



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# MEETING OF THE PARLIAMENT

Tuesday 22 March 2011

Session 3

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## Scottish Parliament

*Tuesday 22 March 2011*

[The Presiding Officer *opened the meeting at 09:15*]

### Time for Reflection

**The Presiding Officer (Alex Fergusson):**

Good morning. Our first item of business this morning is time for reflection. Our time for reflection leader is our local parish minister, the Rev Neil Gardner, who has been a great friend to the Parliament. I am delighted to have him here on the last morning of the session to give us time for reflection.

**The Rev Neil Gardner (Canongate Kirk, Edinburgh):** It is good to find myself on duty again in this particularly modern corner of the ancient parish of Canongate. Just the other day, I was on parade in another distinctive part of my parish, across the road at the Palace of Holyroodhouse. His Royal Highness the Duke of Kent, in his capacity as colonel of the Scots Guards, had come up to present a number of Elizabeth Crosses to the families of Scots Guardsmen who lost their lives on active service. Those were not necessarily recent losses, but stretched back on this occasion as far as 40 years to Northern Ireland in 1971.

By contrast, the Elizabeth Cross is a relatively new concept. It was established by the Queen in 2009 and is awarded to the immediate families of all military personnel who have been killed in action to recognise the family's sacrifice, too, in the loss of a husband or father, wife or mother, brother or son, sister or daughter. For families who have been quietly bearing their losses for forty years or more, it is important for them to know that they have not been forgotten. Last week's ceremony across the road demonstrated exactly that.

In the Christian calendar, this penitential season of Lent is also a time for remembering sacrifice—most vividly in the poignant symbol of the cross. As the 40 days and 40 nights unfold and as Easter looms ever closer on the horizon, the church remembers once again the suffering and sacrifice of Jesus, his death on the cross and his rising again from the tomb. As one of our old familiar hymns puts it,

"When I survey the wondrous cross  
On which the Prince of Glory died,  
My richest gain I count but loss,  
And pour contempt on all my pride."

The worldwide family of the church finds great strength in that wondrous cross, for it reminds us not just of the crucifixion and resurrection of

Jesus, but that because of it we have not been forgotten.

"For God so loved the world",

which is every bit as troubled now as it was then,

"that He gave His only Son, that everyone who has faith in Him may not perish, but have eternal life."

## Business Motions

09:18

**The Presiding Officer (Alex Fergusson):** The next item of business is consideration of business motion S3M-8197, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill.

*Motion moved,*

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

Groups 1 to 3: 10 minutes.—[Bruce Crawford.]

*Motion agreed to.*

**The Presiding Officer:** The next item of business is consideration of business motion S3M-8198, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a timetable for the stage 3 consideration of the Double Jeopardy (Scotland) Bill. I ask Bruce Crawford to move the motion.

09:19

**The Minister for Parliamentary Business (Bruce Crawford):** I will, for what I think will be the last occasion in the current session of Parliament, formally move the motion.

I move,

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

Groups 1 and 2: 25 minutes.

**The Presiding Officer:** Also for the last occasion in the session, I say that as no member has asked to speak against the business motion, the question is, that motion S3M-8198, in the name of Bruce Crawford, be agreed to.

*Motion agreed to.*

## Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill: Stage 3

09:19

**The Presiding Officer (Alex Fergusson):** The next item of business is stage 3 proceedings on the Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill. In dealing with the amendments, members should have: the bill as amended at stage 2, which is SP bill 53A; the marshalled list of amendments, which is SP bill 53A-ML; and the groupings, which I have agreed as Presiding Officer. If there is a division, the division bell will sound and proceedings will be suspended for five minutes for the first division. The period of voting for the first division will be 30 seconds. Thereafter, we will have a voting period of one minute for the first division after a debate, with all other divisions being 30 seconds.

### Section 7—Variation and recall of orders

**The Presiding Officer (Alex Fergusson):** Amendment 1, in the name of the minister, is grouped with amendments 2, 3 and 4.

