women's voices must be heard.

We know that greater diversity in boardrooms leads to improved performance. I say to Jamie Greene that we have made good progress, in that 45 per cent of public appointments are of women. Surely the history of the Parliament demonstrates that we need to lock in progress and make sure that there is no complacency and no backsliding.

I end with a quote from Sheryl Sandberg:

“A truly equal world would be one where women ran half our countries and companies and men ran half our homes.”

We know that the bill may not be a panacea for every aspect of women's inequality, but it is a very important step forward to a fairer Scotland and to shattering the glass ceiling once and for all. With the bill, we are implementing our new powers to make a difference by ensuring that women's voices are no longer missing but are fairly heard and represented on public boards. It is not just the right thing to do; it is the smart thing to do.

As many members have reflected this afternoon, there is also a bigger picture in that, if we all put our shoulders to the wheel, the bill, in this important year of the centenary of women's suffrage, could indeed be the catalyst for further change. It could be the catalyst for equal representation in other areas of society and life.

Business Motion

16:51

The Presiding Officer (Ken Macintosh): The next item of business is consideration of business motion S5M-10198, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a revised business programme for Thursday.

Motion moved,

That the Parliament agrees to the following revision to the programme of business for Thursday 1 February 2018—

delete

2.30 pm Parliamentary Bureau Motions

2.30 pm Stage 3 Proceedings: Domestic Abuse (Scotland) Bill

and insert

2.15 pm Parliamentary Bureau Motions

2.15 pm Ministerial Statement: Supporting People to Study in Scotland

followed by Stage 3 Proceedings: Domestic Abuse (Scotland) Bill—[*Joe FitzPatrick.*]

Motion agreed to.

Motion without Notice

16:51

The Presiding Officer (Ken Macintosh): I am minded to accept a motion without notice to bring forward decision time to now.

Motion moved,

That, under Rule 11.2.4, Decision Time be brought forward to 4.51 pm.—[*Joe FitzPatrick*]

Motion agreed to.

Decision Time

16:51

The Presiding Officer (Ken Macintosh): There is one question to be put as a result of today's business. Because this is a final vote on a bill at stage 3, we will move straight to a division.

The question is, that motion S5M-10159, in the name of Angela Constance, on the Gender Representation on Public Boards (Scotland) Bill at stage 3, be agreed to. Members should cast their votes now.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)

Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Sarwar, Anas (Glasgow) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 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)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Bowman, Bill (North East Scotland) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Mason, Tom (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

The Presiding Officer (Ken Macintosh): The result of the division is: For 88, Against 28, Abstentions 0.

Motion agreed to,

That the Parliament agrees that the Gender Representation on Public Boards (Scotland) Bill be passed.

[*Applause.*]

St Andrew's First Aid

The Deputy Presiding Officer (Christine Grahame): I ask members who are leaving the chamber to do so quietly. [*Interruption.*] Quietly, please. [*Interruption.*] Could I ask members to leave quietly?

The final item of business is a members' business debate on motion S5M-08301, in the name of Johann Lamont, on St Andrew's First Aid. The debate will be concluded without any question being put.

Motion debated,

That the Parliament acknowledges the campaign by St Andrew's First Aid, Scotland's only dedicated national first aid charity, to address the shortage of first aid skills in Scotland and to help save more lives in areas of social deprivation, including in Glasgow; understands that the call follows the publication of the Scottish OHCA Data Linkage Project, which looked into survival rates from out-of-hospital cardiac arrest (OHCA) in Scotland; notes that the report indicated that those living in the most deprived areas of the country were twice as likely to have an OHCA as people living in more affluent areas, with 28% against 14%, and that those from the most deprived areas were 43% less likely to survive a cardiac arrest than those from more affluent areas; notes that the report, which was delivered jointly by the University of Edinburgh and the Scottish Government, and supported by the Scottish Ambulance Service and National Services Scotland, found that survival rates in Scotland following OHCA are estimated between just six and eight per cent, with the European average sitting at 10.2%, which puts Scotland among European countries with the lowest survival rates; wishes St Andrew's First Aid success with its efforts to ensure that people across Scotland are equipped with vital, lifesaving first aid skills, and notes calls on the Scottish Government to recognise the importance of first aid and to support efforts to establish a nation of skilled first-aiders.

