SOCIAL JUSTICE COMMITTEE

Wednesday 9 May 2001
(*Morning*)

Session 1

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SOCIAL JUSTICE COMMITTEE
16th Meeting 2001, Session 1

CONVENER

*Johann Lamont (Glasgow Pollok) (Lab)

DEPUTY CONVENER

*Ms Sandra White (Glasgow) (SNP)

COMMITTEE MEMBERS

*Brian Adam (North-East Scotland) (SNP)
*Bill Aitken (Glasgow) (Con)
*Robert Brown (Glasgow) (LD)
*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
*Karen Whitefield (Airdrie and Shotts) (Lab)

*attended

THE FOLLOWING ALSO ATTENDED:

Jackie Baillie (Minister for Social Justice)
Ms Margaret Curran (Deputy Minister for Social Justice)
Mr Kenneth Gibson (Glasgow) (SNP)
Fiona Hyslop (Lothians) (SNP)
Tommy Sheridan (Glasgow) (SSP)

CLERK TO THE COMMITTEE

Lee Bridges

SENIOR ASSISTANT CLERK

Mary Dinsdale

ASSISTANT CLERK

Rodger Evans

LOCATION

Committee Room 1

Scottish Parliament

Social Justice Committee

Wednesday 9 May 2001

(*Morning*)

[THE CONVENER *opened the meeting at 09:34*]

Housing (Scotland) Bill: Stage 2

The Convener (Johann Lamont): I welcome everyone to this meeting of the Social Justice Committee. This is day five of our consideration of stage 2 of the Housing (Scotland) Bill—it feels like day five, too.

After section 35

The Convener: Amendment 222 is in a group on its own.

Ms Sandra White (Glasgow) (SNP): This is the third time in committee that I have raised the issue of the right to rent—perhaps it will be third time lucky. People should have the right to rent; that should be stated in the bill. I believe that the right to rent is at least as important as the right to buy.

The policy memorandum to the bill sets out the policy objectives, the third of which states:

"The core objective of the Bill is to secure a better deal for tenants in the socially rented sector."

If we do not include the right to rent in the bill, we will not give tenants a fair deal.

Facts and figures on the issue have been available only since 1997. Research published that year, covering 1995 to 1997, stated that more than a fifth of right-to-buy houses—67,000—had been resold on the open market. That suggests that people are taking up the right to buy and selling on their properties for the profit. That does not leave many houses left for the right to rent. I know of houses in Glasgow, particularly in Partick and the west end, that are going for £30,000 to £40,000 more than people paid for them using the right to buy. That has left something like 60 per cent of young people in the area unable to get affordable social rented housing. I am sure, convener, that as a Glasgow MSP you will have had letters from people in those pressured areas.

In areas such as the Highlands and Islands, there is little new build. In Arran and North Ayrshire, the houses that have been lost through the right to buy over the past 10 years have barely been replaced. In North Ayrshire, only 150 social rented houses have been built in that period. That is why we should enshrine the right to rent in the bill.

I move amendment 222.

Brian Adam (North-East Scotland) (SNP): We hear from ministers that statements such as the one that the amendment proposes are not necessary in legislation. However, I remind the committee that the legislation that set up the Scottish Parliament began with the words:

"There shall be a Scottish Parliament."

We want our bills to include such statements of intent. The Housing (Scotland) Bill should include the words:

"There shall be a right to rent."

The right to rent has been significantly undermined over the years by the erosion of the number of houses that are available to rent. The right to buy has meant that local authorities have built almost no new houses—something like 100, which is very few.

I believe that the bill should stipulate the right to rent. There is a significant precedent for making crystal clear the purpose of legislation. If it was good enough for Donald Dewar, it certainly should be good enough for the Social Justice Committee and the Minister for Social Justice. The bill should state absolutely clearly:

"There shall be a right to rent."

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I find the arguments of the SNP unbelievable. Brian Adam mentioned the first words of the Scotland Act 1998:

"There shall be a Scottish Parliament."

There had not been a Scottish Parliament for 300 years—in fact, there had never been a democratically elected Scottish Parliament. It was the Labour Government that introduced the bill, which needed those words.

The argument is about the right to rent. Sandra White said that this is the third time that she has raised the issue. We know that this is the third time and we wonder why she keeps wasting the committee's time. The bill is clear: it is about the allocation of housing accommodation by social landlords and it is about the tenants of social landlords. If someone is a tenant of a social landlord, what are they doing? They are renting their accommodation.

The SNP has shown many different sides. I am not sure whether Sandra White was on the committee when SNP members complained that the bill was all about social landlords and social renting and that there was nothing about the private sector. Thankfully, the Executive set up a task force to look at that sector. This morning,

Sandra White has not presented an argument about the right to rent; what she said sounded like an argument against the right to buy. The SNP does not know where it is coming from on the issue—it does not know whether it wants to support the rights of tenants or to oppose the right to buy. From what I have heard this morning, I believe that it opposes the right to buy and the steps that the Executive is taking to modernise the right to buy and to improve the rights of tenants and the right to rent, which are enshrined in the bill.

The Deputy Minister for Social Justice (Ms Margaret Curran): The committee has clearly expressed its view on the issue. We thought that we had convinced the committee that the Executive is looking not for empty gestures but for support for the social rented sector. I say categorically to Brian Adam that Labour members have great respect for the words of Donald Dewar. Donald Dewar was never interested in empty rhetoric, so I do not believe that he would have supported what Brian Adam said.

As we have discussed time and again, the bill is not the place for empty rhetoric or pie-in-the-sky statements of political intent. The bill is about making concrete and tangible laws that will stand the scrutiny of the courts. Our focus is to make a reality of the right to rent. The bill is about improving the quality of and access to Scotland's housing stock. That goes further than legislation; it requires funding, skills, good practice and professionalism. The bill supports that goal by providing a framework that empowers those on the ground who have the responsibility and the expertise to address Scotland's housing problems. A few words of comfort will not achieve that. As I have said before—I do so for the third time—the committee's job is to be involved in a serious legislative process and not to make meaningless assertions. I urge Sandra White to withdraw her meaningless amendment.

Ms White: I take it from Cathie Craigie's remarks that she will not support the amendment. I also take it that the minister does not support the amendment, although she does not have a vote. The amendment is not empty rhetoric. The bill is supposed to be comprehensive, so I cannot understand why people shy away from including in it a right to rent. Cathie Craigie did not once say that people should have a right to rent.

The amendment is not an SNP amendment; it is my amendment. If Cathie Craigie reads the reports of committee meetings, she will see that SNP members are individuals and, unlike members of some other political parties, do not always follow one another. I do not want to turn this into a party political debate by decrying specific parties—[*Interruption.*] Cathie Craigie and Robert Brown may laugh, but I do not intend to turn this into a party political debate.

I firmly believe that people should have a right to rent and that that should be stipulated in the bill. That is why I lodged the amendment. The measure has been proposed three times; it would not matter if it was proposed half a dozen times, as long as the issue is debated and people know that I proposed the right to rent and that other members did not think it worthy to be stated in the bill. I will press the amendment.

The Convener: The question is, that amendment 222 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Brown, Robert (Glasgow) (LD)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 222 disagreed to.

The Convener: Amendment 339 is in a group on its own.

09:45

Tommy Sheridan (Glasgow) (SSP): Amendment 339 is self-explanatory. It seeks to introduce a new chapter into the bill, which would reward tenants for length of tenancy and encourage them to stay in the social rented sector, and in doing so defend social rented stock. The amendment is part and parcel of the overall argument that we will have later on the right to buy and whether it should be in the bill. In considering housing in the 21st century, it is important that we reward tenants who stay within the rented sector, and that we provide some incentive for them.

The discount level that is outlined in amendment 339 would ensure that long-term tenants would have something to look forward to. They would look forward to a rental discount of 50 per cent after 25 qualifying years, 75 per cent after 35 qualifying years, and a full rental discount after 40 qualifying years. It is only right and proper that we reward tenants who stay in the social rented housing sector—frankly, we should recognise that after 40 years of paying rent, they have bought the house already. They deserve some incentive to stay in the sector.

It is important to recognise that the qualifying conditions would be clear, and that if the qualifying tenant passed the home to a son or daughter, the son or daughter would not automatically pick up the tenant's length of tenancy and would have to build up their own length of tenancy. That would ensure that public sector housing stock remains in the public sector.

Last week, I had the great privilege of presiding over the opening ceremony for the second phase of the Glen Oaks Housing Association development in my council ward, Pollok. I noted that we were spending £71,000 per unit to build excellent homes, in whose design tenants had been involved. A number of the tenants and housing association members—who voluntarily give up their time year after year and devote much of their energy to building the housing association movement—made the point that, as those homes were being built for more than £70,000 per unit, they should stay within the public rented sector and should not be sold off in future.

When I raised with those tenants and housing association members the prospect of adding a right to rent discount to the Housing (Scotland) Bill, that prospect was treated with a great deal of enthusiasm, because it is recognised that the social rented housing sector lacks a reward for tenants who stay in the sector, pay their rent regularly and are involved in trying to maintain public housing stock. Amendment 339 seeks to provide a rental discount for long-term tenants in recognition of the regard in which we hold the social rented sector and those who stay in it.

I move amendment 339.

Bill Aitken (Glasgow) (Con): I can see where Tommy Sheridan is coming from, because no doubt he feels that an issue of equity is involved, in that if we are discounting right-to-buy purchases, we should do so in respect of rent. Unfortunately, that logic is flawed. We all agree that rents should be economic but not exploitative. Rent should be fixed on the basis of a constant rental stream over the years. If there were intervention in the manner suggested by amendment 339, longer-term or even medium-term budgeting for any RSL would be difficult in the extreme.

In summing up, perhaps Tommy Sheridan could deal with whether he has costed the plan and done any research upon its likely effect upon the average RSL. Amendment 339 does not commend itself and I shall vote against it.

Robert Brown (Glasgow) (LD): I too have considerable doubts about the proposal. The motivation behind it is fair enough, but the reward for which tenants in Scottish housing are looking is a properly maintained house with reasonable standards of service. Over the years, one of the bedevilling problems of Scottish housing has been that the level of investment and support needed to produce that has frequently not been provided.

Amendment 339 approaches the economics of the madhouse. The Scottish Executive and the committee are engaged in remodelling the right to buy, about which there is a legitimate argument to be had. However, the amendment would produce another peculiar distortion that is based not on the needs of housing—which is the central issue here—and the remainder of the stock, but on an arbitrary subsidy for particular people who happen to live in particular houses. One of the main difficulties with the original right-to-buy scheme was that it subsidised particular people in fortuitous circumstances, on the basis of the house that they happened to be in, rather than on the basis of housing stock needs.

As Bill Aitken rightly says, the proposal appears to be uncosted. It would be far better to concentrate on the needs of the stock than on the needs of the individual tenant in the rather arbitrary way that Tommy Sheridan proposes.

Cathie Craigie: I too oppose amendment 339. The registered social landlords may originally have had concerns about the extension of the right to buy, but this proposal would mean that their income stream would be totally out of control and unpredictable. I imagine that Glen Oaks Housing Association would have great difficulty planning for future improvements to its stock and even day-to-day maintenance. Tommy Sheridan's proposals do not mention anywhere how the repairs and maintenance of the properties would be funded.

Amendment 339 makes a qualification about housing benefit. Large numbers of people are in receipt of housing benefit and that brings additional money from the Treasury over the years. He has not thought through the issue of people who are on partial housing benefit—the amendment takes no account of them. The lack of detail is farcical. I oppose amendment 339.

Brian Adam: In summing up, Tommy Sheridan should give us some idea of the proportion of tenants of RSLs and local authorities who might be affected by the amendment, which refers to the Scottish secure tenancy and would therefore apply to tenants of local authorities as well as tenants of RSLs. If, as I suspect, a large number would be affected, the costs to local authority housing providers and to RSLs would be significant.

Local authorities borrow money for housing over 60 years perhaps. Not all the borrowing is by a mortgage-type arrangement of 25 or 30 years. Even if a house has been paid for after 40 years—which is the argument that Tommy Sheridan has used—that ignores the fact that, after 40 years

and, in fact, after considerably less time than that, houses need further investment.

The argument against the amendment, irrespective of the motivation behind it, is identical to the arguments against extension of the right to buy. The financial viability of all the housing providers is undermined. The amendment would have the added problem of undermining the financial viability of local authority housing providers. The subsidy would have to come from somewhere. If it came from the same place as the subsidy for the right to buy, it would come from other tenants.

The consequence of not expecting someone to pay full rent because they have paid full rent for between 25 and 40 years is that all the other tenants have to pick up the difference. There is nothing in amendment 339 to suggest that that subsidy would come from anywhere else.

Karen Whitefield (Airdrie and Shotts) (Lab): Tommy Sheridan lodged amendment 339 because he wants to support the rented sector, but the bill already does that. The whole bill is about the social rented sector and this is the first time in 20 years that there has been legislation on social housing in Scotland. I am not sure that amendment 339 adds anything to the bill. There are several reasons for thinking that, if anything, it might even undermine it.

Who exactly would qualify for the discount that Tommy Sheridan is proposing? Amendment 339 appears to suggest that those who are in assured tenancies would not qualify, which seems to be an injustice. Other members have mentioned income, who would qualify and what that would mean for housing associations. What is proposed would take away housing benefit and central Government funding, which allows local authorities and housing associations to repair houses and properties. Most people want to live in a house that is damp free and in good repair, but amendment 339 would jeopardise that. Those people left paying rent would be faced with spiralling rents, which would be out of control, because more and more people would be sitting rent free but with no support from central Government.

I am not sure that Tommy Sheridan's proposal adds up. Therefore, like other committee members, I will not support amendment 339.

Ms Curran: The Scottish Executive always wants to maximise opportunities and rights for tenants and always gives serious consideration to any ideas that we think could achieve that. However, we believe that amendment 339 is unworkable and misguided.

In effect, tenants in the social rented sector benefit, right from the beginning of their tenancies, from a housing subsidy, which means that socially rented sector rents are, on average, more than 35 per cent below market values. Our paper "Evolving the Right to Buy: Evidence for Scotland" set out that one of our key reasons for modernising the right to buy was to have a rational link between the levels of discount available to those seeking to become home owners and the levels of subsidy that are provided for those who remain in the social rented sector. We therefore have a problem in principle with amendment 339.

There are other problems concerning the level of unfairness that Tommy Sheridan's proposal would involve, some of which have already been mentioned. For example, proposed subsection (3) would exclude from the discount regime those tenants who have had an assured tenancy with housing associations. Subsection (5) exempts rents that are being wholly funded by the taxpayer through housing benefit, but makes no mention of cases where some or most of the rent is being met in that way.

Someone else will have to pay for that effective double subsidy. If a landlord is forced to reduce, or even cancel, the rents of some of its tenants, it will, quite naturally, recoup those losses by raising the rents of its other tenants. Amendment 339 does not mirror the right-to-buy discounts. Tommy Sheridan may imply that he is trying to do that, but that is not what the amendment would do. As Robert Brown said, amendment 339 would distort the whole picture and would not assist the social rented sector. Amendment 339 would introduce inappropriate and unequal additional subsidies, so I urge the committee to reject it.

10:00

Tommy Sheridan: Bill Aitken and a number of other members said that the logic of amendment 339 was flawed. He alleges that he understands where I am coming from in supporting the rented sector but says that he does not understand the logic underpinning the amendment. Under amendment 339, the housing assets that belong to registered social landlords or local authorities would remain assets—they would remain assets during rental discount periods and after those tenants who are subject to the reward of a rent discount move on or die. The important point is that local authorities and registered social landlords can plan on the basis of their assets, which they know they can retain. Bill Aitken and other committee members support the loss of those assets completely. That is why the economic logic underpinning amendment 339 is more beneficial to registered social landlords and local authorities than the economic logic underpinning any extension to or defence of the right to buy.