**The Minister for Housing and Communities (Alex Neil):** I lodged amendments 1 to 4 as a result of the on-going dialogue on the bill between the Government and the Law Society of Scotland. As the bill stands, an individual who had no involvement in the original proceedings for an order under part 1 of the bill, and who is not otherwise directly affected by the order, is unable to apply to vary, recall or extend the order. That might cause a difficulty for the victim, if the original application was made by a support agency and the victim then moves to another part of Scotland and wishes to rely on a different support agency to apply to vary, recall or extend the order. Given that the bill already makes provision for other persons, including the victim and those who would be affected by the order, to apply to vary, recall or extend the original order without leave of the court, it is not thought that that difficulty will arise often. The amendments are intended to ensure that no such difficulty will arise, however infrequent. I therefore ask members to support amendments 1 to 4.

I move amendment 1.

*Amendment 1 agreed to.*

*Amendment 2 moved—[Alex Neil]—and agreed to.*

### Section 8—Extension of orders

*Amendments 3 and 4 moved—[Alex Neil]—and agreed to.*

### **Section 9—Offence of breaching order**

**The Presiding Officer:** Amendment 5, in the name of Alex Neil, is in a group on its own.

**Alex Neil:** Amendment 5 will ensure that if a person is convicted for breach of a forced marriage protection order, that person cannot thereafter be punished again for contempt of court for the same conduct that constituted the breach. Although the person cannot thereafter be punished for contempt, the amendment will not alter the fact that the individual could still be convicted of a separate criminal offence, such as assault. The amendment will therefore ensure that any criminal offence in relation to conduct involving cases of forced marriage can be prosecuted by the courts and sentenced appropriately.

I move amendment 5.

*Amendment 5 agreed to.*

### **Section 17—Crown application**

**The Presiding Officer:** Amendment 6, in the name of Alex Neil, is in a group on its own.

**Alex Neil:** Amendment 6, the final Government amendment, will put it beyond doubt that Her Majesty will not in any way be affected in her private capacity by the bill. In particular, it will make it clear that Her Majesty cannot be made criminally liable under section 9(1) of the bill for breach of a forced marriage protection order or for breach of any equivalent offence in an order under section 10 relating to civil partnerships. I hope that the Parliament will vote for amendment 6 and that I will appear in the next honours list as a consequence.

I move amendment 6.

**The Presiding Officer:** Remarkably, no one has asked to add further comment to that.

*Amendment 6 agreed to.*

**The Presiding Officer:** Her Majesty will be greatly relieved.

## **Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill**

**The Presiding Officer (Alex Fergusson):** The next item of business is a debate on motion S3M-8157, in the name of Alex Neil, on the Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill.

09:24

**The Minister for Housing and Communities (Alex Neil):** I thank the members of the Equal Opportunities Committee, its convener, Margaret Mitchell, and the committee clerks for their work on the bill. I thank also my Government team, which has worked extremely hard, proficiently and efficiently on the bill.

It has been clear since the bill's introduction that there is a shared commitment between the Government and committee members—and, I believe, the Parliament as a whole—to make the legislation the best it can be and to ensure that it provides the protection that the very vulnerable victims of forced marriage require and deserve.

I know that in some cases there has been a learning experience in relation to the complexities of the issues surrounding forced marriage. I think that we would all like to thank the excellent witnesses who during stage 1 brought the issues to life with powerful and compelling evidence, which went on to inform the bill's development through the parliamentary stages.

However, what no one in the chamber needed to be told was the unacceptability of having one's life choices and one's connections to one's family and community taken away and, in many cases, of suffering a spectrum of abuse including threats, blackmail and violence. We know that forced marriage is a human rights violation, as well as a form of violence against women in particular and, in many cases, of child abuse.