16:54

Johann Lamont (Glasgow) (Lab): I thank colleagues from across the chamber for their significant level of support for the motion, and for attending the debate.

I also thank St Andrew's First Aid, the British Heart Foundation and all those other organisations and volunteers who bring first aid to our communities day and daily, allowing events to take place and giving support to a range of groups across our communities.

The motion was lodged following the publication of the Scottish out-of-hospital cardiac arrest data linkage project, which looked into survival rates of out-of-hospital cardiac arrests in Scotland. It sounds like a dry report, but it speaks volumes about inequality in Scotland.

The report, which was delivered jointly by the University of Edinburgh and the Scottish Government, and supported by the Scottish Ambulance Service and NHS National Services

Scotland, found that survival rates in Scotland following out-of-hospital cardiac arrests are estimated to be between just 6 per cent and 8 per cent. With the European average sitting at 10.2 per cent, that figure puts Scotland among the European countries with the lowest survival rates.

The report's findings added further weight to the continued efforts of St Andrew's First Aid to ensure that people across Scotland are equipped with vital, life-saving first aid skills. The first paragraph of the report reveals the scale of the problem in Scotland: around 3,000 patients each year had resuscitation attempted after a sudden cardiac arrest in the community, but only about 6 per cent of those patients survived to hospital discharge. In the best-performing comparable settings around the world, the survival rate is as high as 25 per cent.

The report has identified a number of factors that indicate a very real link between areas of social deprivation and a person's chances of surviving an out-of-hospital cardiac arrest, which can affect people of all ages at any time. The report revealed that those living in the most deprived areas of the country were twice as likely to suffer an OHCA as people living in more affluent areas—the figures were 28 per cent, against 14 per cent. Furthermore, those from the most deprived areas were 43 per cent less likely to survive a cardiac arrest than those from more affluent areas.

Other factors were identified in the report. The average age of OHCA victims was seven years lower in areas of deprivation. The Scottish Ambulance Service recorded that bystander cardiopulmonary resuscitation was attempted in just 40 per cent of cases before the service arrived. That is lower than the figure in some parts of England—for example, in London, it is 60 per cent of recorded cases. People from more deprived areas are less likely—the figure was around 38 per cent of cases—to receive bystander CPR compared with more affluent areas, where it was 45 per cent.

Surely if it was mandatory for people to have even basic first aid skills, those factors could be greatly reduced. It is a simple solution: more lives could be saved if more people had the skills to help save others. St Andrew's First Aid is now calling for more to be done to reduce the statistics that I have cited and to increase levels of first aid skills in Scotland. That simple approach would deliver widespread benefits, and would literally save lives.

I would like to highlight the additional benefits that first aid training would bring. Last year, a report by the British Red Cross found that first aid training could help to ease the pressures on accident and emergency departments. The report

stated that more than a third of people who were surveyed attended A and E because they were "worried and didn't know what to do".

People expressed a desire to use A and E services appropriately, but found it difficult to know whether a health problem was severe enough to need urgent care.

Of central importance to this evening's debate is that the report highlighted that health care professionals themselves stated that

"most patients have not attempted first aid before coming to hospital."

By equipping people with the proper skills and by training more first-aiders, we can begin to turn the tide on the issue.

Education is paramount in addressing the problem. In my region of Glasgow, St Andrew's First Aid has been working in partnership with a number of secondary schools to improve and increase levels of first aid skills among young people. In the north of the city, almost 400 young people have been trained in first aid. In turn, those pupils will showcase what they have learned to their fellow pupils, passing on vital skills and knowledge.

The feedback that St Andrew's First Aid has received from the schools has been overwhelmingly positive, with reports that pupils grow in confidence and learn to use their initiative in different ways from how they used it before. That applies in the context of not just first aid but all studies and extra-curricular activities. Although the programmes are centred on the teaching of first aid, the skills that pupils learn are transferable and can set them up for everything that they encounter, in school and beyond.

In the year of young people, and with the appointment of St Andrew's First Aid as the official first aid provider for the European championships in Glasgow in August, the Scottish Government might consider how to encourage young people to volunteer and take up the opportunity to learn how to save a life—an experience that will be life transforming for the young person and perhaps life saving for someone else; that is a virtuous circle, if ever there was one.

The report's findings provide a firm starting point, from which we should urge for more to be done to improve survival rates and address the shortage of first aid skills that could save lives and end the most horrible postcode lottery, whereby some people are more likely to die and less likely to be saved.