Members seem to be suggesting that the amendment would bring great woe to local authorities and others. Glasgow City Council, the largest local authority in Scotland, has 79,753 registered tenants. Of them, 2.1 per cent have a tenancy of more than 30 years and 3.5 per cent have a tenancy of more than 25 years. That means that less than 6 per cent of the tenants in Glasgow have tenancies in excess of 25 years. It is estimated that less than half those tenants are in receipt of full housing benefit, which means that only about 3 per cent of the tenants would qualify for the rental discount. The important point is that tenants who have a shorter tenancy would at least have something to look forward to and would be rewarded for staying in the social rented sector.

Robert Brown said that the local authorities and registered social landlords would be unable to plan for the medium and long term, but the amendment would ensure that they could, because they would be able to retain their assets. It would be easy to work out the tenancies of each of their tenants.

Amendment 339 would provide registered social landlords and local authorities with the ability to plan in the long term and it would provide the social rented sector with a bonus, a reward and an incentive. That is why I hope members will reconsider their earlier rejection of my arguments, which was based on the idea that there would be a massive loss of housing stock. The figures show that we are talking about only a small proportion of stock.

The important point is that the stock that would be affected would remain in the public sector and would continue to be a public asset for future generations. The right to buy and any extension of the right to buy will result in the loss of that stock. We will have that argument later in a bit more detail.

I ask the committee to reconsider the remarks that have been made and to support the amendment. In doing so, members will be expressing their support for the rented sector and for the delivery of a reward to those who stay within that sector. I intend to press my amendment.

The Convener: The question is, that amendment 339 be agreed to. Are we agreed?

Members: No

The Convener: There will be a division.

AGAINST

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
White, Ms Sandra (Glasgow) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 0, Against 7, Abstentions 0.

Amendment 339 disagreed to.

Section 36—The qualifying conditions

The Convener: Amendment 312 is grouped with amendment 317.

Ms White: Amendment 312 is self-explanatory and deals with exemptions from the right to buy. It attempts to extend the residential qualification of the qualifying conditions from five years to 10 years to protect the rented sector. Executive amendment 317 is acceptable to me and I will vote for it. I hope that that support will be reciprocated with support for amendment 312.

I move amendment 312.

Ms Curran: If only it were all so easy, Sandra.

The Executive is committed to modernising the right to buy to ensure that the scheme represents a better balance between landlords, who are concerned about their long-term viability, tenants, many of whom aspire to become home owners, and those in housing need, who require access to social rented housing.

The bill already shifts the eligibility period from two to five years. It is right that tenants should be able to demonstrate a history in the sector prior to enjoying the right to buy. Five years is the correct balance. Amendment 312 suggests that that figure be doubled. Although any figure is—obviously—a matter of some judgment, 10 years would be disproportionately long and could lead to understandable resentment among tenants who wish to buy but are caught by the provision. Amendment 312 would increase the proposed qualifying period by five years. It would be unfair to penalise potential purchasers in that way. Five years is a sufficient demonstration of a tenant's commitment to the social rented sector. I ask the committee to reject the 10-year qualifying period that amendment 312 proposes. Sandra White will, perhaps, be surprised and disappointed.

Amendment 317 seeks to clarify what we mean by continuous occupation for the purposes of calculating the qualifying period, about which some confusion has arisen. The amendment puts the matter beyond doubt and is in line with a recent Lands Tribunal case. Our policy is that, provided that the period of occupation has been continuous, periods that the tenant has spent in the social rented sector should count towards their eligibility for right to buy. Those periods could have been in one tenancy or in a succession of tenancies.

We recognise that there will be circumstances in which, for reasons outwith their control, tenants have a break in that continuity—I am thinking of

cases in which, for example, people are subject to domestic violence or relationship breakdown. Amendment 317 gives landlords the discretion to disregard such exceptional interruptions in continuous occupation for the purposes of right to buy if they see justification for doing so. The amendment is a technical amendment, but it is important, as it clarifies the existing situation. I hope that the committee will support it.

Bill Aitken: Clearly, section 36 will be the most contentious aspect of the bill. A number of arguments about right to buy will be made and many members are uneasy about the section. However, amendment 312 is not the proper approach to the problem and I cannot support it. Other solutions, which may be proposed later, might go some way towards easing members' concerns. Perhaps uncharacteristically for an Executive amendment, amendment 317 has some common sense about it.

Brian Adam: Have not various comments been made about ungracious remarks?

Amendment 317 is a useful addition. The requirement that there should be no breaks in continuity of occupation and, in particular, the question of whether local authorities have applied the rule fairly have caused some difficulties in the past, so I am more than happy to welcome the amendment.

On amendment 312, the minister is right that we need to strike a balance. However, I was not convinced by the argument that people who have rented a property for five years in the social rented sector—a description that I am not too comfortable with; I would call it public housing stock—are showing a commitment to the public housing stock. I would have thought that the fact that they were thinking of buying the house showed no commitment.

I like the idea of extending the eligibility period. The logic of Tommy Sheridan's previous argument was that a long tenancy ought to have some reward, but a long tenancy is precisely that. Two years was far too short. It was like saying, "Come and get your house really, really cheap." People just had to bide two years to qualify and, after another three years, they got the massive discount and could sell the property on whenever.

Ten years is a reasonable qualifying period. If people aspire to buy their own home and have lived in that home for 10 years—or if they have lived in different houses in the public rented sector for 10 years and wish to buy the home that they now live in—I do not think that that is unreasonable where that right currently exists. However, I do not support an extension of the existing right. A qualifying period of 10 years would offer a much better balance, given the significant discounts that we are offering to people who choose to rent. The 10-year period is reasonable. I commend the Executive for extending the qualifying period from two to five years. That is a worthwhile advance, but it does not go far enough.

Karen Whitefield: Amendment 317 is worthy of support, but I have some concerns about amendment 312. We will have several discussions about the right to buy this morning. Some of us have long-standing concerns about the scheme and will propose amendments that we think will strike the correct balance to ensure that the right to buy is part of an integrated and positive strategy for housing policy in Scotland.

Brian Adam has made several assertions that are not entirely true. When someone buys their council house, it is more than likely that they will stay there for the rest of their life. Some people will abuse the system—there are people who find loopholes and abuse every kind of system. However, the vast majority of people who exercise the right to buy stay in the house for their lifetime. Right to buy is not about making a quick buck. It would not be right for us to extend the qualifying period to 10 years. That could cause great and understandable resentment in communities, because one set of tenants would have been able to exercise their right to buy at an earlier point than others could. We should not be legislating to create that situation.

Ms Curran: Many of the points that I wanted to make have been raised. I accept that Brian Adam has recognised that we have made some movement. We are seeking to achieve fairness and stability in our policies. Amendment 312 goes a step further than we would want to and undermines that stability. There must be a balance between rights and provision. We think that we have struck the right balance in the package that we have put before the committee. Amendment 312 would undermine tenants' rights and people would justifiably feel aggrieved about that. We ask the committee not to support amendment 312.

Ms White: I intend to press amendment 312. I introduced it at the earliest opportunity—the beginning of section 36—because I think that that is where it should be. We will go on to speak about right to buy and its extension.

Like the minister, I believe in fairness and stability. That is why I want the qualifying period to be lengthened to 10 years. If we followed Karen Whitefield's logic, we would not tinker with anything in case somebody did not like it. This is our first housing bill and this is the first opportunity that we have had to tinker with this aspect of the bill. As Brian Adam said, extending the qualifying period from two years to five years is a step in the right direction, but to extend it to 10 years would

be much better in achieving stability and, as the minister said, fairness. I do not believe that that would penalise anyone. People could buy their home after a 10-year qualifying period.

I disagree with what Karen Whitefield said about people buying their homes. Many people buy their home for their parents. When their parents die, they sell it off and it is lost to the rented sector. My idea is to protect the rented sector. I thought that amendment 312 was a good way of doing that. I am sorry that most committee members will not support what is a good amendment. Ten years is not a penalising period.

The Convener: The question is, that amendment 312 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 312 disagreed to.

Amendment 317 moved—[Ms Margaret Curran]—and agreed to.

10:15

The Convener: Amendment 340 is grouped with amendments 344, 349, 364, 368, 369, 377, 379 and 380.

Tommy Sheridan: As I said earlier, amendment 340 is probably the crux of this morning's discussion on section 36. There will be arguments for extending the right to buy, for defending the right to buy and for deleting the right to buy—which, of course, is what I will be arguing for.

It is interesting that one of Mrs Thatcher's first actions when she took over in 1979 was to announce her detestation of socialism and everything that she felt socialism represented. By that she meant public provision and public ownership. Her first assault on public provision and public ownership was on the provision of housing. She attempted to privatise public housing. She did that by offering a sometimes very worthwhile bribe to ordinary individuals and tenants to buy their homes, which led to public sector stock being sold off. It is interesting that housing was the first of the mass privatisations that the Thatcher Government embarked on. Before gas, electricity and British Telecom, housing was the first, because privatising housing struck at the very heart of the idea of socialism—the idea that there could be collective provision for housing rather than just private provision.

I therefore have no problem in asking the committee to take the opportunity in the Housing (Scotland) Bill to delete the right to buy as something that has been an unmitigated disaster for social housing in this country. According to Shelter Scotland, the right to buy has added to problems of homelessness across the country. In effect, it was a policy to bribe tenants who could afford to go into private ownership.

I bear absolutely no malice towards individual tenants who took that opportunity—it was a gift horse. In Glasgow, the average discount has been more than £22,000. Faced with an average discount of more than £22,000, some people took the opportunity. They cannot be blamed for purchasing their homes on that basis.

However, we must face the fact that right to buy was a bribe—a Conservative bribe to privatise housing. In my city of Glasgow, it has resulted in the loss of almost a quarter of the stock—not only that, it was the best stock that was lost. I am sure that the minister is aware that her constituency of Glasgow Baillieston has lost not a quarter of its original housing stock, but 60 per cent of its original housing stock. Anniesland has lost 44.5 per cent of its stock. In the convener's constituency of Glasgow Pollok, 23 per cent of the stock has been lost. Since November 1981, the council in Glasgow has lost 38,340 homes but has built fewer than 500 homes. No wonder Shelter Scotland makes the point that the right to buy has added to homelessness in Glasgow.

I ask that today, through the bill, we take a position to prevent the further privatisation of public assets. The homes that are built through public subsidy and public money should remain in the public sector. If you defend the right to buy or extend the right to buy, you accept that there should be further privatisation of the housing stock.

The minister makes an interesting point about commitment, suggesting that, after five years, someone in the social rented sector has shown a commitment to that sector and so should be allowed the right to buy. Amendment 339, which I put before the committee earlier, suggested that, after 25 years, the commitment to the social rented sector should be recognised by a rental discount. That idea was rejected—remaining in the social rented sector after 25 years is not seen as a commitment to that sector, whereas moving out and privatising a home after five years in the social rented sector is seen as a commitment to it.

I hope that the committee will accept that it is time to draw a line in the sand and acknowledge that the right to buy was a cynically designed policy to privatise and attack the whole idea of the collective provision of housing. We should put a stop to that now.

I move amendment 340.

Cathie Craigie: Tommy Sheridan suggested that renting one's house showed good socialist credentials. He should check with some of the members of his party who have exercised the right to buy. Is it okay for one person to do it but not okay for the masses? Probably more than one person in his party did so, although I can be sure of only one.

Tommy Sheridan used comments from Shelter to back up his argument for a repeal of the right to buy. Throughout the debate on the Housing (Scotland) Bill and the consultation period, Shelter has been good enough to issue members with briefings on many different aspects of the proposals. In the briefing issued to members yesterday, Shelter made it clear that it had been misrepresented. The briefing said:

"Shelter believes that the right to buy does not directly lead to people becoming homeless, but what it does do is affect the quality of accommodation offered to homeless people and a reduced stock means that solutions to homelessness are more difficult to achieve. If the right to buy was accompanied with investment in the currently rented stock and an increase in house building in the social rented sector, then there would be no debate over the right to buy. It is because there is limited investment in the social rented sector, and there is no commensurate build of rented houses, that the debate rages."

I tend to agree with Shelter on that point. What the Executive has been trying to do—and what the Labour Government has been trying to do since 1997—has been to redress the problem of underinvestment in the housing stock.

Tommy Sheridan made much of the Glasgow situation. If the Executive proposals for Glasgow gain the agreement of the Glasgow tenants there will be huge investment in the housing stock in the city. That investment is much needed. Who could blame people for wanting to exercise the right to buy in Glasgow so that they can take a step towards moving on somewhere else, given that the condition of the stock has been so poor? Moreover, the Executive has a building programme. Scottish Homes and the new executive agency will continue to ensure that we meet the targets that have been set.

Many people round this table opposed the right to buy. I remember being a local Labour party activist in Cumbernauld and Kilsyth when the Cumbernauld Development Corporation was selling stock—we were way ahead of everybody, at the forefront of the campaign to oppose that.

The right to buy has had public support and people have exercised that right and will continue to do so. As has been said this morning, we must get the balance right. We are achieving that by modernising the right to buy through the bill.

The bill is about giving tenants greater rights, but amendment 340 would take rights away. I doubt whether removing the right to buy from existing tenants would comply with the European convention on human rights. We are creating a much-improved right to buy and I hope that the committee will not support amendment 340.

Bill Aitken: Although I have no wish to wallow in nostalgia, I am grateful to Tommy Sheridan for reminding me of the arguments that were advanced against the right to buy in 1980. He will not be surprised to learn that I found those arguments sterile and bankrupt at the time and that my view on the matter has not changed.

Cathie Craigie underlines the extent to which the argument has advanced over the 20-odd years since the matter was first debated. However, I imagine that she would take issue with some of the arguments that I made in those days.

I am robust and resolute in my defence of the Tenants' Rights etc (Scotland) Act 1980. It was a most advantageous piece of legislation, enabling something like 24 per cent of council house tenants in Scotland to own their homes. It is important to remember that, in those days, only 38 per cent of people in Scotland owned their homes, which was significantly less than the percentages in every other European country, with the possible exception of the people's paradise of East Germany, and I do not think that we want to be equated with that society. I have absolutely no hesitation in defending the principles of right to buy, which have been of immense benefit not only to society generally, but to many individual Scots families.

There are genuine arguments about right to buy, which I will address in due course, but we must be honest about the issue. We should not be removing people's right; we should be seeing how we can add to those rights. Cathie Craigie articulated that point well. Tommy Sheridan's proposal would be retrograde in the extreme.

Karen Whitefield: I am glad that Tommy Sheridan mentioned Mrs Thatcher, because it gives me the opportunity to remind committee members of the difference between this Administration and Thatcher's Administration. If we were still living in Thatcher's Britain, we would not have a Scottish Parliament that was concentrating on the issues that directly affect people's lives in Scotland and we would not be discussing housing policy and the social rented sector in Scotland in such detail because, in

Thatcher's Britain, and in a Tory Britain, that would not be important. That is what makes the Labour-led Executive very different from the Thatcherite model.

The bill is not about extending the right to buy; it is about modernising it. The right to buy has a valid place in housing policy and the bill is about making sure that it works. Why should people who have lived in a community all their lives have to move out if they want to exercise their right to buy and own their own homes? Why should they not be allowed to live there and exercise their right to buy? The bill is about ensuring that we have a good social mix in communities, which is what the right to buy provides.

Tommy Sheridan named many constituencies in and around Glasgow, but he did not mention Airdrie and Shotts, where the level of renting is among the highest in Scotland. That is not because the people in my constituency do not want to buy or because they want to rent; it is because they are happy with their landlord, North Lanarkshire Council. The people who rent from housing associations also believe that they have good landlords, but they, too, want the right to buy. I would not be happy telling my constituents that they no longer had that right. I do not believe that abolishing the right to buy would save housing policy in Scotland. We must have a housing policy that addresses the social rented sector and modernises the right to buy so that it is an effective mechanism for ensuring good housing in Scotland in the 21st century.