I was pleased to hear from those who gave evidence on the bill at stage 1 that the bill's purpose is clear and its principles sound. Witnesses told us that they welcomed the introduction of forced marriage protection orders because the existing legal remedies are not flexible or accessible enough to offer the required level of protection to victims. I believe that our provisions for forced marriage protection orders will meet the needs of those who have been, or who are at risk of being, forced into marriage.

The orders can be tailored to address individual circumstances. Although we give some examples in the bill of actions that a court might require to be taken or actions that are prohibited, the court can include any such provisions that it deems

necessary for the safety of the victim. That means that forced marriage protection orders will genuinely be able to provide the highest level of protection to each individual victim.

I made it clear from the development stages of the bill that I wanted it to have teeth, so I was pleased that the inclusion of a new criminal offence of breach of a forced marriage protection order was welcomed by support organisations such as Scottish Women's Aid, and by the Law Society of Scotland, the police and the Equal Opportunities Committee.

I also wanted the legislation to be as easy to use and accessible to victims as possible. That is why I included the provision for relevant third parties to be able to step in and take forward the process of having a protection order put in place. That is because in many cases, disturbingly, the victim is not at liberty to do that. In some cases, the victim might not even be in this country and might therefore be unable to apply for such an order.

The bill has survived relatively unscathed from the version that was introduced to Parliament last September and the amendments to it have made it stronger. The amendments very much had an eye on how the main provision—the introduction of forced marriage protection orders—would be implemented in practical terms.

I listened to what the witnesses and committee members had to say when I considered the recommendations in the committee's stage 1 report. Even when I felt that amendments were not strictly necessary, there was a clear feeling that they would assist those who would use the legislation at grass-roots level. For that reason—and because they did not detract from the effect of the bill—I was happy to accept the amendments.

We have now debated all the amendments and reached an agreed position on them. Once again, I thank members, particularly members of the Equal Opportunities Committee, for the supportive manner in which they have dealt with matters. It is clear that we in the chamber are united in a desire to ensure that the victims of forced marriage have the best possible protection.

On implementation, we all know that what we do here in Parliament in relation to shaping the law of Scotland is only part of the picture. With an issue such as forced marriage, which we hope will not happen every day and therefore will not be a common issue for those who are asked to support victims, the legislation will not do its job without an appropriate implementation package. I know that support must therefore be in place to help the users of the legislation understand its effects and get the most out of it.

Quite rightly, the implementation phase of the legislation has been a particular focus of the committee's attention. The consultation on draft statutory guidance will begin later today. I felt that it was important to get it under way before the pre-election period began. I want to ensure that, in producing the guidance, we can take on board the views of Scotland's public sector, including police and local authorities, while ensuring that it is in place in time to allow organisations to be ready for the introduction of forced marriage protection orders in the autumn. I will ensure that the Parliament is informed of the developments from the consultation and that the revised guidance is shared with members.

Witnesses, the committee and members have regularly raised the lack of good data on forced marriage. I am very aware of the need to have more robust data for Scotland and I am confident that the bill will act as a driver for data collection, as has happened in England.

Training on forced marriage is another important issue. Particularly important is training for key professionals, which will be developed in the months ahead to ensure that anyone who might come into contact with a victim of forced marriage knows what to look for, how to support them and what remedies are available.

We do not expect a large number of people to apply for forced marriage protection orders on their own behalf or via third parties.

**Elaine Smith (Coatbridge and Chryston) (Lab):** Will the minister take an intervention?

**Alex Neil:** I am afraid that I am just finishing my speech.

We expect the bill to result in more victims seeking help because—for the first time in Scotland—a focus will have been created for the message that such behaviour is unacceptable.

I thank everybody who has been involved. I look forward to the debate and—I hope—to the bill's successful passage.

I move,

That the Parliament agrees that the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Bill be passed.