It is common sense to equip people with the simple skills that they need to save a life. Everyone will benefit. Aileen Campbell, the

Minister for Public Health and Sport, has agreed to meet me, and I look forward to exploring how we can ensure that people from the most deprived areas have a better chance of survival and that more people are equipped with life-saving skills.

The campaign by St Andrew's First Aid addresses some of the most challenging issues that are faced by people who live in Scotland's deprived areas. I sincerely hope that the Scottish Government will work collaboratively with St Andrew's First Aid and others, so that Scotland can become a nation of skilled first-aiders.

We all understand the massive challenge that is presented by health inequalities. The issue can be overwhelming—there are so many causes and potential solutions—but we ought not to be overwhelmed into inaction. The equipping of people with first aid skills, and an understanding that such skills are unequally distributed across the population, are just part of a big picture, but they are a part on which we can act right now. I seek the minister's assurance that she understands and will act.

17:01

Brian Whittle (South Scotland) (Con): I congratulate Johann Lamont on bringing this debate to the Parliament.

The debate gives me a chance to thank the volunteer first-aiders who turn up at so many events and whom we all take for granted. I was at the Scottish indoor athletics championships at the weekend, and the first-aiders were there. They are a permanent fixture, and they are ready, track side, to pick up us fragile athletes when we break. I take the opportunity to let them know that they are noticed and that their commitment is recognised. We thank them for the service that they provide.

In her motion, Johann Lamont highlighted the disparity in the incidence of and survival rates after cardiac arrest between deprived areas and more affluent areas. It strikes me that the place to start is the school classroom. I learned basic first aid when I was at school, and I think that first aid is an important life skill, on many fronts. The obvious advantage is the ability to intervene positively in a medical emergency. A basic understanding of emergency procedures can save lives, as Johann Lamont said.

The issue is particularly pertinent in light of the recent pressure on our A and E departments and primary care services. The British Red Cross survey that has been mentioned found that a third of A and E attendees were there because they were

“worried and didn't know what to do”

and that health workers said that most patients had not attempted first aid before coming to hospital. The same research found that nearly 60 per cent of pre-hospital deaths from injury might have been prevented if first aid had been carried out before the emergency medical services arrived. Injury might also have been prevented had first aid had been carried out before the patient arrived at A and E.

One of the starkest revelations in the research is that three out of four parents in the United Kingdom would not be able to save their baby from choking. If ever a statistic should grab our attention, surely it is that one. I am sure that if mothers and fathers were asked, they would say that they all wanted that skill in their parenting toolkit.

Patients seem to struggle to assess the severity of health problems and do not know where best to go for help. First aid has been described as a lost skill. That must have a direct impact on the delivery of emergency services.

At a time when the preventable health problems agenda is gaining more oxygen, the introduction or reintroduction of basic first aid training in schools could be a significant element of the agenda. I have even spoken to schools that teach pupils to recognise the telltale signs of students struggling with conditions such as hypoglycaemia associated with diabetes, and what to do in those situations. It can be empowering to have that kind of skill at one's disposal, and the confidence to intervene when that situation arises. Having friends and fellow students around them who have an understanding of their condition through that education must be a comfort to pupils; having that general understanding also allows them to tackle the potential feeling of isolation that a lack of understanding from peers can bring. We hear a lot about stigma, which is born out of ignorance in many cases, and a potential consequence of that kind of approach could be to normalise such health-related issues.

School education will not in itself tackle the disparity, in terms of the incidence of conditions such as cardiac arrest, between more-deprived communities and those that are better off. However, it would certainly have the potential to increase survival rates no matter where those issues occur. By definition, though, given that occurrences of those conditions are higher in the more-deprived areas, the impact of universal training in schools should be felt to a greater degree in the worst-affected areas—that is, the most-deprived areas.

Once again, I thank Johann Lamont for giving us the opportunity to speak on this topic in the chamber, and I thank those first aid volunteers who are all too often taken for granted. Today we

have the opportunity to tell them that their contribution to our wellbeing is valued. Perhaps it is time to look at how the opportunity to learn those life skills is brought to the wider community, and I suggest that the place to start is the school classroom.

17:06

Tom Arthur (Renfrewshire South) (SNP): I congratulate Johann Lamont on securing the debate, and thank her for bringing this important issue to the chamber. I do not think that there is anyone who has not, at some point in their lives, whether through family and friends or directly, been touched by heart disease and potentially by an out-of-hospital cardiac arrest.