Brian Adam: I want to clarify the SNP's policy, because undoubtedly we will go into this issue in great depth. The SNP does not support the repeal of the existing right to buy, but it does oppose an extension of the right to buy. Tommy Sheridan's amendments in the group are—on the face of it—black and white, as are most of his amendments, but there are technical problems with them. I just cannot believe that he wishes amendment 380 to be agreed to. That amendment would leave out section 44, the purpose of which—to the credit of the Executive, which I do not say often—is to repeal some of the worst excesses of Tory legislation.

The Tories' proposals were not about whether people would like to buy their houses; they were about how people would buy their houses. The choice that was offered was not, "Would you like to stay in your council house?" The question was, "When can we get you into the private sector?" The Tories wanted to get people into non-council houses, whether it was a housing association house or a home that they had bought. In the Tories' eyes, council housing was bad and any other kind of housing was more than acceptable. Section 44 of the bill removes many of those provisions and I cannot believe that Tommy Sheridan wants us not to repeal that part of the Housing (Scotland) Act 1987.

10:30

Although I agree that it is right for people to have choice, the consequence of the right to buy—as Tommy Sheridan rightly pointed out—is that peoples' perception is that most of the best houses in the best areas have been sold. The situation in Aberdeen is the same as it is in Glasgow—more than a quarter of the housing stock has gone. The houses that are left are in areas where houses are possibly difficult to let. They are high-rise flats and flats in tenement properties. Houses have been sold in those areas but, as a consequence, they are more difficult to manage. Despite the efforts and the claims of successive Governments, we do not have a fresh supply of council housing. That would bring a proper balance to the housing stock, but local authorities are not getting the support that they need for new build. As soon as they build new houses, they are exposed to high discount levels over which they have no control.

Scottish Homes' investment is in one direction only and it does not increase people's choice. It continues in the direction that the Tories set in train, which was to tell people what area they will move into. Public sector housing might have increased investment but, as a consequence, it is tied to accepting the Government's agenda, which is to transfer houses away from local authorities. I cannot see why we have to have that kind of doctrinaire approach to housing and why the Executive has continued with that kind of approach. We ought to renew the supply of public sector housing, but the Executive's proposals do not do that.

I understand the position that Tommy Sheridan has adopted, but I find it unfortunate that, in lodging the amendments in the group, he has taken the clear-cut view that no one should have the right to buy and that that right ought to be repealed. It would be wise for him not to move amendment 380, because—taking into account what he wants to achieve—its effect would be to make things worse rather than better.

Ms White: Brian Adam has picked up on some of the amendments that I was going to mention. He has put forward clear arguments to show that people will be penalised if some of the amendments in the group are agreed to. I have a great deal of sympathy for Tommy Sheridan's point of view, but my worry—which has been expressed by other members—is that taking away the right to buy, which has been in place since the 1980s, could breach ECHR.

Not much can be put between some of the political parties sitting around this table but, listening to some of the comments that have been made, it would be easy to see that a general election was coming. Some members did not address the amendments to which they were speaking. I will not do that. I may speak about independence whenever I like, but I will not use the committee as a stage on which to do so.

I appeal to Tommy Sheridan not to move some of his amendments, because agreement to some would create a worse effect than was meant. I know that the amendments have been lodged in good faith, but some of them—especially amendment 380—take away existing rights. Therefore, although I have some sympathy with the amendments, I cannot support them.

Robert Brown: I have no hang-up about any form of ownership of housing. There is merit in private ownership, community ownership and in housing associations—all have their part to play. However, in this debate we have lost sight of the reason why people found the right to buy attractive when it was introduced. It was not just because of the discounts—which were set at obscene levels and were well beyond what was required—but because of the failure in many parts of Britain of the traditional model of municipal housing. That model was monopolistic and inefficient, and it led to bad management, poor investment, poor quality and little choice. Furthermore, that was not restricted only to the worst parts of Glasgow, but existed in many council areas throughout Britain. That was why a change of scene, away from the councils as landlords, was regarded by many as attractive.

I have made many trenchant criticisms of the right to buy in earlier debates. The right to buy is a blunt instrument and the discounts were set at far too high a level, which distorted housing finance arrangements and resulted in several disadvantages. Nevertheless, the right to buy has made a significant change in the pattern of ownership throughout the country. What we are trying to do—as several members have said—is to rebalance the right to buy to make it an effective tool in local housing strategies.

The evil that people do lives on after them. Although we are grateful for the viewpoint that Tommy Sheridan has put forward today he is, in fact, Mrs Thatcher's child—he is the mirror image of Mrs Thatcher. He is an extremist politician, but at the other extreme to that which we suffered under Mrs Thatcher. The difficulty with extremist politicians is that they take positions that do not reflect the way in which matters have moved on. At the end of today, we will have a rebalanced right to buy, which is related to local housing strategies and which bears some relationship to public policy objectives. That is what I am interested in.

Our objectives are the security of communities, control by people over their housing and environment, and the sensible use of public resources to achieve what we seek. Repealing the right to buy would not achieve those objectives and would take away rights that people already have. The reformed right to buy that is proposed by the Scottish Executive—which has the support of the majority of committee members—will achieve those objectives and will lead to a new regime in public housing, in which the tools of housing finance and housing policy will be used to achieve a better quality of life for the people of this country.

Ms Curran: This has been an informative and impassioned debate, and it is a credit to the committee that, although a range of views have been expressed, we are getting to grips with the housing issues that people face.

Members will not be surprised that, not for the first time, I disagree fundamentally with Tommy Sheridan. His position is shared by only a tiny minority—not that that has stopped him in the past. Just about everybody else has agreed that, as a minimum, it would be wrong to take away the existing rights of the vast majority of tenants in the social rented sector.

It has been mentioned that the right to buy was introduced inappropriately by Mrs Thatcher. We recognise that the right to buy, as currently constituted, can and has affected the availability of social rented housing in parts of Scotland. Members have spoken of its negative effects, and I would be happy to do battle with Bill Aitken over the act that introduced it, as we are going to introduce a substantial package of modernisation and reform. I remember when the right to buy was introduced, in the late 1970s and early 1980s, and Mr Sheridan and I were probably in the same party—if not the same branch—at the time. I do not know whether Tommy remembers that as well as I do: I am blessed with quite a good memory. [MEMBERS: "Oh."] Let me move on from such ungracious comments.

There is a serious argument for why positions have changed on the right to buy. I must say that in all aspects of politics, we must be prepared to listen to those who are on the receiving end of our policies. It is absolutely clear what ordinary tenants in all parts of Scotland, including Glasgow, aspire to. The majority of households in Scotland—75 per cent—have expressed a clear preference for home ownership. I have done work on the impact of right to buy and that right has played a major role in helping people to achieve their aspirations and in helping to maintain socially balanced communities.

It is very important that aspiration to home ownership should not be condemned as being somehow anti-socialist, particularly by people who own their own homes—I do not think that that is appropriate. The bill proposes a reformed right to buy that can operate effectively within a strategy of support for the socially rented sector, alongside investment in existing stock and new build.

Yet again, great play has been made of Glasgow. I can assure the committee that Glasgow is at the top of the Executive's list of priorities. However, the problem in Glasgow is not that the city does not have enough stock; in fact, Glasgow has too many voids. Glasgow's problem is the quality of its stock and the need for investment in that stock. We have put together a formidable package of commitment to ensure that we tackle fundamentally the issues that face Glasgow tenants. Debt, rather than the right to buy, is the crippling problem in Glasgow, and it is debt that the Executive is quite properly dealing with.

I ask the committee to reject the raw, unthinking ideology of Tommy Sheridan, which dates back well beyond Mrs Thatcher and which has been unthinking and undeveloped since her time. The package of measures that we are proposing will provide a policy that allows us to balance individual aspiration with collective provision. I think that that is the job of socialists in Government and I am pleased that that is what we are doing today.

The Convener: I ask Tommy Sheridan to wind up and to indicate whether he intends to press amendment 340.

Tommy Sheridan: I intend to press amendment 340, and I hope that the minister does not take umbrage at my remarks. I was only 15 when the Tenants' Rights, etc (Scotland) Act 1980 was passed, and I joined the Labour party at 17, so I was not a member at the time to which Margaret Curran referred.

I would like to pick up on the minister's comments before returning to some of the other remarks that have been made. It is important that the minister publishes fully the survey upon which she bases her figure of the 75 per cent preference for right to buy. She will be aware that the previous minister who had responsibility for housing, Wendy Alexander, has already admitted that that figure was from a completely false survey that did not represent the preference for the right to buy. I invite the minister to print the survey in full to show how fallacious it is. Members will find that it does not represent anything like what Wendy Alexander tried to pretend it represented. It is important not to misrepresent public opinion.

It is also important to bear it in mind that the minister has referred to the fact that the biggest single problem facing Glasgow is debt; she is absolutely right. That is why I cannot understand why she does not offer the same facility to Glasgow City Council as she is prepared to offer to Glasgow Housing Association to deal with debt. That would allow more investment and quicker investment in Glasgow City Council's housing stock.

Cathie Craigie made most of the other points in the debate and other members repeated some of them. Cathie and I have already shared correspondence about misleading comments being made and about comments being distorted. It is important to bear it in mind that at no time did I suggest that it is a socialist credential to rent a house. If it was a socialist credential to rent a house, that would mean that people who rent a house could call themselves socialists. There are a lot of people who rent a house who would not consider themselves socialists. What I did say was that we should have as an objective the collective public provision of good-quality homes.

I am in favour of defending the right to buy, but I am opposed to defending the right to buy public housing. That is the difference. Members will find that, in relation to all the arguments about human rights legislation, it is a completely false argument to suggest that there is a human right to buy a publicly built house. It might be a human right to be able to buy a home privately—I have no problem with that—but not to buy privately a publicly built home. It does not represent an encroachment on anybody's human rights to remove that right to buy.

I ask my two colleagues in the SNP to reconsider supporting the group of amendments, because it is a bit back to front to suggest that some of the proposed deletions from the bill would be harmful, when the deletions that the amendments would make are consistent. If the right to buy is to be removed, all the sections that relate to the right to buy must be removed. If my colleagues support that idea, they must support the removal of all those sections, not the pick and mix that they suggest.

Cathie Craigie said that Shelter did not oppose the right to buy, then proceeded to read out a statement from Shelter. I suppose that the question is one of interpretation. I interpreted Shelter's statement to mean that the right to buy was a problem because it had not generated a consequent increase in investment and had therefore added to the problem of homelessness. That is why Shelter is prepared to support the discontinuation of the right to buy.

10:45

I ask all members to consider what they mean by public support. If they mean that we should consider the number of people who have bought their homes because of the right to buy, they mean figures that show that in Glasgow, 23.4 per cent exercised that right, and that throughout Scotland, 28 per cent exercised it. I do not know whether that is considered majority support nowadays—that might be a new interpretation—but it seems like minority support to me.

Cathie Craigie and Karen Whitefield talked not about an extended right to buy, but about an improved right to buy—a bit like the improved private finance initiative and the improved nuclear deterrent. That argument tries to justify Labour's support for Tory policies by calling them improved. They are not improved in any way, shape or form. It is incredible how Cathie Craigie referred to the wholesale stock transfer that the Executive proposes for Glasgow. I recommend its business plan to her. Not one new house will be built under the wholesale stock transfer. It is important that members bear in mind what they are supporting.

Members talked about a commitment to a policy to retain a right for tenants, to recognise that five years in a council home should give a tenant the right to purchase it. If Karen Whitefield had spoken earlier, she could have supported my amendment 339, which would have provided a right to rent discount, because she made an impassioned plea for some advantage to be given to those who live long-term in communities and want to stay in them. That is why we proposed a right-to-rent discount, to reward those who stay in a community for the long term and to help them to continue to stay in that community. Therefore, I do not think that Karen Whitefield defended the right to buy or argued for its extension. She argued against that.

The Tory right-to-buy policy was designed to privatise homes. The committee has the opportunity to draw a line under that and to argue for public sector homes. We should defend public sector homes and we should invest in them. If people want to exercise their right to buy, we should by all means allow them that right, but not in relation to publicly built houses.

The Convener: The question is, that amendment 340 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

AGAINST

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
White, Ms Sandra (Glasgow) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 0, Against 7, Abstentions 0.

Amendment 340 disagreed to.

Section 36, as amended, agreed to.

Section 37—Exemptions from right to buy

The Convener: Amendment 341 is grouped with amendments 342, 313, 343 and 185. If amendment 342 is agreed to, amendments 313 and 343 will be pre-empted. Members should also note that amendment 313 does not pre-empt amendment 343, which would simply replace the words that amendment 313 would remove with different wording. I am sure that that is entirely clear.

Fiona Hyslop (Lothians) (SNP): I seek to retain the exemptions in paragraphs (a), (b), (d) and (f) of section 61(4) of the Housing (Scotland) Act 1987. The Executive recognises in section 37(5) that there is a need to exempt sheltered housing and housing for people who have special needs. I expect that the Executive's arguments against amendment 341 will centre on why we therefore need to keep provisions from the 1987 act.

However, my argument is that the bill and that act are not mutually exclusive; they can work together. For example, the 1987 act is more precise about the types of homes that are to be exempt from the right to buy, including houses that are specially designed or adapted for the needs of persons of pensionable age or disabled people. Furthermore, the 1987 act contains a section—not included in the Executive's proposals—that exempts the houses of housing associations that have never received public money. In view of that, amendment 341 would retain the exemptions that are listed in the 1987 act, because they are complementary to the provisions in section 37(5) of the bill and also because they cover the houses of housing associations that have never received public money.

Amendment 342 applies to housing associations that have charitable status. As Karen Whitefield and Brian Adam have both acknowledged, either housing associations should be granted time to apply to become charitable bodies and are therefore exempt from the right to buy or—as amendment 342 argues—a housing association that might even become a charitable body this year, on 5 April 2002, or in 2005, 2010 or whenever, should be exempt.

Although I am willing to listen to some of the arguments that Brian Adam and Karen Whitefield might put forward, I suspect that amendment 313 would make little difference, because it would give housing associations very little time to apply for charitable status. On the other hand, amendment 343 would provide for a longer period of time.

Although I appreciate the convener's comments about pre-empting amendments, I would be interested to hear—particularly from Brian Adam—about why we should put a definite date on the matter.

I move amendment 341.

Karen Whitefield: I lodged amendment 313 because of representations I received from Orkney Housing Association and from my colleague Maureen Macmillan, who has links with that organisation. The Executive has listened to the concerns of the Scottish Federation of Housing Associations that some housing associations should not qualify for the right to buy. However, although a number of housing associations have applied for charitable status, the process is not yet complete. As a result, amendment 313 seeks to allow those housing associations to have exemption from the right to buy if they receive charitable status before royal assent is given to the bill as enacted. Because of the inclusion of that particular date instead of some arbitrary date, the provision neither opens the floodgates nor provides housing associations with a loophole to use application for charitable status as a means of being exempt from the right to buy.

Brian Adam: As Karen Whitefield has rightly said, a number of housing associations are in the process of applying for charitable status and need an appropriate amount of time to do so. However, there is some debate about how long they should be given. I find it rather unfair that the bill simply cuts off the process and disqualifies those particular associations. Surprisingly enough, I have some sympathy with amendment 342, but I recognise that people might use that provision as a means of circumventing the intention of the legislation—although, from my own perspective on the bill that might not be such a bad thing. I hope that amendment 343 is constructive enough to allow housing associations that are in the process of applying for charitable status to have adequate time to do so. I am not sure whether Karen Whitefield's amendment 313 would deliver adequate time. Amendment 343 in my name gives a specific date, which would allow most—if not all—of those who are currently applying for charitable status to achieve that status.