**The Presiding Officer:** I call Johann Lamont, who has about six minutes.

09:31

**Johann Lamont (Glasgow Pollok) (Lab):** For once, I might not use my full quota of minutes, but that does not mean that the bill is not significant. It is relatively straightforward and short, and it has managed to be the subject of consensus in the end, but that does not necessarily mean that it is not significant—perhaps that reflects how people



have come together in committee and externally. As the minister said, amendments were agreed to so that people could reach a consensus on the issue's significance and on the measures that are outlined in the bill.

In reading the stage 1 debate again, I noted Malcolm Chisholm's comments on the original consultation, in which people expressed anxiety that legislating to create legal consequences might deter victims from coming forward. It is interesting that we had a difficulty or challenge in making a judgment on that. The way in which the committee has considered matters reassures us, because we do not want to do something that will make the situation worse.

What the minister said about implementation is important, and his plan for that provides reassurance. Post-legislative scrutiny is also important. The committee will have a role in making us alive to ensuring that the anxieties that were expressed in the original consultation in 2005 and 2006 are no longer a concern. The Parliament will have a role in that.

We should remember the power of the message that victims have sent to Parliament. In the stage 1 debate, Anne McLaughlin and Elaine Smith gave voice to victims' experiences. It is important to recognise that the experience of forced marriage is horrific. For someone to force another person into marriage is a horrific crime. That underlines the bill's significance.

One of the Parliament's strengths, on which we should reflect, is that we do not just tick boxes for a bit of legislation and then move on. In implementing the bill and in post-legislative scrutiny, it will be critical to ensure that the bill meets its intended purpose. A strength in the Parliament's culture is that Parliament does not simply move on; the opportunity exists to refresh legislation and to consider the issues that drove the legislation to be created in the first place.

In all the debate about the bill, it has been emphasised time and again that what matters is not just the bill. The bill is not just symbolic: it does send signals and it is a symbol of what we say about the offence, but it will also provide protection and offer people legal measures that are not insignificant.

We must place the bill in the context of education of our young people. We must give people the confidence to know that, despite what they have been told, forced marriage is not acceptable or reasonable, is not to do with their culture and is not expected of girls. There is a specific role for that educational side of the bill to be rolled forward. Public education is also important, given the anxieties about the degree of stereotyping around forced marriage. The

challenge in the public debate is for people not to be allowed to retreat into such attitudes.

We also have to recognise that many women in such circumstances may be very isolated—perhaps deliberately so. We have to think carefully about the trusted intermediaries who will reach out to those women. An important bit of work that needs to be done is to consider which organisations—which women's organisations—may be best placed to support women in the circumstance of forced marriage. If evidence emerges of a need for support, it is essential that the Government, of whatever colour, wills the means for that support to happen. The amount of funding that is required for such support may not be huge; small bits of funding can allow organisations to offer it. If the support is not there, victims may not have the confidence to come forward. Ignorance or fear of family consequences are not always an issue—it may be lack of confidence.

We all understand that forced marriage of any kind is unacceptable. In saying that, we recognise that forced marriage is not particular to women; it affects men, too. It is also fair to say that the issue must be seen in the broader context of the rights and role of women and their abuse in society.

The bill shines a light on the issue and challenges the attitudes that underpin forced marriage. I, for one, welcome the legislation. It will be good to come together at the end of this session of Parliament to vote on the bill before we go our separate ways. We have reached consensus on a difficult issue for which we have worked out a solution. The bill will make a difference.

09:37

**Margaret Mitchell (Central Scotland) (Con):** The Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill is important legislation that the Equal Opportunities Committee had the opportunity to consider in detail, and to comment on, as the lead committee. As convener of the Equal Opportunities Committee, I outlined the committee's recommendations and views in what was a productive stage 1 debate. I thank committee members and the EOC clerks for all their hard work on the bill.

I speak in this stage 3 debate not as the convener of the Equal Opportunities Committee but from the Conservative benches. I acknowledge and thank the minister and the Scottish Government for their willingness to listen to and take on board the committee's concerns and suggestions to improve the bill at stage 1. Thanks to the amendments that the Government lodged or did not oppose at stage 2, the definition of "force"

is now more explicit. The definition in the bill is now

“coerce by physical, verbal or psychological means, threatening conduct, harassment or other means”.