I should declare an interest before proceeding, as all the staff in my constituency office received their first aid training and certificate from St Andrew's First Aid. I attended a course five years ago, which I found to be a valuable experience, and Johann Lamont and Brian Whittle touched on how enriching such training can be. I certainly found that. My only regret is that it was five years ago and I am now more than a little out of date, so I thank Johann Lamont for reminding me that I need to go back not only to refresh but to relearn a lot of my skills.

Like Johann Lamont, I was really quite taken aback by the numbers. I know that Johann Lamont represented Pollok previously, and she now represents Glasgow. As I represent Renfrewshire South, a constituency that has some very affluent areas but also some areas of deprivation, I see gross health inequalities on a daily basis and I am aware of the general socioeconomic inequalities that exist. People from the most deprived areas are 43 per cent less likely to survive than those from the least deprived areas, and that is a call to action for all of us.

I commend the Scottish Government for engaging with the issue in its 2015 strategy document. The aim of having 500,000 people who are CPR trained in Scotland is laudable. I was particularly struck by a positive statistic published in that 2015 strategy, which suggested that a defibrillatory shock to the heart within three to five minutes of collapse can produce survival rates as high as 75 per cent. At the moment, survival rates here are barely one in 20, or between 6 and 8 per cent. However, in some places there is outstanding practice. In Seattle, for example, there is a 25 per cent survival rate. If we take action to ensure that more people are equipped with CPR skills, we can make a real, fundamental difference.

Brian Whittle spoke about a universal application. Another thing about the strategy that struck me was the example of Denmark, where

there seems to be a greater uptake of CPR training. I believe that it has been made a mandatory part of getting one's driving licence there, and the data suggests that there is a direct correlation between an increase in CPR bystander interventions and survival rates, so it is a key part of the chain of survival.

Johann Lamont made a point about relieving the pressure on accident and emergency departments and all members who have had conversations with clinicians at any level will know about some of the challenges and the pressure that, for example, the worried well and the unworried unwell can contribute.

People should be empowered, equipped and confident to make decisions before going to A and E, and first aid training can play a significant part in that. It can give people the knowledge to take intermediate steps before going to A and E, such as making an appointment with their general practitioner or going to their pharmacist.

First aid is about empowering individuals, which relates powerfully to the realistic medicine agenda that, ultimately, is about empowering patients. That agenda is about thinking about people not as patients, but as citizens and there is no better way to be an empowered, confident citizen than to have the skill set to deliver CPR and to save somebody's life. I encourage members to do first aid training or, as I will do, to update their training. It is a great thing to do, so members should take that message and spread it far and wide.

17:10

John Scott (Ayr) (Con): I congratulate Johann Lamont on securing tonight's debate on St Andrew's First Aid. I acknowledge the good work that is done by St Andrew's First Aid and I thank the first-aiders for all the good work that they do, not just in my constituency of Ayr, but around Scotland.

The St Andrew's first-aiders are volunteers and they are at the front line in providing often life-saving first aid at many public events in Scotland. Their presence at major public events is enormously reassuring for the public and the organisers of the events.

I thank the British Red Cross for its briefing for the debate, which highlights that 59 per cent of hospital deaths from injury might have been prevented had first aid been carried out before the arrival of the emergency services, and that only 37 per cent of people attending A and E with conditions in which first aid could have helped had received any approved first aid before their arrival at an A and E unit. Further, a third of the people who presented at A and E units had done so because they were

“worried and didn’t know what to do”;

by going to A and E, they can clog up the service, particularly in winter, when they have no need to be there.

As members have said, there is a need for us all, myself included, to be better educated about first aid. That was dramatically brought home to me during a Christmas day lunch some years ago on my farm at Ballantrae, when my father choked on a piece of turkey. Unable to breathe, he turned blue very quickly and, apart from my daughter, none of us knew what to do. She got my father to the kitchen sink and performed the Heimlich manoeuvre; up and out came the turkey and Christmas day continued without a further hiccup. That my daughter saved my father’s life that Christmas day is beyond doubt, as we were 36 miles from the A and E unit in Ayr, with the nearest ambulance perhaps 20 to 30 minutes away.