The extension of the right to buy will not take effect for individual tenants for quite some time because there is a moratorium as part of the bill. There is therefore no problem with extending the deadline for achieving charitable status, because that will not impinge to any extent on the rights of individuals. It is right and fair that those housing associations that are applying for charitable status should get an adequate amount of time to go through the process; that is certainly the position that the SFHA would like.

Robert Brown: There are three issues in relation to section 37. Amendment 185 is a hangover from an earlier discussion, in which I proposed that it would be better if houses that are leased by the landlord from another body—not a local authority or a registered social landlord—had the Scottish secure tenancy without the right to buy, which was obviously inappropriate. The Executive has tackled that differently and we have already had that debate, so I will not move amendment 185.

The second issue is housing for the disabled and elderly, which is covered by Fiona Hyslop's amendments. The Executive proposals in the bill to amend the 1987 act are in wider terms and accommodate a number of things. However, there are one or two problems with defining what "special needs" and "special facilities" are in that context. The definitions should be examined with a view to determining whether those that have been used are adequate to be translated into reasonably clear decision-making criteria. I am perfectly content with the definition, despite that observation, which is made in passing.

On charitable status, there is a coalescing view that charitable status is not intended to be a long-term loophole in relation to the changes to the right to buy. There is a case for being absolutely certain that those applications that are in the pipeline now get through, but I am getting conflicting information on whether they will. Some people suggest that Orkney Housing Association's application in particular—I must refer to Orkney Housing Association, because it is in my party leader's constituency—might or might not get through in time and that there is perhaps one other in the pipeline.

I would like assurances from the ministers that they are confident that those applications can get through or that, if appropriate, arrangements will be made to deal with those applications. I would like assurances that we will not allow the door to be closed, leaving us with anomalies. Subject to those assurances, the date of royal assent of the bill as enacted should be an adequate safeguard.

Bill Aitken: All the amendments in the group have some merit. I can see where Fiona Hyslop is coming from with regard to amendment 341. However, I have some definitional difficulties with it. I will be interested to hear what the minister has to say.

There is clearly a difficulty with the time factors that are involved in amendments 342, 313 and 343. As far as the committee is concerned, the difficulty is to balance fairness to ensure that those who have applications in the pipeline are able to complete their applications and, at the same time, to ensure that there is no attempt to use any of the amendments as a loophole to frustrate the

intention of the bill.

On that basis, I conclude that amendment 343, worthy as it is, extends the period to a greater extent than necessary and would leave a loophole open. Again, I will listen with interest to what the minister says, but at this time, amendment 313 seems to be the way forward.

11:00

The Minister for Social Justice (Jackie Baillie): I apologise in advance because there is quite a bit to say about the amendments in the grouping. I will speak first to amendment 341. Section 37(2) currently has the effect—quite rightly, in our view—of repealing four exemptions that are provided for in the 1987 act. Three of the exemptions are replaced by new ones, which are set out in subsections (4) and (5), and the final exemption is no longer relevant. Given that amendment 341 reinstates those provisions without repealing subsections (4) and (5), the end result would be a confusing mess, and would lack the clarity that I think Fiona Hyslop is seeking.

It is important for members to understand why we have changed the exemptions. Two of the exemptions that have been repealed relate to special needs housing. Previous provisions related to sheltered housing schemes for the elderly and disabled, and to an oddly worded exemption, whereby the house concerned was one of a number—not exceeding 14—among which at least half were let to particular groups of people with special needs.

Our revised exemption takes account of changes made since 1987 in the provision of supported housing for groups of people with particular needs, and it is both simpler and, we think, more comprehensive. It excludes houses that are part of groups of houses designed for persons with special needs if the houses are provided with housing support services. That would not exempt tenants living in mainstream housing just because they received support services, such as meals on wheels, in their own homes. Essentially, the exemption protects the viability of group housing schemes in cases where sales of individual houses could have the effect of undermining their purpose.

I say to Robert Brown that the definition of special needs is used quite widely. It is understood, and is widely accepted, but I am happy to consider his point in detail.

The third exemption that was repealed relates to housing associations with charitable status, and there are two separate points on that. The first is the deadline date for obtaining recognition as a charitable body: I will come back to that. Secondly, the revised exemption is much more straightforward than its 1987 predecessor—which Fiona Hyslop effectively wishes to keep—because it is able to refer to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, which provides for the recognition of Scottish charities.

Finally, the bill deletes the exemption for registered housing associations that have never received grant aid. That also reflects changes that have taken place since 1987. Apart from homes run by the Abbeyfield Society for Scotland, which are all covered by the charitable exemption, RSLs that have not received grant aid own and manage houses acquired as a result of stock transfer. The houses concerned have been sold to the RSLs in question at a price that is based on the fact that they will be owned by social landlords and will be subject to the legislation and regulation that applies to the social-rented sector. Therefore, a significant implicit subsidy is involved, which has a similar effect to a grant being provided to build or improve housing. There is therefore no case for continuing with that exemption.

In short, the removal of the four exemptions has to be viewed against the changes that have taken place since the 1987 act and the provisions in the bill. I hope that, with that explanation, Fiona Hyslop will agree not to press amendment 341.

I move on to the amendments that relate to the deadline date associated with charitable status exemption. We inherited a situation in which only registered housing associations that had charitable status before November 1985 were exempt from the right to buy. Parliament's clear intention at the time was that housing associations should not be able to change their rules to obtain charitable status and thereby engineer an exemption from the right to buy.

The SFHA rightly argued that it was unreasonable to penalise housing associations that had obtained charitable status since 1985 because, in practice, there was clearly no intention of engineering a right-to-buy exemption. We agreed, and changed the date to 1 January 2001, so that any RSL that had recently obtained charitable status or which had been set up from scratch with charitable status would be exempt.

The argument now being advanced is that that date penalises RSLs that were in the process of seeking charitable status before the bill was introduced. As members of the committee will know, obtaining charitable status in Scotland is essentially a matter of negotiation between the applicant and the Inland Revenue, which needs to be satisfied as to the body's charitable purposes. That can, and does, take time. We would therefore be prepared to support a change in the date to take account of that.

Brian Adam's suggestion of 5 April 2002 creates an arbitrary date in relation to the bill, which not just catches those who are engaged in the process, but allows a number of organisations to start the process, never mind conclude it. Therefore, we would be happy to accept Karen Whitefield's amendment 313, which links the deadline date to the date of royal assent and which catches those who are either in the process of obtaining charitable status or who have recently concluded that process. In order to be clearer, I advise members that my understanding is that there might be about five or six RSLs that were interested in obtaining charitable status: some had pursued that, and Orkney Housing Association has achieved charitable status already. However, that did not happen prior to 1 January 2001. We want to catch the RSLs that have started the process already.

We cannot accept Fiona Hyslop's amendment 342, which would simply create an open-ended loophole to deny tenants the right to buy. We have signalled our clear intention to extend the right to buy to RSLs. It would be unfair to tenants if RSLs could use the charitable status exemption as a loophole in that way. Amendment 342 would take away the right to buy from existing tenants who have that right and who are tenants of landlords that may obtain charitable status in future.

I confess to being slightly confused. On the one hand, Brian Adam articulated the SNP's position as one that supports the retention of the right to buy for tenants who had it already. Yet, on the other hand, Fiona Hyslop's amendment 342 states the entirely opposite position, as it seeks to remove that right from those tenants.

I strongly urge the committee to reject amendment 342 and suggest to Brian Adam that he may wish not to move amendment 343 in favour of the alternative proposal in Karen Whitefield's amendment 313.

As Robert Brown helpfully acknowledged, amendment 185 is simply left over from our previous discussion on whether leased housing should attract the Scottish secure tenancy. I welcome the fact that he will not move amendment 185.

The Convener: I call Fiona Hyslop to wind up the debate and to indicate whether she intends to press or to withdraw amendment 341.

Fiona Hyslop: I agree with the minister's comments about amendment 185—it would be eminently sensible for Robert Brown not to move that amendment.

However, there is an issue about time scale and charitable status. Karen Whitefield's amendment 313 suggests a deadline of royal assent, while Brian Adam's amendment 343 proposes a deadline that is 10 months after royal assent; I do not think that 10 months is an unreasonable period. I am prepared not to move amendment 342, on the basis that I support amendment 343.

On amendment 341, I appreciate the minister's explanation of why she thinks that section 37(5) covers all the areas in the 1987 act to which I alluded. The committee might be right to be concerned about the definitions, which might need to be more explicit or tighter in order to give further understanding. Perhaps the Executive will take the trouble to consider that point for stage 3.

I am prepared not to press amendment 341, having listened to the Executive's explanation on why section 37(5) has been drafted so broadly.

Amendment 341, by agreement, withdrawn.

Amendment 156 moved—[Jackie Baillie]—and agreed to.

Amendment 342 not moved.

Amendment 313 moved—[Karen Whitefield]—and agreed to.

Amendment 343 moved—[Brian Adam].

The Convener: The question is, that amendment 343 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 343 disagreed to.

Amendments 185 and 344 not moved.

Section 37, as amended, agreed to.

After section 37

The Convener: Amendment 345 is grouped with amendments 389 and 390.

Fiona Hyslop: The amendments work as a package and propose to insert a section that would be titled, "Preservation of existing right to buy". The package of amendments provides a mechanism by which the committee, if it so chose, could stop the extension of the right to buy to housing association tenants who do not currently have it.

As has been mentioned, the right to buy is a

public subsidy for private home ownership. The problem with the extension of the right to buy is that it would be at the expense of the rented sector. Were we to subsidise and have discounts at market value, it would not be a public subsidy. We will debate discounts levels later. As has been said, the problem with the right to buy in the past 20 years has been its impact on the availability of rented accommodation. Although we recognise that it would not be appropriate to take away tenants' existing right to buy, it would be wrong for us to revisit the problems of the past 20 years by affecting the availability of stock to the housing association movement.

Amendment 389 would ensure that the Executive could not insert registered social landlords into the list of people who can access the right to buy. Amendment 345 would insert the rights of those who currently have the right to buy. Amendment 390 is a consequential technical amendment. It is important that the amendments be understood as a package that is aimed at keeping the status quo and preventing the extension of the right to buy to housing association tenants.

There are various reasons behind the wish to do that. It is clear from the Executive's actions in the past year that there is a problem with the proposal to extend the right to buy. A variety of exceptions have been proposed, which shows that the proposal is fundamentally flawed. The number of amendments that relate to exceptions for pressured areas, discounts and so on show that people are concerned about the extension of the right to buy.

There is a debate around whether the Scottish secure tenancy alone gives people the right to buy. We debated that in the committee last week. There is no mention of the right to buy in the section that deals with the Scottish secure tenancy—I mention to Tommy Sheridan that page 87 of the bill provides the link between the Scottish secure tenancy and the right to buy. The argument is that the Executive needs to extend the right to buy to facilitate the stock transfer ballot in Glasgow. I would argue that that is not so. The Executive might reasonably argue that the extension of the right to buy is needed to promote investment, community ownership or whatever but it should not argue that it is necessary on the ground of tenants' rights.

Proposed subsection (2) in amendment 345 makes it clear that, should tenants decide to vote yes in the ballot, they would not lose the existing right to buy their homes. The package of amendments would mean that we would not need to extend the right to buy to facilitate the stock transfer ballot.

We have to think about the availability of accommodation. I am conscious that seven of the MSPs who are present today represent Glasgow or constituencies in Glasgow and that only five do not. We have to ensure that the bill is designed not only for one part of the country. In Edinburgh, only 18 per cent of accommodation is available for rent while 82 per cent is in the private sector. We must remember that if the bill results in the extension of the right to buy to housing association tenants, people who work in this city will not be able to live here because there will not be enough affordable rented accommodation.

Robert Brown talked about Orkney Housing Association, which said that the proposal to extend the right to buy to housing association tenants is the equivalent of drilling holes in the bath while seeking to fill it with water.

If we do not believe that the extension of the right to buy is required, why do we have to soften that with other amendments? This is an opportunity to say no to the extension of the right to buy; it is a simple way of doing so. A marker would be put down as to what the committee thought.

Bill Aitken spoke of the unease about the extension of the right to buy. We are currently dealing with the most controversial part of the bill. The Local Government Committee took evidence on the general question of the right to buy. Its report says:

"On the general question of the Right to Buy, there is a range of views within the Committee. On the whole, the majority view in the Committee is against the Right to Buy."

The Equal Opportunities Committee also pointed out its concerns. If we think that this is the most important part of the bill, why not pass amendment 345 and keep the status quo? Members of the committee could then exercise their independence and ask the Executive to argue its corner at stage 3. Members could lodge and argue at stage 3 the same amendments as they have lodged at stage 2.

Not only members of the committee are concerned, the whole Parliament is. By passing amendment 345, the ball would be put back in the Executive's court. The Executive would have to convince Parliament at stage 3. That is one reason for passing the package of amendments.

I move amendment 345.

11:15

Robert Brown: As members have said a number of times, we are dealing with a balance. We are trying to produce a right to buy that is a useful strategic or local housing policy tool. There are still important amendments to deal with, but that is what we are about to produce.

Such things are not black and white. There are genuinely held arguments on both sides. A number of housing bodies have run a strong campaign against this aspect of the bill, but we are coming towards something that is workable, reasonable and that deals with, for example, the issues of viability that have been debated. I want to say something about that as matters develop and I hope to get adequate responses from ministers.

We are beginning to mould the bill into something that has business plans attached, that involves key issues such as local housing strategies and that is able to be zoned on a localised basis—not just between local authorities, but in different parts of local authorities—to meet our social objectives.

The debate has moved on. If the bill had progressed in its original form, I suspect that other members and I would not have been keen to support the outcome. We are now arriving at an outcome that is reasonable, workable and able to be recommended to the people of Scotland—and more particularly to the Parliament—as the way forward.

We are not starting from square one—some of us would not have introduced the right to buy at square one. We are starting from where we are and trying to ensure equality of provision for people throughout the social rented sector.

On amendment 345, Fiona Hyslop is trying to take the argument back a stage, as it were. I do not think that we should support that.

Mr Kenneth Gibson (Glasgow) (SNP): We have to consider the background to the issue. Housing investment in Scotland has collapsed from £629 million in 1979-80 to £155 million in 1999-2000. Glasgow has been cited quite a lot this morning—there was discussion about the stock transfer and the need for investment. According to a response to a parliamentary question, investment in public sector housing in Glasgow was £176 million in 1989-90 and is only £52 million in the current year. Housing investment has collapsed and seems to have plummeted most in the areas of greatest need.

The minister talked about people's aspiration to own their house. In the Local Government Committee, we took evidence from South Ayrshire Council, which is a Labour-controlled authority. Eighty per cent of houses in that authority are owner-occupied. The council has great difficulties because of the chronic shortage of social rented housing. For example, the number of homeless cases has doubled to more than 1,000 in the past four years. The housing list of 8,700 is colossal when one considers that the turnover is only 700. South Ayrshire Council is concerned that the extension of the right to buy would put further pressure on what remains of its stock. As the best of the council stock continues to be sold, it is likely that more homeless and vulnerable people will move into ghetto-type housing.

The neighbourhood manager in Mosspark, my old council ward, told me that if everyone who is on the list for Mosspark were offered a house there, at the current turnover it would take 55 years to house them all. That is a step too far. Often, registered social landlords take some of the strain when vulnerable people who want to move to decent areas cannot get into them through their local authority. There is a crying need to invest and it is important that an amendment such as amendment 345 is passed simply because, if it is not, investment through RSLs will be deterred, just as in recent years investment in the public sector has been deterred.