The wording was included in an amendment that Marlyn Glen lodged. As many members know, Marlyn is stepping down as a member. I record my thanks to her for her support as a member of the Equal Opportunities Committee and as the committee's deputy convener. As an original member of the committee, Marlyn's knowledge and experience since 1999 have been invaluable. I know that her commitment to and passion for equality issues will continue in whatever she chooses to do henceforth. I thank Marlyn and wish her all the best in whatever she chooses to do in the future. *[Applause.]*

I turn to other stage 2 amendments. The bill now includes a provision to enable constables to arrest without warrant persons whom they reasonably believe have breached or are breaching forced marriage protection orders. The jurisdiction of the protection orders was also clarified to include the requirement from a person to refrain from taking a protected person to another part of Scotland or outside Scotland. A new section 67 ground was created under which a child who has been, or is likely to be, forced into marriage can be referred to the principal reporter. Also, guidance on implementing and using the legislation “will” rather than “may” be issued. That will be critical to ensuring that the legislation works effectively.

The bill brings Scotland's legislation into line with existing legislation in the rest of the United Kingdom that is aimed at preventing forced marriages and protecting the victims of forced marriage. It will help to eradicate an abhorrent practice that has no place in a civilised society. It is victim-centred legislation that provides for third-party applications where it may be difficult for a victim to seek protection from family members. It strikes the right balance on criminal and civil sanctions and addresses victims' concerns about criminalisation of family members by providing that only breach of an order by the perpetrators will be a criminal offence, which may result in up to two years in prison.

In addition to the primary legislation, I support the call for a public awareness and education campaign, which I consider to be essential, to be carried out in Scotland, to ensure that the issue is understood and addressed.

Forced marriage is a violation of fundamental and internationally recognised human rights. On this last day of its third session, the Scottish Parliament can be justifiably proud of passing the Forced Marriage etc (Protection and Jurisdiction)

(Scotland) Bill, as I have every confidence it will do later today.

09:41

**Hugh O'Donnell (Central Scotland) (LD):**

There is an oxymoron at the heart of the debate—it is “forced marriage”. If something is forced, there cannot be a marriage. The evidence that we took on the bill indicated that there are clearly cases of this abhorrent practice. Scotland needs to stand above the rest of the world and to send the message that we are not prepared to accept it.

During debate on the bill it has been clear that, although the number of cases might be relatively low, underlying the vague data that we had—which the minister has kindly accepted—was the prospect that there were people who for some time had been without the protection that the legislation will bring them. I am especially pleased that many of the amendments, recommendations and suggestions that the committee put forward during the bill's process were accepted—occasionally with a bit of tweaking—by the Government. That is a good indication of how Governments of any shade can work closely with committees to fine tune legislation to ensure that it is as effective as it can be and most beneficial to those whom it affects.

The bill will send a clear message to the wider public in Scotland. As Margaret Mitchell said, it is clear that we need an awareness-raising campaign to ensure that people understand what rights and protections the bill provides.

Back benchers do not often get an opportunity to claim even a bit of credit, and it may be a bit tenuous for me to do so in this case, but I will do so anyway. I first raised the issue of forced marriage with Kenny MacAskill back in 2007. All too often, when issues that are small but of considerable concern are raised, they disappear off the radar. I was pleased that the Government took up the issue, looked at what had happened in previous sessions and decided to run with it. I take small credit for at least bringing the issue back on to the agenda.

I hope that the bill will give some protection to those who deserve it. Like other members, I look forward to the bill being passed at decision time today.

**The Presiding Officer:** We have a little time in hand, so there is a bit of flexibility, if anyone needs it.

09:44

**Anne McLaughlin (Glasgow) (SNP):** This will be my final speech as an MSP. I have decided to set myself a challenge. Instead of having the

speech written out in front of me in 16-point bold, with double spacing, I have a few notes. I am beginning to regret that, because I am not sure in what order the notes are supposed to go, but I will do my best. Presiding Officer, I am glad that you said that we have a bit of extra time. When I told Bill Kidd that I was challenging myself, he said that the challenge would be to shut me up.