I use my family circumstances to illustrate the point that, although having first aid skills is vital in an urban environment, it is even more important in a rural one. Therefore, the need to educate our children in first aid—bluntly, in survival techniques—becomes greater as the distance from A and E units increases.

I turn to the results of the out-of-hospital cardiac arrest data linkage project. I congratulate the authors on the stark clarity of the report and its very disturbing conclusions. It concerns us all that, historically, of the approximately 3,000 people in Scotland who have an out-of-hospital cardiac arrest every year, only 180 survive to hospital discharge. That is bad enough, but it is worse still when compared against the best survival rates worldwide where, out of a similar cohort of 3,000 people, 750 survive. Therefore, we welcome the ambitious collaborative effort that was launched in 2015 to improve the survival rate by 2020 to, hopefully, 1,180 survivors out of the 3,000 annual victims of an OHCA. Perhaps we can look forward to an update from the minister tonight on how that is going.

In the meantime, we must confront the report’s findings and emphasise the need for improvement. It is not acceptable that only one in 17 people who have an OHCA survive to leave hospital. It is not acceptable that those who live in rural areas have a still further reduced chance of survival 30 days after an OHCA. It is not acceptable that people living in our most-deprived areas are twice as likely to have an OHCA as those living in better-off parts of our communities. As Johann Lamont said, it is not acceptable that the average age of those who have an OHCA in deprived areas is seven years lower than the average age of those who have an OHCA in better-off areas. That probably goes a long way towards explaining why life expectancy in the most-deprived parts of my Ayr

constituency is seven years less than in the better-off areas.

It is not acceptable that up to the age of 85, men are much more likely to die from an OHCA than women. While that might be a matter of simple physiology, I certainly—as a man—would like to know the reason why that is the case, as I was unable to find an explanation in the report. Perhaps the minister can tell us.

I again thank first-aiders, wherever they are, for their selfless life-saving volunteering. I encourage the Government to increase population resilience and positive OHCA outcomes by supporting the delivery of education in first aid techniques in schools, colleges, universities and later in life. I look forward to hearing the minister respond to the many questions that have been raised in the debate.

17:16

The Minister for Mental Health (Maureen Watt): I thank Johann Lamont for giving us an opportunity to consider how we can all be ready to save a life and acknowledge the excellent work of St Andrew’s First Aid in Scotland, which delivers expertise with enthusiasm.

I highlight today’s health figures showing that, in the past 10 years, the rate of people dying from heart disease in Scotland has reduced by 40 per cent, while the gap in inequalities has narrowed. Additionally, the rate of new cases of coronary heart disease has decreased by 27 per cent. I thank all those working across NHS Scotland and beyond to tackle heart disease and acknowledge the real results that they are delivering.

Our out-of-hospital cardiac arrest strategy for Scotland, which, as the then Minister for Public Health, I launched in 2015, aims to increase survival after out-of-hospital cardiac arrest. Equipping people with skills to save a life is fundamental to our bold aim to save an additional 1,000 lives by 2020. Our strategy was developed and is implemented in partnership with stakeholders who are already working hard to improve cardiac arrest survival, such as the blue-light services, health services and voluntary organisations, including St Andrew’s First Aid.

We all know that the right action in the minutes immediately following a cardiac arrest—calling 999 and starting CPR—results in most gains in lives saved. Bystander CPR can increase survival chances after out-of-hospital cardiac arrest by two or three times; without it, survival chances drop by 10 per cent every minute. That is why bystander CPR is the first priority of the strategy. CPR is incredible as a life-saving skill that anyone can learn. Our commitment is to equip 500,000 people with CPR skills by 2020 and create a nation of life

savers. For that, we are driving a co-ordinated national approach and asking the people of Scotland to join us to be ready to save a life.

The organisations that have come together in partnership as Save a Life for Scotland are increasing opportunities to learn CPR and raising awareness of cardiac arrest. That model is unique internationally and builds on existing work by services, communities and individuals. Notable achievements by Save a Life for Scotland partner organisations in spreading CPR learning include working directly with many schools across Scotland to support CPR education. A pack of CPR resources for schools, developed with Education Scotland, is available from Education Scotland's glow website.

Many of tonight's contributions have urged more first aid and CPR training in schools.

Fulton MacGregor (Coatbridge and Chryston) (SNP): Will the minister take an intervention on that point?

Maureen Watt: I will, if the member will let me finish this point.