Another thing I want to say, because it was reiterated at the Local Government Committee by the Convention of Scottish Local Authorities, is that the Executive should seriously reconsider the housing set-aside rules, because they militate against housing capital investment. Councils are very hard-nosed about the cost of refurbishing houses that need to be repaired. They say, "Well, at the end of the day, if a tenant moves in and buys the house, we will lose three quarters of the money to the Scottish Executive, so why bother? We are as well just selling it off." That reduces the amount of social rented housing.

I urge support of amendment 345, because current proposals are a bridge too far. Robert Brown talked about balance; I think the balance is shifting too far in one direction.

Brian Adam: The debate is certainly about balance. The proposals for the extension of the right to buy were not supported by those who gave evidence to the committees. I do not dispute it when ministers and other members say that individuals have told them that they want the extension, but no organisation has offered evidence to suggest that there is such a demand. No one has written to me to say, "We must have the extension," whereas people have been in touch with me to argue in the other direction.

I agree with people's right to make choices but I do not agree with the right to exercise a choice that damages others as a result. In substantial parts of the country, we have got to the point where the public housing stock that is available for rent is inadequate. We will have the opportunity to discuss the Executive's proposals for ameliorating the situation in areas where such problems exist and there will be other opportunities for discussion, but we are dealing now with the principle of the matter.

I do not accept that because there is a problem about the most appropriate way to manage housing stock in Glasgow, the approach applied there should be applied throughout the country. Not all local authority housing departments are run in the same way as Glasgow's is. Many departments in Scotland are run extremely well, but they will not have the opportunity for capital investment in their properties, to bring them up to the standards that their tenants want, unless they go down the route the Executive is offering them, which is stock transfer. Also, they will not have the protection of being able to replace the houses that have been bought. They will find themselves in a position where it is not viable for them to replace the housing stock to maintain a proper balance and mix of housing stock—not just tenure—in the area. Not everywhere has large housing estates that no one wants to live in.

One of the difficulties with the approach that the Executive parties have taken is that the bill is designed to deal primarily with Glasgow's housing problems, which are not necessarily Scotland's housing problems.

I support amendments 345, 389 and 390.

Bill Aitken: Although I must concede reluctantly that Glasgow is perhaps not the centre of the universe, a number of issues have arisen from this important discussion that must be explored further.

It all comes down to a question of balance. If we were all to say what our ideal solution for Scottish housing would be, we would achieve a degree of unanimity, in that we would all like there to be a large owner-occupied sector but, at the same time, public sector provision of good-quality housing at reasonable cost. I do not think that anyone would disagree with that ideal, but there are arguments as to how we can achieve it.

I listened with interest to the comments about the research that the Executive carried out on people's housing wishes. Some of the figures were slightly contradictory, but at one stage I certainly heard that 80 per cent of the population of Scotland aspire to own their own home. I can see Jackie Baillie nodding in agreement. That figure is probably correct, but one might reflect that 100 per cent of the population of Scotland probably aspire to win the lottery; unfortunately, not all of us are likely to achieve that. Therefore, the question to which we must apply our minds is: what is a realistic level of home ownership? I am forthright in my support of owner occupation as the preferred housing tenure, but I recognise that, for various reasons, that is not appropriate for everyone. We must cater for and look after the minority.

There is a degree of irony about this discussion, in that, in some ways, I am less supportive of the principle of right to buy than the Executive is. It is significant that the much-maligned Conservative Governments did not in fact extend right to buy to housing associations. In that respect, the position is perhaps a little bit bizarre. That said, I am not convinced that amendment 345—well thought out, measured and reasoned as it is—is the way forward. To my mind, it is a scatter-gun approach. It is difficult to legislate for individual circumstances, but I feel that amendment 345 is much too sweeping.

There are instances in which right to buy is appropriate and we can seek to extend the level of owner occupation. I see the balance being set by rejecting amendment 345 but looking elsewhere to see how we can mitigate the effects of right to buy where it is felt that it would damage the public sector. With the greatest of respect to Fiona Hyslop, that is the direction that we should take.

Karen Whitefield: Fiona Hyslop said that the three amendments in the group have to go hand in hand and that one is necessary if we are to have the other two. That surprised me, because I do not see the point of amendment 345. I do not think that there is any dispute—we all agree that existing RSL and local authority tenants should have the right to buy. I wonder about the purpose of amendment 345, as the bill already allows for what it proposes. It appears that Fiona Hyslop and the nationalists are attempting to ride two horses, which we know they are rather good at. In fact, she is trying to hide behind what she is trying to do with amendments 389 and 390.

The reason Fiona Hyslop has stated her position and wants to include amendment 345 is that her aim is not to protect the status quo but to deny rights. Her amendments would discriminate against RSL tenants who choose to move between housing associations. Local authority tenants who move from local authority to local authority or from house to house would retain their right to buy, but RSL tenants who move from housing association to housing association—for quite appropriate reasons, such as needing a new house when they move to get a new job—would not retain their right to buy.

In reality, Fiona Hyslop's amendments aim to take away the right to buy for some tenants and discriminate against them, rather than to equalise rights, which is the purpose of the bill. She covers up that aim by saying that she is in favour of the status quo. That is not right. Fiona Hyslop needs to come clean and tell people in Scotland what she wants to do with their rights.

11:30

Cathie Craigie: I agree with what Karen Whitefield said, especially about equalising rights. That is one of the main aims that the bill was

designed to achieve. If we support amendments 345, 389 and 390, we will deny rights to some 40,000 tenants.

The people who would support the amendments in the group—particularly amendment 345—are people who are on a bandwagon that rolled out of town months ago. Robert Brown pointed out that the debate has moved on. There has been a lot of discussion. Some of the amendments that we will discuss later deal with people's fears and concerns about the extension of the right to buy to the RSL sector. The modernised right to buy, under which discounts have been capped, will be able to accommodate the investment that is needed in our housing stock. The fears that some people had that housing associations would lose assets and be unable to reinvest in their stock and in building new stock have been taken away.

I hope that the committee will reject amendments 345, 389 and 390. In the light of the debate, perhaps Fiona Hyslop might even consider withdrawing or not moving them.

Ms White: I often wonder whether Karen Whitefield or Cathie Craigie will agree with anybody or anything that does not come from the Labour party. I am sorry to have to say that, but throughout our stage 2 consideration of the bill, not one Labour member has agreed with anything that a member from another party has proposed. I find that rather sad. I can see that Cathie Craigie is trying to contradict me, but if she checks the *Official Report* she will find that it is true. I am sure that Fiona Hyslop will reply to Karen Whitefield's attacks on her, so there is no need for me to do so.

I ask members to cast their minds back. The first good-quality houses in Glasgow, which were built just after the war, were in Knightswood, Mosspark—as Kenny Gibson said—and Riddrie. Nobody can rent a house in those areas for love nor money, simply because of the right to buy. We are attempting not to take the existing right to buy away, but to protect tenants so that they can get a decent house. It was not by accident that people chose to live in and buy those houses. If the right to buy is extended to housing associations, some of which are run by volunteers, tenants' protection will be taken away.

I fully support amendments 345, 389 and 390. It is about time that people in other political parties had a wee bit independence of mind. They should look and see exactly what the amendments propose, rather than follow their party line.

Jackie Baillie: The committee will not be surprised to hear that the Executive feels that amendment 345 is completely unnecessary. Unlike SNP members, who displayed confusion about their policy position when we were discussing charitable status, we have always believed that existing tenants of RSLs who have the right to buy and local authority tenants who transfer to an RSL should keep the right to buy. The bill already provides for that. Fiona Hyslop needs amendment 345 only because her proposed amendments to schedule 9 would remove tenants of RSLs' eligibility for the right to buy.

The bill replaces the existing reference to "registered housing associations" in section 61 of the Housing (Scotland) Act 1987, with "registered social landlord". By removing the reference to RSLs, Fiona Hyslop's intention is to take away much more than she gives back. The effect of amendment 345 would be that, in future, RSL tenants who did not benefit from the limited protection would be denied the right to buy. In short, Fiona Hyslop is introducing unnecessary and unjustified discrimination between tenants of different types of social landlord. As Karen Whitefield rightly observed, the protection of the rights of tenants who transfer applies only to local authority tenants. What about tenants who transfer from one housing association to another, who currently have the right to buy? Those tenants would lose their current entitlement.

For the benefit of Bill Aitken and to be absolutely clear, I should say that the statistics came from the Scottish house condition survey 1996. Across Scotland, 75 per cent of the population aspires to own their own home; 80 per cent of those in the 49 to 59-year-old age group aspire to own their own home.

On the arguments about housing investment, I point out to Kenny Gibson that the housing budget will have increased by at least 37 per cent by the end of the parliamentary session. We are engaged in a programme of investment in new houses—20,000 new houses over three years.

I am deeply disappointed by some of Fiona Hyslop's remarks. The bill is a housing bill for Scotland. She has attempted to confuse that—as have other SNP members—with our radical plans for community ownership. Those plans are not just about Glasgow; they are about Dumfries and Galloway, the Borders and Shetland. I am surprised—although perhaps I should not be—that the SNP is facing both ways at once. There is one press release for Glasgow from Kenny Gibson and another press release for Edinburgh from Fiona Hyslop. It is insulting to suggest that Glasgow members are in any way parochial.

The amendments expose the SNP policy on right to buy for what it is: confused, discriminatory and unfair. That is the consequence of failing to accept that the right to buy should be part and parcel of the Scottish secure tenancy. Providing protection for RSLs where it is needed is one

thing; refusing in principle to give RSL tenants the right to buy is quite another. I urge committee members to reject the amendments.

Fiona Hyslop: I would like to point out that five of the six parties that were elected to the Scottish Parliament were not elected on a mandate to extend the right to buy. None of us here was elected to extend the right to buy. The minister talks about the SNP proposals as being somehow unfair, confused or discriminatory, but I point out that all we are doing is arguing for what has been the status quo in Scotland for the past 10 years. Rather than our proposals, it is the minister's accusations that are confused and misleading.

I would like to reflect on the debate we have had on one of the most contentious issues in the Housing (Scotland) Bill. Some members have engaged in the debate by reflecting on housing policy whereas others have decided to use the debate as an opportunity to knock other parties in a party political way. That shows a lack of respect for the people who elected us and for tenants, who expect a robust debate about the legislation and its most contentious sections.

Brian Adam made an important point: it is important that people have the right to make choices. However, the issue here is one of balance. Bill Aitken recognised that, as did Robert Brown. Concern will continue throughout the debate on the remaining sections. I happen to think that the balance has gone too far in one direction, but at least I have enough respect for my colleagues to engage in a debate about where the balance should be struck.

There is an issue about the availability of accommodation. Cathie Craigie described the members who are backing the amendments as people on a bandwagon that rolled out of town months ago. Perhaps she should direct those remarks towards Shelter, which has indicated that it is happy to support the amendments. It is a question of balancing the right to rent with the right to buy. It would be wrong if I did not argue that position, which is consistent because it fits with the status quo. As Bill Aitken pointed out, although the Tenants' Rights etc (Scotland) Act 1980 introduced the right to buy and housing associations, the Tories amended it in 1989, because they were concerned about the impact that it would have on attracting future private investment.

I agree with the stated principle of the bill—that we must have sustainable, balanced communities—but we will not achieve it by extending the right to buy to housing associations. Arguing the case is straightforward. If the Government wants to use public subsidy for private home ownership it can effect that in a variety of ways. I commend the current position, which is that housing associations frequently build blocks of houses that combine private and rented accommodation. That is the way forward.

Bill Aitken suggested that there is consensus in the committee about the future balance of communities. It is legitimate in a democracy to argue the case for keeping the status quo. In that spirit, I intend to press amendment 345.

The Convener: The question is, that amendment 345 be agreed to. Are we agreed?

Members: No

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 4, Abstentions 0.

Amendment 345 disagreed to.

The Convener: I allowed that debate to be as full as possible. We shall have a short adjournment, but after that I ask that members discipline themselves and make their comments brief—if they cannot do that, I will have to do it for them. The politics of the bill have been well aired and I hope that we can make more speedy progress when we resume the meeting.

11:41

Meeting adjourned.

11:53

On resuming—

Section 38—Limitation on right to buy: registered social landlords

The Convener: Amendment 346 is grouped with amendments 318, 347, 348, 319 and 323. If amendment 346 is agreed to, amendment 318 will be pre-empted and if amendment 348 is agreed to, amendment 319 will be pre-empted.

Fiona Hyslop: Amendment 346 would leave out proposed section 61A(2). It is interesting that the Executive, too, wants to leave out proposed subsection (2)(c). As I recall, the SNP pointed out the problem with subsection (2)(c) to the minister at stage 1; I am glad that the Executive has recognised the problem and introduced amendment 318.

The argument for amendment 346 is that

proposed subsections (2)(a) and (2)(b) would hamper the provision of adequate good housing by insisting that houses that were acquired or built by registered social landlords after the Scottish secure tenancy comes into force were subject immediately to the right to buy. The Executive, in amendment 318, seeks to leave out subsection (2)(c). Subsection (2)(d) would give ministers the power to force RSLs to sell their assets in whatever circumstances ministers felt were right. Amendment 346 would give us an opportunity to try to retain as much housing stock as we can, so that we have affordable accommodation for rent.

The minister, in her previous contribution, intimated that the housing budget had been increased by 37 per cent, but it should be noted that that figure is disputed. A number of housing bodies recognise that the actual increase in investment in bricks and mortar has been only 6 per cent. When we talk about the availability of accommodation, that has to be borne in mind.

The convener asked us to be brief, so that was a brief explanation of amendment 346. I will be interested to hear what the Executive means by amendment 319. My understanding was that extension of the right to buy would not necessarily have a harmful effect on business plans. I am concerned about the need to consult the heritable creditor, because that may mean that lenders have concerns about the viability of business plans. I hope that the minister will address that, because I have great concerns about tenants' views being sought for tenancy agreements, with reference to security of their houses, against lenders' wishes. I know that that has happened in the past. I would be concerned if the Executive wanted to put that in the bill.

I move amendment 346.

Jackie Baillie: When we announced our proposals for a modernised right to buy, concern was expressed that that could create financial problems for some RSLs. Section 38 is our response. It seeks to protect RSLs from the retrospective application of the right to buy. It provides for a 10-year exemption for relevant tenancies, during which RSLs should be able to identify and implement any changes that are necessary to take account of the full implementation of the right to buy. In many cases, we would expect RSLs to be able to grow and expand during that period as a result of further development or acquisition of houses through stock transfers; they will adjust their business plans accordingly. Section 38 will also allow RSLs to apply to extend the 10-year period if that proves necessary.

We introduced amendment 318 to extend the scope of section 38. That followed representations from the SFHA and the Chartered Institute of Housing in Scotland that the protection should apply to all tenancies that currently do not have the right to buy, even if the houses were originally let with secure tenancies with the right to buy and there was no borrowing from private sector lenders. There are arguments on both sides, but we have decided to take account of those representations. Amendment 318 would therefore remove subsection 2(c) to provide protection for existing tenants with the right to buy. We intend to introduce an order to that effect under subsection 2(d).

There can be no case, however, for exempting houses that are built or acquired in the future. We have taken care in drafting to exempt houses that have been planned and agreed in principle before the Scottish secure tenancy is introduced. However, it is only reasonable that RSLs should take account thereafter of the right to buy in their planning for new developments and acquisitions resulting from stock transfer. Equally, it is essential that tenants who have the right to buy should have those rights protected. I ask members to reject Fiona Hyslop's amendment 346, which would simply apply the tenure exemption across the board, irrespective of whether it was justified and irrespective of its effect on tenants.

I understand the thinking behind Robert Brown's amendment 347, but we have introduced changes to our original proposals to allow for extensions to the 10-year period. Scottish Homes, following consultation with ourselves, SFHA and the Council of Mortgage Lenders, has produced two financial models that can be used to produce an assessment of the impact of the right to buy on the financial viability of RSLs. Our intention would be to use those models to inform decisions on possible extensions.