It is less a challenge than a pleasure to speak on the bill, for three reasons. First, it allows me to reiterate the point that I made when I last spoke on the bill, which is that forced marriage bears no relation to arranged marriage. All of us must continue to make that point. Somebody recently said to me that I should stop talking about the two in the same breath, so that people would not associate them, but it is not as easy as that. People believe that they are one and the same thing. Even an MSP colleague asked me this morning, "Are you speaking in the arranged marriage debate?" Just after that, he said, "No—I couldn't have said that; I must have said 'forced marriage'." There is something in people's minds—they see the two as one and the same thing, and we have to keep making the point.

It is not just we who need to be educated. The Law Society of Scotland made a good point when it wrote to us all yesterday saying that the legal framework is very helpful and that it supports it. As Johann Lamont said, we have to educate children and let them know that they do not have to put up with forced marriage. We have to educate the whole of Scotland, and we have to keep doing it.

The second reason is that the debate allows me to pay tribute to the constituent of mine about whom I spoke at stage 1, whom I have called Nina. She came to me with a housing problem. She had been housed on a main road in Glasgow. We might not think that that would be a problem, but this young woman has been terrified that her family will find her. Every time a car door has shut—which can be heard pretty often on a main road—she has thought that they might be coming to get her.

No wonder Nina was frightened. She had escaped a flight to a forced marriage at the age of 15. When her parents caught up with her, they put her in a room for a week. They starved her, giving her nothing to eat for a week—they gave her only water. This is the part that really shocked me: her teachers came round and, while they were downstairs, her mother poured a sugar solution down her throat so that she could at least look healthy and pretend that she had just been a little bit unwell.

Not everyone has the guts that my constituent Nina has. She escaped, and she has built a life for herself. She works full time—she does not earn very much, but she works really hard. She always

goes to her work, as well as looking after her child. I pay tribute to her.

Because not everyone has the guts that Nina has, it is of crucial importance to have provision in the bill for local authorities and the Lord Advocate to apply on behalf of a victim for a forced marriage protection order.

What happened to Nina was not cultural; it was abuse. Someone once said:

"Forced marriages are, and always will be, an abuse of human rights and human dignity carried out by cowards who hide behind the veil of honour, shame and family pride."

Those were the words of the late Bashir Ahmad, who is the reason I am here today. He is the reason I have been here for the past two years. It was a terrible reason, but it has been an honour to attempt to follow in his footsteps. Bashir has had a great influence on my time here. Any time that I have read something about myself that bears no relation to the truth, or that I have felt frustrated with the political process—as we all do from time to time—I always try to think of what Bashir would have said. He always said that everyone had their reasons for the way in which they behaved, and that there was good in everyone. I have always tried to believe that, too—although it does not always work.

Bashir Ahmad is not just the reason why I am here today; he is one of the reasons why the bill is before us. He was passionate in his support of victims of forced marriage, and he was determined not to allow any community, race or religion to be stigmatised by it. Had the bill before us today not been introduced, he would, he said, have introduced a member's bill. I will end with his words:

"I am pleased that the Scottish Government and indeed all political parties in Scotland are recognising the need to act against this horrific crime. Today in the Scottish Parliament we will be debating the way forward in tackling forced marriages."

If the late Bashir Ahmad MSP is watching now, I am sure that he will be so proud to know that today, the final day of the Scottish parliamentary session in which he became the first Muslim MSP, we are not just debating the way forward; we are finally passing laws that will protect the victims that he was so passionate about.

09:49

**Marlyn Glen (North East Scotland) (Lab):** I am pleased to make my final contribution in the Parliament during this important debate on forced marriages. The Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill can, and I hope will, make a profound difference to people's lives.