Under curriculum for excellence, schools already have the flexibility to provide emergency or first aid training and it is up to individual schools and local authorities to decide if and how best to deliver that.

Fulton MacGregor: Will the minister join me in celebrating the work of four nurses at Wishaw emergency department—Caroline, Michelle and the two Fionas—who have set up a keep to the beat initiative? They are going round schools in North and South Lanarkshire teaching CPR to young people in some of the most deprived areas. They have recently been recognised by the health board.

Maureen Watt: That is excellent, and I am sure that that initiative is being replicated across the country. Johann Lamont also highlighted what is happening in a number of schools in Glasgow. Young Scot also ran a successful social media campaign with a livestream video, where young people learned CPR with a Scottish Ambulance Service medic. That was Young Scot's most successful video to date, with more than 43,000 views.

The Scottish Fire and Rescue Service opening its 350 community fire and rescue stations for use in training videos and using British Heart Foundation call push rescue kits is also a way of learning CPR. We are delivering CPR learning to the Scottish public in shopping centres, railway stations and leisure centres, and with community groups. I spent one cold day outside the Museum on the Mound highlighting the out-of-hospital cardiac arrest strategy.

Johann Lamont: Will the minister acknowledge that simply seeking volunteers to come and learn CPR will mean that young people in poorer communities are less likely to access that training? I understand that schools are under a lot of pressure to deliver the curriculum, but they are the most obvious vehicle for such training. What conversations might the minister have with her colleagues in education and the education minister about how we can create incentives for schools in those deprived areas to take up opportunities to train their young people in first aid?

Maureen Watt: I do not necessarily agree with the member. Fulton MacGregor highlighted that good work is going on throughout our schools and communities, and it is not necessarily the case that more deprived communities are less likely to have those opportunities. However, I take on board what the member has said.

We have seen training offered at lots of high-profile events, such as the Royal Highland Show and the Edinburgh military tattoo. Going to the Royal Highland Show means that we can highlight to the rural community how important the training is.

With the European championships coming up this year, which is also the year of young people, we have opportunities to continue to promote first aid and out-of-hospital CPR. We also continue to develop our active online and social media presence as a portal for information.

Tom Arthur mentioned communities and community groups, and I commend all the community councils and groups that have provided defibrillators in their communities. I would also like them to make sure that they register the defibrillators with the Scottish Ambulance Service so that, once someone has dialled 999, the Scottish Ambulance Service can tell them where the nearest defibrillator is.

To date, the Save a Life for Scotland partners have already equipped 200,000 people with CPR skills. Having launched the campaign in 2015, I am particularly proud of that, and I thank all the partners and people involved, including St Andrew's First Aid, for their achievement.

To achieve that, we have listened, used evidence, and made learning CPR easy, accessible and free. We have distilled down the key requirements so that CPR can be learned in a short time. We know that out-of-hospital cardiac arrest survival rates are worse in more deprived areas, and one reason for that is lower rates of CPR. We are seeking to narrow that gap, and Save a Life for Scotland partners are proactively working in those communities.

For maximum effect, Save a Life works through organisations that are already established and

credible. An example is the successful CPR week in north Edinburgh where, with the excellent and essential contribution of community shop volunteers, more than 200 people in the community took time to learn CPR. Building on that experience, Save a Life is in active discussion on CPR learning with some of the least well-off communities in Dundee and Glasgow.

A higher incidence of out-of-hospital cardiac arrest is a result of broader population health patterns that are related to deprivation. As people in the chamber will know, this Government is taking action on that by supporting people to live healthier lives, with our tobacco policies, alcohol framework, and diet and obesity consultation. Health inequalities are a reflection of wider social inequalities and they are one of our biggest challenges. We are taking action to address the underlying causes—tackling poverty, supporting fair wages, supporting families and improving our physical and social environments. We are measuring the progress and the impact of the strategy and are developing an evidence base for future plans.

I would like to thank everyone who has learned CPR. If you have not already done so, please get involved. I commend Tom Arthur and his staff for having taken a first aid course. I remember doing a first aid course in this place. My partner was Annabel Goldie, and putting each other in the recovery position was quite interesting. We should all be ready to say, “Let’s do it” and to have the power to save lives in our hands. Thank you very much.

The Deputy Presiding Officer: Thank you. That concludes the debate.

Meeting closed at 17:26.

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