That is a much better approach than the one that is outlined in amendment 347, which would continue the 10-year extension indefinitely unless RSLs applied to end the exemption by submitting a revised business plan. It is reasonable for tenants to know when the exemption will end and, if it is to be extended, that the merits will be decided independently by the regulator acting on behalf of Scottish ministers. Under amendment 347, the initiative would rest entirely with the RSL. Given that we have made provisions to extend the 10-year exemption, I ask Robert Brown not to move amendment 347.

12:00

Sandra White's amendment 348 would remove the right of RSLs to opt in to the right to buy during the 10-year period or an extension of it, which is unreasonable. Surely if RSLs decide that the right to buy would not create problems for them, they should be at liberty to implement the legislation.

They may well wish to seek advice from the regulator before coming to a view. We have lodged amendment 319 to ensure that they notify any relevant lender. The matter must surely be for the RSLs to decide, so I ask the committee to reject amendment 348.

Bill Aitken's approach in amendment 323 is based on the concept of individual RSLs seeking to opt out from the right to buy. Amendment 323 would catch all tenants of an RSL that was allowed to opt out, even if those tenants currently have the right to buy. I think that only Tommy Sheridan is proposing to take away existing rights, so Bill Aitken has some strange allies on this one. Amendment 323 fails to take account of the complexity of the existing position, which results from the different funding and tenancy regimes that have applied in the past. As I pointed out in relation to amendment 346, there is no reason why RSLs cannot plan future developments or acquisitions on the basis that the right to buy should apply.

We also feel that amendment 323 would be unworkable. An RSL may operate in more than one local authority area, with small amounts of stock in particular communities. Shortages are, essentially, area-based. Multiple RSLs can be involved in a single area. Our proposal recognises that, and provides a strategic response in the context of the development of local housing strategies.

We believe that the proposals in section 38, supplemented by amendments 318 and 319, would provide a sound basis for protecting RSLs until they can be fully integrated into the modernised right to buy.

Robert Brown: Section 38 is the first of a number of sections that make significant advances on the current position. I welcome amendment 318, because it restores the position that most of us thought we were in after the earlier discussions on the consultation papers. The amendment would provide some relief to a number of housing associations, which made representations to me in the strongest terms, and address those concerns in the proper strategic framework.

The issue in section 38 is advance planning of where we are going. I have had concerns from the beginning that the financial effects of the right to buy in a number of areas are unpredictable. The 10-year opt-out is an element of security, which is important. As the minister rightly pointed out, the issues can be taken account of for houses that come under the right to buy in future. However, there is a gap as we move from the 10-year opt-out to the right to buy, which is why I lodged amendment 347. I am not necessarily saying that the time scale is important. I am arguing not so much that the opt-out should be extended for another 10 years—although there will be cases where that would be appropriate—but that provision should be made in the process, possibly through regulations, to enable registered social landlords, in collaboration with the regulator and lenders where appropriate, to take proper account of the implications of the changes in the rental stream that will result from introducing the right to buy. That is the purpose of amendment 347.

There may be technical issues with regard to amendment 323, but Bill Aitken raises an interesting point, albeit not one that I support. We are trying to give to democratically elected local authorities, which I hope in due course will be even more democratically elected—

The Convener: You prompt me to ask how we could be more democratic.

Robert Brown: We are aiming to give local authorities the right to decide housing policy for their areas. Registered social landlords have a role to play. Amendment 323 does not just have technical problems. The theory and principle of the amendment are not right, so I will be unable to support it.

Ms White: Fiona Hyslop explained amendment 346 very well and—surprise, surprise—I will support it. I may even support amendment 318, even if it is in the minister's name, because it was an SNP member—Fiona Hyslop—who first raised the issue in the committee. I am glad that the Executive has seen sense and taken on board Fiona Hyslop's point.

Robert Brown's amendment 347 is a fine amendment. I hope that he will move it, because I want to support it.

On amendment 348, the minister said that advice would be sought from the regulator. Proposed section 61A(7) concerns opting in to the right to buy. I lodged amendment 348 as a protective mechanism, which may not have to be used, in case forces try to persuade RSLs to opt in to the right to buy. Proposed sections 61A(8) and 61A(9) would be required only if section 61A(7) was passed. If it were not, they would have to be dropped. Section 61A(10) goes along with some of Fiona Hyslop's suggestions. It is important that we protect housing associations as much as possible from the extension of the right to buy.

Amendment 319 is self-explanatory. I have read amendment 323, but I will reserve judgment until I hear what Bill Aitken has to say about it.

The Convener: With bated breath, I ask Bill Aitken to speak to amendment 323 and the other amendments in the group.

Bill Aitken: I recognise fully that in legislation it is not possible to make porridge for one, but there should be a degree of flexibility. Amendment 323

seeks to protect housing associations, which might find themselves in difficulty as a result of unfettered right to buy. As we are all aware, housing associations, in their budget processes, assume a rental stream in excess of 20 years; 25 years is the norm. Were a housing association to suffer a sever haemorrhage of properties, that would impinge on its viability and its ability to do things for its tenants, which we would not wish to see.

I acknowledge that elsewhere in the bill, such as in the pressured areas provisions, the Executive has gone some way to provide sufficient protection, but to my mind the provisions do not go far enough. They do not take into account situations that may arise on a highly localised basis, where an individual association may find itself under pressure. With amendment 323, I seek to provide not an escape route for housing associations that simply do not fancy the right to buy, but a procedure whereby when a housing association can demonstrate that it is in difficulty, the Executive can intervene and exclude it from the right to buy. Clearly, there will be cases where that will apply. The decision on whether to exclude the association from the right to buy would be for the Executive. Amendment 323 does not in any way provide a blanket exemption.

I reject the minister's assertion that the amendment would be unworkable. The Executive would need to set up procedures to make clear its own administrative policies in that respect. I am convinced that it could work, given the degree of good will that must attach to all such instances or situations. I am attempting to protect housing associations that could become vulnerable and it is in that spirit that I hope that amendment 323 will be accepted.

Brian Adam: There is considerable merit in amendment 323; Bill Aitken is trying to deal with situations that may arise in individual cases. It is always difficult to deal with the exceptions, but legislation should be flexible. Bill Aitken's amendment would allow discretion in individual cases. If the ministers cannot accept the spirit of the amendment, perhaps they might have another look at the principles that lie behind it.

I recognise that the Executive has gone some way to try to ameliorate the potential effects on RSLs of the right to buy but, at stage 3, we will have one more opportunity to do that. I plan to support amendment 323. If the ministers cannot support it, at least they could acknowledge that there is some merit in the idea. They could then develop alternative proposals.

Karen Whitefield: I can see where Bill Aitken is coming from with amendment 323, but I can also see some problems for larger RSLs that have properties not in one specific area but throughout different areas. The Link Housing Association has properties in my constituency and also throughout central Scotland. It would not be appropriate for Link to opt out in the way that Bill Aitken suggests. How would he address the difficulties that the amendment would create?

The Convener: Bill Aitken will not have the opportunity to wind up, but does he want to address that point briefly?

Bill Aitken: Yes. I remind Karen Whitefield that the amendment would give the Executive discretion as to whether the association would opt out. The problem that she envisages should not arise.

Jackie Baillie: I will pick up on two points, the first of which Fiona Hyslop raised earlier in relation to amendment 319. As the committee will appreciate, tenants have the fullest possible rights to information and consultation under sections 18, 45 and 46 of the bill. Lenders have no similar rights. We thought that it was reasonable for lenders to be informed of any significant changes that would affect the RSL's finances. Amendment 319 does not go further than that; it does not give lenders a right of veto or any other such rights.

I want to address a number of the comments that were made in connection with amendment 323. We are clear that local authorities need to be given the strategic responsibility of sorting out their housing in the local context. We feel that amendment 323 would remove that. We are not supportive of the amendment, as our provisions in section 38 offer the necessary protection to RSLs.

We urge the committee to support amendments 318 and 319.

Fiona Hyslop: I intend to press amendment 346, as I continue to be concerned that, on day one after the tenancy comes into agreement, any houses that were built by an RSL would immediately be subject to the right to buy.

Bill Aitken has put a lot of thought into amendment 323, which is an inventive way of tackling a situation in which we are all trying to find some balance. Karen Whitefield's concerns about Link could be dealt with easily under proposed section 61AA(2), which would allow Scottish ministers to determine the proposals as they thought fit. Her concern could also be dealt with under proposed subsection (4)(a), which includes a designation to identify the houses that are held by the RSL. That would identify that the houses in Karen Whitefield's constituency were only one part of Link's portfolio.

There is an issue with amendment 348, which can be illustrated by the current situation in the Leith waterfront development. The issue concerns what can be seen as vulnerable housing

association areas. Abuses may occur when people try to benefit from the property values in highly desirable areas and the amendment may allow that to happen.

12:15

The Convener: The question is, that amendment 346 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 346 disagreed to.

Amendment 318 moved—[Jackie Baillie]—and agreed to.

The Convener: Amendment 347 was debated with amendment 346. Does Robert Brown wish to move the amendment?

Robert Brown: In the light of the minister's assurances, I will not move amendment 347.

Amendment 347 not moved.

Amendment 348 moved—[Ms Sandra White].

The Convener: The question is, that amendment 348 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 348 disagreed to.

Amendment 319 moved—[Jackie Baillie]—and agreed to.

Amendment 349 not moved.

Section 38, as amended, agreed to.

After section 38

Amendment 323 moved—[Bill Aitken].

The Convener: The question is, that amendment 323 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 323 disagreed to.

Section 39—Limitation on right to buy: pressured areas

The Convener: Amendment 350 is grouped with amendments 351, 324, 352, 353, 354, 325, 355, 195, 356, 357, 327, 197, 358, 359—Has nobody got a full house yet? [*Laughter.*]—361, 362, 363 and 328. If amendment 350 is agreed to, it will pre-empt amendments 351 and 324. There is a typing error in amendment 356: the word "from" should not be included.

I ask Brian Adam to move amendment 350 and to speak to all the amendments in the group.

Brian Adam: I thank the convener for giving me the privilege of speaking to so many amendments at the same time.

The minister said a few moments ago that it is important for members to recognise the strategic role that local authorities will play as a consequence of the bill. Amendment 350 seeks to do just that. To my mind, the question whether an area is designated as pressured is a strategic decision, which would best be made at a local level.

I recognise that RSLs might be concerned that, where local authorities continue to be housing providers, local authorities' decisions about the designation of pressured areas may not have much objectivity. The role of ministers ought to be to deal with appeals in such situations. Ministers should take a step back from the strategic decision-making function, which should be given to local authorities. Designation of pressured areas is best made at a local level.

The other amendments in the group deal with a variety of the consequences of amendment 350. Amendment 352—as with some of the other

amendments in the group—reflects some of the discussions that took place in the Local Government Committee and in the Social Justice Committee. The Local Government Committee's stage 1 report stated:

"It was noted by the Committee that within areas specific types and sizes of houses are often in short supply, while other types and sizes can be relatively plentiful. The Committee therefore calls for consideration of the idea of developing the proposed pressured area arrangements to cover specific types and sizes of homes."

A variety of people raised that issue and I recall that the minister was, at least, willing to consider it. The purpose of amendment 352 is to address that matter.

If an area was unfairly designated as a pressured area by a local authority and if the RSL, for example, did not agree, amendment 358 would provide a right of appeal to Scottish ministers.

I am sure that ministers do not wish to be involved in the detailed planning and strategic functions of housing, which should be dealt with at a local level. Amendments 350, 354, 355 and 356 address that.

I admit that there is a slight drafting error in amendment 351, which does not read quite the way that I intended. When the minister gives her view on amendment 351, she should remember that my intention is that the designation would not use the particular form of words that is provided by amendment 351. I also accept, as the convener said, that amendment 351 will fall if other amendments are agreed to.

Amendment 354 continues with the idea that the designation of pressured areas is a local authority function, not a ministerial function.

I am happy to consider amendment 325 as an alternative to amendment 352. I prefer my own form of words—which is probably no great surprise—but both amendments address a similar concern. Designations ought not to be reviewed for ever and a day. That is why amendment 355 omits a time period for a review.

Amendment 195 and amendment 325 deal with size and type of dwelling, which my amendment 352 also deals with. I want the principle to be accepted and I hope that the minister can respond positively to those concerns either at stage 2 or at stage 3.

Amendment 356 is a consequential amendment, which follows on from amendment 350—as indeed is amendment 326. I am happy to support amendment 326 if amendment 356 is not preferred.

How far have I got to go?

The Convener: You are not obliged to speak to all the amendments.

Brian Adam: I gathered that. I will skip a few.

Amendment 358 provides for the right to appeal against a designation. The amendment would mean that the function of ministers would be to act as a backstop, so that fairness could be achieved. It would mean that strategic functions were genuinely given to local authorities.

Amendment 360 would ensure that local authorities' proposals for the designation of a pressured area were not constrained by a specified period of time. It is unusual for me to argue against the provision of a specified time, but local authorities will be able frequently to take stock.

If amendment 356 is agreed to, local authorities will have the power under section 39(7) of the bill to amend or revoke a designation. Alternatively, if amendment 326 were passed, local authorities would have the power to lodge proposals with the Executive that a designation should be amended or revoked. Local authorities can always lift the phone and speak to the Executive—they are in regular contact with the Executive on a range of matters. Surely we want to avoid any situation in which local authorities must spend lots of time trying to renew designations to protect pressured areas. There are more productive things that local authorities could do.

I need not say any more about the amendments that have been lodged in my name. I am looking for a genuine change, so that strategic decisions can be made at a local level. We ought also to consider allowing pressured areas to be designated if specific house types and sizes in an area are in short supply.

I move amendment 350.

Robert Brown: A number of slightly disparate themes emerge from section 39, which concerns pressured areas.

I have some sympathy with Brian Adam's intention in amendment 350, because the right balance must be struck between the registered social landlords, the local authority and the Scottish Executive. However, amendment 350 is probably tweaked a bit too far in favour of the local authorities—although some of my amendments are along similar lines. Obviously, the desired objective is that there should be partnership, but pressured area designations should emanate primarily from local authorities. Ministerial interference or involvement should happen primarily only on national housing objectives. The local strategy should be given to the local authorities. That is the motivation that lies behind amendment 324.

Decisions about pressured area status should

also be on a slightly more objective basis than merely on ministerial decision. In other words, amendment 326 says that the actual need of an area for housing accommodation is most important, rather than the minister's view of that. I appreciate that ministers need to form a view, but amendment 326 would allow a more objective standard to be set in the way that that would be done.

Brian Adam's amendment 358 touches on the need for an appeal mechanism at a later stage. Of course, that would be a bit more difficult if it is Scottish ministers who will designate—it is difficult to see whom one could appeal to—but I suppose that a judicial review or some other such mechanism could deal with that.

The issue of house types, which has exercised a number of people—as the minister is aware—was also touched on by Brian Adam. I am interested in the process of how designations will be made. To what extent will the likely designated pressured areas overlap with areas in which there is pressure on particular house types? There is pressure on five-apartment houses in particular. I do not think that there is a problem with two-apartment, three-apartment or four-apartment houses, because the size of the allocation can always be varied in such cases. I would be interested to hear the minister's response to that.

Amendment 327 relates to whether the five-year designation of pressured area status could be extended. The wording in section 39 seems to be ambiguous. I would like clarification of whether the intention and the legislative effect would be that we could make provision for extending the five-year period. There are areas in which the right to buy has run its course, where one might imagine that pressured area status might be extended a number of times over.

Amendment 328 relates to the question of interim designations. That is a process issue, and I am concerned that there should be an indication of time scales. I appreciate the fact that the ministers may not yet be able to say in detail when they propose to implement the new Scottish secure tenancy, but the committee would like to know the possible time lag between their doing so and the coming into effect of the local housing strategies. Existing right-to-buy tenants are not included in pressured areas; neither are housing association tenants, because of the 10-year exemption. It is the new tenants who are coming on stream who are involved. There might not be many of them, in which case interim designations might not be necessary. However, there might be quite a lot of them, depending on the time scale for implementation. I am looking for reassurance on that.