As a Law Society witness rightly described the situation,

“although forced marriage is low incidence, it has an extremely high impact”.—[*Official Report, Equal Opportunities Committee*, 23 November 2010; c 2172.]

I am confident that we understand by now what forced marriage is. It is not arranged marriage, and it is not just an incompatible marriage. It is a marriage where one or both parties do not or cannot give consent.

Members of the Equal Opportunities Committee heard some pretty powerful evidence about rape, torture and assault carried out in the name of marriage. The Scottish Parliament has to put out the strongest signal that that is wholly unacceptable in our society—and neither is it condoned by any religion. The fact that breach of a forced marriage protection order is to be a criminal offence leaves no one in doubt about how serious a matter it is.

I am pleased that there is a commitment to include in the consultation on the statutory guidance a question on the definition of forced marriage. The UK forced marriage unit's definition includes the phrase “and duress is involved”. We are well aware of the mental and physical duress that can be involved, but there is concern about individuals who might be forced to marry through much more subtle means, in particular if they have learning difficulties or if they are unaware of what is happening.

The bill's passage has not been contentious and is an example of the cross-party working that has made it a pleasure and a privilege to be part of the Equal Opportunities Committee. I thank the minister and the bill team for their work in response to the committee's report. I thank them for the amendments that they lodged and for accepting the amendments that I lodged at stage 2.

The amendments that I lodged arose from our discussions with agencies such as Scottish Women's Aid. It is essential that people who want the bill to help them to do preventive work as well as work with victims are confident that the new legislation will make a difference. A strength of the Equal Opportunities Committee is its relationships with groups and its openness in discussing their concerns. We worked not just with groups that represent the legal profession but with equality groups, which were diligent in responding to our work.

Yesterday, I had the privilege of being interviewed for a film on forced marriages, which was initiated and is being directed by Loudy Othman. Students from Stevenson College's creative industries department are working on the project with Saheliya and it is heartening to know

that they are spreading the word and beginning the essential education process that is needed to accompany the bill.

It is sad that instances of forced marriage are being uncovered all the time. Although we know that it is usually women who are the victims, Saheliya is working on a small but important project, my story of drug addiction, with young men who are being forced to marry in a perverse attempt by their families to deal with their addiction and find support for them. The fate of the young women who are involved in such marriages does not bear thinking about. We must hope that the passing of the bill sends the strongest signal that forced marriage will not be tolerated in Scotland.

I give special thanks to the clerks and to members and former members for making the Equal Opportunities Committee's work such a worthwhile part of my work as a member of the Scottish Parliament.

09:52

**Christina McKelvie (Central Scotland) (SNP):**

I am pleased to speak in the debate on the second-last bill that we will pass in this session of the Scottish Parliament—the first session in which I have had the privilege of being elected to serve.

It seems to me that the bill is an appropriate one to pass today with the support of MSPs from all sides, with support from all parties—I am sorry, Presiding Officer, I thought that I had put my teeth in—

**Hugh O'Donnell:** Perhaps they are someone else's.

**Christina McKelvie:** Perhaps they are.

When the Parliament was established, human rights and equality were written into its proceedings from the outset. The Parliament was established to represent and serve all the people of Scotland.

The Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill is emblematic of the Parliament's principles. It was introduced to counteract one of the worst violations of human rights that can be perpetrated on a person. At its heart is an insistence on freedom of choice, which is essential to any meaningful concept of equality.

The bill was designed to tackle a crime that happens to only a small number of people in Scotland, which in itself makes the bill even more important. There have been occasions when critics of the Parliament accused us of using legislation as a sledgehammer to crack a variety of nuts, but just because a problem affects a small number of people, that does not make it insignificant. On the contrary, the smaller the

number of victims, the more vulnerable the victims are and the more vital it is that their elected representatives step up on their behalf. When we decide today to legislate against forced marriage, we will give strength to people who were powerless and give protection under the law to people who previously lacked such protection.