12:30

Mr Gibson: The idea of defining pressured areas by house size and type received the unanimous support of the Local Government Committee, and I hope that it will be given serious consideration. Robert Brown and Brian Adam have been thinking along similar lines and have lodged amendments that are similar to amendment 195. However, because amendment 195 was lodged earlier, I hope that committee members will rally round it.

Amendment 195 would fine-tune pressured area status, to ensure that the designation applied only to certain types of housing. The bill is currently too crude and inclusive. For example, in some areas of Glasgow, there is a huge surplus of four-apartment housing, although throughout the city there is a chronic shortage of housing that has five or more apartments. Glasgow has 2,285 social rented houses of five or more apartments—2.7 per cent of the current stock of 87,249 houses. However, 2,186 applicants—5.8 per cent of the waiting list—have been assessed as needing a house that has five or more apartments. Of those applications, 96 are clearance cases, 69 have medical priority A, and 32 are homeless cases. However, over the past year, only 172 houses of five or more apartments—1.4 per cent of the turnover—became available and only 25 of those were in medium or high-demand areas, following a high number of sales of large public sector houses and flats.

There is therefore a need to allow councils to classify housing of five or more apartments—or other high-demand stock of specific types—as pressured where appropriate, rather than only where the geographic definition applies. That would also help communities in which families are traditionally larger, such as the Asian community. Flexibility is the key, and I hope that the Executive will be sympathetic to amendment 195.

Amendment 197 would ensure that existing tenants were compensated for the loss of the right to buy in pressured areas. Local authorities would have an incentive not to designate areas unnecessarily, because that would trigger payments from their strategic housing budgets. In a way, the amendment would impose a form of self-discipline on the local authorities, so that they would not overdo the designation of pressured areas.

Ms White: All the amendments in the group are well thought out and well meaning, and I hope that they will be accepted in the spirit in which they have been lodged. Brian Adam, Robert Brown and Kenny Gibson have argued the case for pressured areas according to house type, which is important, and for allowing more leeway to local authorities to consult tenants. Authorities should be able to

make up their own minds, because the people in local government are grown-ups. I ask the ministers to accept these necessary amendments in the spirit in which they have been lodged.

Jackie Baillie: I confess to being slightly taken aback by Brian Adam's proposals—especially as he talked earlier about achieving a balance between the rights of tenants, landlords and communities. I do not need to remind the committee that, in discussing our homelessness proposals and amendment 93, SNP members lost sight of the needs of homeless people. Again, we feel that Brian Adam has failed to take account of the need to protect the rights of tenants.

Our proposals for pressured areas are based on a considered approach that took account of all interests. Local authorities could come forward with proposals for pressured areas, based on consultation, and tenants could be reassured by the fact that a decision will be made by Scottish ministers who will check carefully that statutory criteria have been met and that sufficient information has been given in support of the proposal to demonstrate that. Tenants could also be reassured that the designation would be limited to five years and that, if it were extended, local authorities would have to demonstrate good cause for that.

Brian Adam's proposals would sweep away all those checks and balances and would create draconian legislation that would allow local authorities to designate areas without any outside checks—short of court action—for any period that they thought fit. I therefore ask Brian to think again about his proposals. If he is not prepared to do so, I ask the committee to reject them.

The idea of designation by pressured house type has been discussed over recent months, and the right to buy working group reconsidered that, in that we convened to consider pressured area status designations among other right to buy operational matters. The key to the strategic suspension of the right to buy is to identify where the assessed or agreed need for homes greatly outstrips supply. Such shortages—the causes of pressure—are essentially area based. We have considered carefully house-type shortages and have found that they are reflected in area pressures, because house types do not necessarily have their own geography. We considered that and the fact that coverage must be acknowledged—Robert Brown's point—in the area-based designation for house types.

Critical difficulties exist in identifying house-type based shortages. People have strong preferences in housing, and many prefer houses with gardens, for example. However, that is only a preference; they might not have any need for gardens. It would be difficult to administer local variations in the right to buy from one house to another within an area; that could cause resentment among tenants. Given those difficulties, it would be sensible not to legislate for pressured house types until we have considerably more experience of operating the pressured area designation.

I move on to Kenny Gibson's proposals for mandatory cash incentive schemes. We are keen to help tenants who aspire to home ownership to achieve that. There are a variety of ways of doing so, and cash incentive schemes are one of the policy mechanisms that are available. Where the designation of an area can be justified, it is reasonable for the right to buy to be suspended for new tenancies. However, we do not agree that the suspension should automatically be compensated for by a cash incentive, as amendment 197 proposes. Such schemes should be a strategic tool that local authorities can choose to deploy, subject to decisions concerning priority and the resources that are available in their areas. Automatic entitlement to such a scheme could result in the pre-empting of significant resources that might be better used for other housing priorities. We therefore ask the committee to reject amendment 197—no matter how early it was lodged.

Robert Brown's amendments display—as is so often the case with his amendments—an interest in the drafting detail of the bill. For example, amendment 324 is subtle, but significant. Robert Brown seems to suggest that Scottish ministers should not make judgments about pressured areas. I assure Robert that we are not in the least bit subjective. Surely it is right that decisions about pressured area status should be based on a careful consideration of the evidence that a local authority presents. I do not think that it will be possible to produce a set of measures or indicators that can be used mechanically to determine pressured area status. It would not be desirable to do that. A balanced judgment that takes account of all the relevant information is required. I therefore hope that Robert Brown will not move amendment 324.

We gave careful consideration to the revised wording that Robert Brown proposed in amendment 327. He is right that our existing provision—proposed new section 61B(8)—is sufficient to catch the intention of that amendment. The section makes it clear that applications can be made despite current or previous designations. I hope that Robert will accept my reassurance and not move the amendment.

I understand the concern behind Robert Brown's proposal in amendment 328, which is that the process of designation could take some time and might depend on the preparation and submission of local housing strategies. I make it clear that we

do not intend to hold up the consideration of applications for pressured area status. Local authorities will be able to submit applications once the relevant provisions have been commenced. Our intention is to allow that at the same time as the Scottish secure tenancy is introduced.

The key criteria are in the bill and the right-to-buy working group produced recommendations on the procedures that are to be followed, which will be worked up into detailed guidance before the provisions are introduced. Provided that local authorities have the supporting information to hand, they will be able to make an early application.

It is worth remembering that there is little need for urgency. Pressured area designation will not affect those tenants who already have the right to buy, and other current RSL tenants will be caught by the 10-year exemption. It is worth taking time to ensure that the areas are drawn up correctly.

Before I am cut off, I will finish. Thank you, convener.

The Convener: Heaven forfend that I should do that.

I ask Brian Adam to wind up and say whether he intends to press or withdraw amendment 350.

Brian Adam: I intend to press amendment 350. I listened carefully to the minister and to other members. During stage 1, Robert Brown raised the idea of an interim designation, which is worth while. However, I prefer the idea of moving decision making to the most local level. I did not recognise my amendment from the description that the minister used. I do not know what is draconian about it. The minister implied that no right of appeal would be available if my proposals were implemented, but my amendments certainly contain a right of appeal. Ministers would deal with RSLs that felt that they had been unfairly treated.

Amendment 350 says that any designation would take place against the background of a local housing plan, which ministers would have to approve. It would also take place after consultation with the relevant local housing providers that have houses in the area. Therefore, any non-local authority housing provider would have the opportunity to present its view when designation was under consideration. If the provider were dissatisfied with the decision that was made locally, it would have the right to appeal.

My amendments call into question what ministers mean when they say that they intend to give local authorities a strategic function. I would have thought that designation of pressured area status was a strategic function. Are ministers prepared to trust local authorities with only some strategic functions? I accept that that is a question of balance, but any RSL that was concerned about the direction that the local authority might take could suggest that it was being treated unfairly or that it should be involved in the partnership that will draw up the local housing plan. If that were unreasonable, ministers would have the right to overrule it. If a proposal were made, the local authority would be compelled to consult the relevant housing providers that have houses in an area. If RSLs did not like the outcome, they would have the right of appeal. I do not know where the description “draconian” comes from.

12:45

I welcome the little phrase that the minister used that left the door ever so slightly ajar in relation to house types. I see that the minister now disagrees and suggests that her phrase does not do that. I had the impression that the minister was leaving the door open just a little bit. If I picked her up correctly, I welcome that. I hope that that means that further thought will be given to the idea being in the bill, rather than its being introduced in future. I will be disappointed if that is not the case, because people who spoke to the committees that considered the bill said that such provision was needed. I understand that there might be technical difficulties in drawing up proposals, but must we have a one-size-fits-all solution? My suggestion that the issue should be addressed locally might deal with it in principle.

The example that my colleague from Glasgow—Kenny Gibson—gave about large houses is not peculiar to Glasgow and is fairly widespread. The supply of larger houses has always been limited. There might not be as many large families as before, but there are still some, and it is difficult for local authorities to make adequate provision for those who need to rent such houses. I recognise that that issue might not readily fit the proposals for designation of pressured areas, as provision might be throughout the local authority, but the wording that we have used would allow that decision to be made locally—and not only in areas where a high number of houses had been bought under the right to buy. I commend most of the amendments in the group to the committee.

The Convener: The question is, that amendment 350 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)

Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 350 disagreed to.

Amendment 351 moved—[Brian Adam].

The Convener: The question is, that amendment 351 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 351 disagreed to.

Robert Brown: I am extremely uncertain about the matter, but I will reserve my position and not move amendment 324. I may well return to the issue after further discussion.

Amendment 324 not moved.

Amendment 352 moved—[Brian Adam].

The Convener: The question is, that amendment 352 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 352 disagreed to.

Amendment 353 moved—[Brian Adam].

The Convener: The question is, that amendment 353 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 353 disagreed to.

Amendment 354 moved—[Brian Adam].

The Convener: The question is, that amendment 354 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 354 disagreed to.

The Convener: We come to amendment 325.

Robert Brown: In the light of the minister's assurances, I will not move amendment 325.

Ms White: I move amendment 325.

The Convener: Okay. The question is, that amendment 325 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 325 disagreed to.

Ms White: I do not believe that.

The Convener: Order.

Amendment 355 moved—[Brian Adam].

The Convener: The question is, that amendment 355 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 355 disagreed to.

Amendment 195 moved—[Mr Kenneth Gibson].

Mr Gibson: Third time lucky.

The Convener: The question is, that amendment 195 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 195 disagreed to.

The Convener: Amendment 196 is grouped with amendments 320 and 360. I should point out that if amendment 196 is agreed to, amendment 320 will be pre-empted.

Mr Gibson: Amendment 196 would ensure that, in pressured areas, the right to buy would apply to all tenancies—suspended and new tenancies—which would guarantee that pressured area status had a real impact in retaining housing supply. The amendment supports the right to rent and enables continuous supply of social rented housing in the most desirable areas for prospective tenants who, for example, have a medical priority, are on a waiting list or are homeless.

When I spoke to amendment 195, I mentioned certain facts and figures about Glasgow. Given demand and current turnover, it would take 87 years, five months and a week for those who require apartments of five rooms or more to be allocated a house in areas of high and medium demand in Glasgow.

I move amendment 196.

Ms Curran: It is my turn to speak for the Executive again.

Pressured area designation is a key part of the modernised right to buy and reflects a better balance between the needs of those who require social rented housing and tenants who aspire to become home owners. We are aware of concerns that our proposals did not go far enough, in that only new tenants who took up tenancies after the area was designated would be affected by the suspension of the right to buy, which could mean that the designation would take some time to have a significant effect, but we believe strongly that it is important to ensure that tenants' existing rights are not affected. Amendment 196 would deny tenants their current rights and we do not think that is acceptable.

Our compromise position is offered in amendment 320, which would mean that the designation will bite immediately on all those tenancies that have the modernised right to buy at the time of the designation. As a result, the designation would catch all new tenancies created after the introduction of the Scottish secure tenancy and persons succeeding to tenancies after that date. That should help to ensure that pressured area status has an earlier impact than would otherwise be the case without taking away current rights.

Like its companion amendment 335, which was considered earlier, amendment 360 should be rejected. Any suspension of rights must be done in a structured way; there must be a limit on the period, to protect tenants and landlords. It will always be open to local authorities to seek to renew the designation if they consider that that is justified.

I ask the committee to accept amendment 320 and to reject amendments 196 and 360.

The Convener: I ask Brian Adam to speak to amendment 360.

Brian Adam: I risk being told to shut up, but I should say that I thought I had already spoken to amendment 360. I do not particularly need to pursue the matter further. I do not think that it is helpful to have a restrictive time scale. Local authorities have a regular opportunity to get in touch with ministers. On that basis, I am happy to pursue amendment 360.

The Convener: Excellent brevity, Brian.

Bill Aitken: As amendment 196 seeks to return the argument about right to buy to the stage it was

at two hours ago, I cannot support it and will support amendment 320 instead.

Ms Curran: In the light of the time constraints, I will not restate any points; the arguments are clear. Instead, I remind members of the fact that we should not deny tenants their rights.

Mr Gibson: Amendment 196 would not have been necessary had amendment 195 or similar amendments been agreed to. Amendment 196 should be taken with amendment 197, which in effect suggests a mobile discount system instead of restricting rights as such. The minister should be aware that amendment 196 has the strong support of Glasgow City Council, which is controlled overwhelmingly by her party. As the issue is stretching people's minds across party divides and is a matter of genuine concern, I will press amendment 196.

The Convener: The question is, that amendment 196 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

AGAINST

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
White, Ms Sandra (Glasgow) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 0, Against 7, Abstentions 0.

Amendment 196 disagreed to.

Amendment 320 moved—[Ms Margaret Curran]—and agreed to.

The Convener: Amendment 321 is grouped with amendment 326.

Ms Curran: The committee is aware of our proposal for pressured area designation, which will limit the operation of the right to buy in areas of housing pressure. Section 39(5) places a duty on local authorities to publicise any designation to ensure that tenants and prospective tenants are made aware of the implication of the designation. Amendment 321 simply extends that duty to ensure that any alteration or revocation of the designation will be publicised.

Robert Brown is right to clarify the position in the way he suggests in amendment 326, which is in line with how we had expected the provision to work. Any initial designation should be based on a firm proposal by local authorities and due consideration by ministers. It is only sensible that similar principles should apply to subsequent amendments or revocations within the five-year period. As a result, we are happy to accept amendment 326.

I move amendment 321.

Robert Brown: I am grateful for the minister's comments. I simply add that this is again a matter of balance; the phrasing of section 39(7) is a little arbitrary and any amendment or revocation of designations should be based on proposals from the local authority. Amendment 326 is simply a tidying-up provision to allow hiatuses or mistakes to be put right without too much formality. Accordingly, I will move amendment 326—at least I will move it in due course.

The Convener: Indeed you will.

Amendment 321 agreed to.

The Convener: I ask Brian Adam to move amendment 356. As I indicated, the word "from" in the first line should not be there.

Amendment 356 moved—[Brian Adam].

The Convener: The question is, that amendment 356 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 356 disagreed to.

Amendment 326 moved—[Robert Brown]—and agreed to.

Amendment 357 moved—[Brian Adam].

The Convener: The question is, that amendment 357 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 357 disagreed to.

Amendment 327 not moved.

13:00

Amendment 197 moved—[Mr Kenneth Gibson].

The Convener: The question is, that amendment 197 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

AGAINST

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
White, Ms Sandra (Glasgow) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 0, Against 7, Abstentions 0.

Amendment 197 disagreed to.

Amendment 358 moved—[Brian Adam].

The Convener: The question is, that amendment 358 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 358 disagreed to.

Amendment 359 moved—[Brian Adam].

The Convener: The question is, that amendment 359 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 359 disagreed to.

Amendment 360 moved—[Brian Adam].

The Convener: The question is, that amendment 360 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 360 disagreed to.

Amendment 361 moved—[Brian Adam].

The Convener: The question is, that amendment 361 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 361 disagreed to.

Amendment 362 moved—[Brian Adam].

The Convener: The question is, that amendment 362 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For

2, Against 5, Abstentions 0.

Amendment 362 disagreed to.

Amendment 363 moved—[Brian Adam].

The Convener: The question is, that amendment 363 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 363 disagreed to.

Amendments 328 and 364 not moved.

Section 39, as amended, agreed to.

Section 40—Limitation on right to buy: arrears of rent, council tax etc

The Convener: Amendment 365 is grouped with amendments 366 and 367.

Ms White: Amendment 365 is common sense. I do not see why someone who wants to purchase their house cannot have the evidence ready to give to the RSLs, rather than make the RSLs go through the process of checking things out and producing paperwork, which costs them money, even though the offer might be withdrawn. I hope that the minister will accept the amendment. The person who is serious about buying their house should have the paperwork ready to give to the RSLs. The deal could go through without delays on either side. I am concerned not only about the delay, but about the time that it takes workers in RSLs—who are sometimes voluntary workers—to process the papers and the money that it costs.

Amendment 366 concerns the fact that the local authority will issue a certificate free of charge. I am not turning into a Tory and asking people to pay for lots of things.

Bill Aitken: A small fault in a good woman.

Ms White: Sorry about that, Bill.

Local authorities are cash-strapped as it is. I do not see why they should have to pay the cost of the licensing and certificates. The public pay towards local authorities and I do not see why they should have to pay for the certificate to be produced. If somebody wants to put in for planning permission for an extension or whatever and they need to produce plans, they have to pay for them and submit them to the local authority. I do not see why people should not have to pay for this as well.

Amendment 367 is in line with amendment 366. It would protect the people who would have to pay for the certificate by ensuring that it was not too expensive. It is a checking mechanism to ensure that local authorities would not charge over and above any costs incurred in processing the certificates. Those are straightforward amendments. I will wait with bated breath to find out whether the Executive accepts any of them.

I move amendment 365.

Cathie Craigie: Perhaps I should ask Brian Adam to pour Sandra White a glass of water before I start to speak, because I sympathise with the sentiment of her amendments, especially amendment 365. I initially thought that the limit of 28 days was not appropriate. It would create a lot of work as the landlord could start the right-to-buy process and then find that a clean certificate was not produced at the end of the 28-day period. I do not believe that things would be so simple as, given the length of time that it can take to process an application under the right to buy, a prospective purchaser could accrue arrears in that period. I will be interested to hear what the Executive has to say on the matter. I believe that Sandra White has raised a valid point. There could be abortive work. I do not think that her amendments have got the answer exactly right; I ask the Executive to consider the matter.

I will listen with interest to what the minister has to say before I reach my final view.

Ms Curran: I do not want to damage Sandra White's health. We have serious reservations about amendments 366 and 367, which I will come to, but she should perhaps have a glass of water ready, because we are very sympathetic on some of the issues in amendment 365, which we accept in principle.

We accept it only in principle because there are one or two technical difficulties, which I do not think that Sandra White intended. The key point is that the effect of the current drafting could be to enable a tenant to secure a satisfactory certificate in advance of applying to buy but to accrue arrears in the intervening period. We would like to come back with a form of words that would prohibit that happening. Apart from that, we genuinely accept the point that Sandra White makes. We will accept the principle, if that is acceptable to Sandra and the fact that we accept the point does not affect her health too much.

On amendments 366 and 367, we remain of the view that the certificate that is required by the applicant should be available free of charge to

RSL tenants. Certificates are not required by local authority tenants, because a local authority already has the relevant information. It would be wrong to penalise RSL tenants because a certificate is required in their case. The bill standardises and harmonises arrangements across the sector.

We ask the committee to reject amendments 366 and 367. Depending on what Sandra White says, we are happy to consider amendment 365 and come back with a suitable form of wording.

Ms White: I have not quite fainted, but I may do so yet. I thank the minister and Cathie Craigie for their encouraging words. The minister said that she accepts amendment 365 in principle. I am more than happy to accept that, so I will withdraw the amendment.

On amendments 366 and 367, I have listened to what the minister said about local authorities and penalising RSLs. I will press amendments 366 and 367, because providing a certificate costs money. The amendments are, as Robert Brown always says, probing amendments.

Amendment 365, by agreement, withdrawn.

Amendment 366 moved—[Ms Sandra White].

The Convener: The question is, that amendment 366 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 366 disagreed to.

Amendment 367 moved—[Ms Sandra White].

The Convener: The question is, that amendment 367 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 367 disagreed to.

Amendment 368 not moved.

Section 40 agreed to.

Section 41—Limitation on right to buy: conduct

The Convener: Amendment 198 is grouped with amendment 322.

Mr Gibson: I hope that amendment 198 will get a sympathetic hearing—at least from my SNP colleagues. [*Laughter.*]

The Convener: That is what happens when you look for cross-party support.

Mr Gibson: Demolitions are frequently delayed at enormous cost to local authorities by individuals exercising their right to buy just prior to demolition. Amendment 198 would ensure that, once a decision to demolish had been taken, an individual could not buy their home. Thus, a local authority or RSL could not be held to ransom by a new owner who demanded excessive reparation from their former landlord.

Proposed subsection (3) would allow an appeal if demolition were decided on without due regard for or consultation with residents. Subsection (4) would ensure that ministers would hear both sides of the story before they made a decision on such an appeal.

I move amendment 198.

Ms Curran: We are aware of concerns that have been raised by some landlords, principally Glasgow City Council. To refer to Kenny Gibson's earlier comment, we are damned if we do and damned if we do not: if there is unanimity among us, we are not doing our job properly and if there is disagreement among us, we are not doing our job properly.

Glasgow City Council has raised significant points. Where a house is to be demolished, the availability of the right to buy can lead to abuse and cause difficulties for redevelopment plans. Essentially, the landlord may have to buy back the house at up to full market value and rehouse the owner. We are not aware of many cases of that nature, but we wish to deal with the matter in an appropriate way that takes account of the concerns of landlords and tenants and, most important, the public interest.

We recognise that Kenny Gibson has an interest in the matter and has raised it. We welcome him pushing the issue, but we have a number of

concerns about amendment 198. First, the power to deny rights would lie solely with the landlord in the first instance. There would be no independent test of the landlord's decision until much later. Secondly, amendment 198 fails to take account of the time scale or programme for demolition, which should be an important factor in any denial of rights. It would be quite wrong to deny the right to buy on the basis of very vague plans that had no clear implementation date or whose implementation was many years away. Finally, it is not clear on what basis tenants would be able to appeal and how Scottish ministers should consider an appeal.

Executive amendment 322 represents a more balanced approach, which seeks to protect the interests of landlords and tenants. Amendment 322 allows for landlords to apply to Scottish ministers if they wish to refuse applications to purchase under the right to buy on the grounds that the house is scheduled for demolition. Supporting information will be required. The amendment also sets out the factors that ministers will take into account, such as the proposed time scale for demolition and the extent to which there has been consultation on the demolition proposals.

I urge the committee to accept amendment 322 over amendment 198.

13:15

Robert Brown: I have one query about proposed subsection (2) in amendment 322. It seems to make the "decision to demolish" the operative point. I appreciate that there is a difficulty with defining "liable to demolition". The amendment refers to the fact that there is a lead-in period before demolition. I wonder whether the point at which a house is defined as "liable to demolition" should advance a little towards the point at which the local authority housing committee, for example, proposes demolition. In other words, "liable to demolition" would be defined as being the subject of a bit more than a vague suggestion to demolish, but not quite a decision to demolish. A demolition proposal will come into the public domain at about that point in the process. The mischief that the minister is trying to prevent with amendment 322 might still arise in some instances if the definition of "liable to demolition" refers to a point too late in the process. I have no final views on that aspect of amendment 322. Does the minister have any thoughts on it?

Ms Curran: The process by which the landlord would apply and the criteria that we lay out would mitigate the kind of abuse to which Robert Brown referred. Amendment 322 tightens up the position considerably. The criteria that we are laying down, such as having to publish plans for the demolition, would catch such abuses of the system.

Mr Gibson: I am pleased that the Executive has seen the merits of amendment 198. However, the amendment would apply only when a decision to demolish has been taken. It would not apply to a vague decision that the council may or may not make. Although amendment 198 is clearer and more concise in some ways, I understand the merits of the comments that the minister made. I will therefore not press amendment 198 and I ask the committee to support amendment 322.

Amendment 198, by agreement, withdrawn.

Amendment 369 not moved.

Section 41 agreed to.

After section 41

Amendment 322 moved—[Ms Margaret Curran]—and agreed to.

The Convener: Amendment 370 is grouped with amendments 373 and 378.

Robert Brown: I am conscious that I am speaking in what I might describe as the graveyard slot just before lunch.

Amendment 370 tries to make a serious point about one of the effects not just of the right to buy—that is subsidiary to some degree—but of the long-term maintenance of properties that are in divided ownership. I have already made the point in the committee and to ministers in a variety of ways.

I am conscious that new proposals for tenement law reform are coming down the line. It seems to me that the more houses are sold off, the more we get into divided ownership and the more difficult it is to bring into effect arrangements to deal with not the factoring, which is manageable, but matters that will arise later, such as long-term roof repairs or roughcasting.

It is reasonably clear that one way of dealing with the matter would be through some sort of long-term maintenance fund, to which people would contribute and which would be sold on with the house. In short, people would not get back the money paid into the fund at the end of the period or on request, but it would add to the value of the asset that the house constituted. That is the kind of thing that I hope the housing improvement task force will examine in some detail. I hope that consideration will be given to enabling a pilot scheme for such an arrangement to go ahead. We need to have some experience from which we can learn.

The issue of discounts, which is dealt with in amendment 378, might be a useful lead-in to the provisions that I want the bill to contain. Obviously, people sometimes buy houses without thinking

about the implications of ownership. It is important that there should be arrangements to assist such people. That is the purpose of what I am suggesting. I have made similar proposals before, but I hope that the Executive and the committee will give my proposal serious consideration in the context of the bill. If my phraseology is not correct, which might well be the case, I ask the ministers to consider delivering in some form, either legislatively or administratively, the arrangement that I suggest relatively soon. We cannot indefinitely avoid dealing with the problems that will arise in houses in divided ownership across Scotland, not least in Glasgow.

I move amendment 370.

Bill Aitken: The proposal has clear attractions. However, I am uncertain about whether the mechanics as laid out in amendment 370 are appropriate or whether the proposal should be delivered as part of a more comprehensive package later. I await the minister's comments with interest.

Brian Adam: I share the sentiments behind the amendments. Like other members of the committee, I recognise that we face long-term problems in relation to the maintenance of flats and that the matter needs to be addressed. However, I am not utterly convinced that the amendments represent the best way of doing that.

I ask Robert Brown and the minister to clarify one matter for me. Amendment 373 refers to section 62A of the 1987 act but I thought that that section would be repealed by section 44(1) of the bill. That is a technical point, which someone can clarify before we reach the end of the debate.

I do not know whether inserting some sort of contract arrangement into the bill is the best way of addressing the problems with which we are concerned, but I agree with Robert Brown that the issue needs to be addressed sooner rather than later. Perhaps that might be done in a tenement law bill.

I agree with the idea of having sinking funds and I also endorse the idea that the fund should remain with the property and should not be redeemable when the property is sold. I like the ideas behind the amendments, but I am not convinced that they represent the best way of delivering what we want.

Cathie Craigie: Committee members will know that I have raised this issue on a number of occasions. I have serious concerns about the long-term maintenance of flats and have sympathy with Robert Brown's amendments. I do not know what the Executive will say about the amendments, but I hope that the minister will encourage Robert to withdraw amendment 370 because I do not think that it hits all the marks in all the areas that we need to deal with. Robert Brown might have lodged the amendments to deal with the changes in the right to buy that will allow tenants of RSLs to purchase their houses, but such a change will not be implemented in the short term and the bill will not enable us to start with a clean sheet in any area.

The housing improvement task force consists of people with a wide range of expertise. I know some of the people who are involved with the group and am aware that they have been working in the area for years. They know the problems and can make an important contribution. Although legislation to deal with the problems with which we are concerned should be implemented as soon as possible, we should wait for the task force to make its report and should consider its recommendations. I hope that that report will contribute to any examination of the law of the tenement. The situation cannot be allowed to continue indefinitely but, as the issue is complex, it would wrong to rush in at this stage. The minister has stated previously that the Executive takes the issue seriously and I await her comments today with interest.

Jackie Baillie: I thank Robert Brown for raising the issue. I am aware that the matter has exercised him and Cathie Craigie over the past few months, if not longer. The committee will not be surprised to hear that I do not think that we should use the Housing (Scotland) Bill to legislate on the topic, although Robert Brown's proposal will be given careful consideration and will feed into our longer-term debate on policy in this area. We recognise that many home owners in Scotland live in flatted blocks or other housing developments and need to agree on communal repairs and maintenance. We also recognise that that can cause problems and difficulties.

Agreed factoring arrangements and, possibly, the establishment of sinking funds along the lines that Robert Brown is proposing may help to resolve these problems. However, as has been said, the law in this area will be affected by the Scottish Law Commission's proposals relating to real burdens and, particularly, the law of the tenement. The proposals are complex and the housing improvement task force, which was set up recently, will consider the question of common repairs and maintenance in the context of those legislative proposals. With that assurance, I ask Robert Brown to withdraw amendment 370.

In the absence of agreement to that broader policy and legislative framework, Robert Brown's proposals would cause difficulties. First, right-to-buy purchasers would be required to make payments to a sinking fund, which landlords would be required to establish. However, what would happen to people who had already bought under

the right to buy? Secondly, is it right that the landlord should be able to determine the contribution required without reference to the purchaser? Thirdly, what would happen to purchasers who failed to contribute? Fourthly, what about the costs to landlords of running such schemes? None of those problems are insurmountable, but they demonstrate that we need to do some more thinking before legislating on this matter.

I appreciate that some of those matters are points of detail that could be set out in the order that is referred to in amendment 370. However, in the absence of any wide-ranging discussion or consultation on the proposals, I think it would make more sense to reconsider the need for legislation after we have digested the recommendations of the housing improvement task force.

Robert Brown has come up with several versions of his proposal. Amendment 370 details a mandatory proposal while amendment 378 suggests a more voluntary arrangement. I have concentrated on amendment 370, because I do not believe that legislation is required for a voluntary scheme. That also applies to the idea of pilot schemes. There is merit in such schemes and we would be happy to consider that issue further. We would welcome such an initiative from landlords. I also liked the idea that the discount might be increased if purchasers agreed to join a sinking fund and I think that the housing improvement task force would want to consider that further.

With those reassurances, I hope that Robert Brown will agree to withdraw amendment 370.

Robert Brown: I am grateful for the helpful comments of my colleagues. I recognise that a number of people have made suggestions. I am particularly grateful for the minister's useful response.

I appreciate that the scheme that I suggest is major and ought to be accompanied by some sort of consultative machinery. However, the idea of having a pilot scheme is worth while and should be dealt with by the housing improvement task force at an early stage of its deliberations. The lessons that will be learned from such a pilot scheme will inform our conclusions.

Amendment 370, by agreement, withdrawn.

The Convener: With perfect timing, we have completed the groups that we intended to deal with today. The deadline for amendments for Friday is 2 pm this afternoon. Of course, all members will be aware of that because it was well publicised last week. The business bulletin contains information about deadlines for next week's meetings.

I look forward to seeing you all on Friday.

Meeting closed at 13:30.

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Monday 21 May 2001

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