During the Equal Opportunities Committee's consideration of the bill, we discussed the imperative of avoiding the perception that the bill is directed at a particular ethnic group or culture. I will say a couple of things about that. First, forced marriage is not about religion, culture or race; it is a crime. It is a complex crime, to be sure, which stems from old and deep-seated attitudes about the role of women and girls—and sometimes, as we heard from Marlyn Glen, boys—but, as Burns said many years ago,

“The Rights of Woman merit some attention.”

Forced marriage happens in society and within families, but it is a crime nonetheless. What is more, it seldom happens in isolation. Almost by its nature, it is a precursor to other crimes: child abuse, rape, domestic violence and sometimes even murder. Those crimes and their victims must be pre-eminent in our minds, and I applaud the Scottish Government for sticking to those facts in introducing the bill.

Nonetheless, there are complexities of which we must be aware, such as the need to make clear the distinction between arranged and forced marriage. Other speakers have addressed that point, so I will not go into it.

I thank all the witnesses who came forward. I especially thank the clerks, who tried hard to ensure that we had a cross-cultural group of witnesses. We could not find some of the evidence that we needed even though we knew that it existed, which shows how deep-seated some of the issues are. The clerks tried hard to ensure that we had witnesses to provide that evidence.

I also thank the committee members for their diligence in scrutinising the evidence, which was helpful for me.

At stage 2, we linked the bill with the Children's Hearings (Scotland) Act 2011, which is a particular interest of mine. When we passed the 2011 act, I was concerned that, although forced marriage was a ground for referral, the term was not defined. I thank the minister for lodging amendments at stage 2 that fixed that anomaly and will bring the two pieces of legislation together to ensure that young people are supported in a welfare-based system. That further strengthens the approach of the Scottish Government and the Scottish Parliament to protecting children and young people.

I am very proud that the Parliament can come together to ensure that we continue to enshrine human rights in our laws. That shows our Parliament working at its best.

I said earlier that choice is essential to a meaningful definition of equality. If I had to pick one word to sum up what the Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill is about, it would be choice. The bill will write clearly into Scots law that it is an individual's—a woman's—choice to enter freely into a marriage or to reject it. That choice, as the UN Committee on the Elimination of Discrimination Against Women puts it,

“is central to her life and to her dignity and equality as a human being.”

That is the core of the bill, and I commend it to the Parliament.

09:57

**Elaine Smith (Coatbridge and Chryston) (Lab):** Having served on the Equal Opportunities Committee since 1999, I am pleased that the last debate of the parliamentary session in which I will participate concerns a bill that was subject to scrutiny by that committee.

Before I address forced marriages, I pay tribute to the work that my friend and comrade Marlyn Glen has carried out in her role as deputy convener. She has been on the committee since being elected and her contribution has been invaluable over the years, particularly on the bill. Marlyn is off to pursue new challenges. Knowing her ability, work ethic and commitment to her values, I am sure that she will succeed at whatever she does next. I wish her all the best.

The Scottish Government accepted Marlyn Glen's stage 2 amendments. Sadly, it did not accept mine—I note that the minister did not mention that in his opening speech. At stage 2, I put the case for replacing the term “equitable jurisdiction” with “nobile officium”. That suggestion came from the Law Society, whose reason for wishing to replace the term used in the bill was that it was not a recognised term in Scots law. What is meant by equitable jurisdiction in the context of the bill is the extraordinary equitable power to do justice where ordinary procedure would provide no remedy, which in Scotland is called the nobile officium of the higher courts. However, the Scottish Government believed and argued that equitable jurisdiction includes the nobile officium. Therefore, I did not bring the amendment back at stage 3, as it seemed we would just have the same disagreement.

Overall, the Law Society was not entirely convinced that section 12 is necessary, so I helpfully suggest that it be subject to post-

legislative scrutiny at a future date, which adds to the comments that Johann Lamont made about the need for such scrutiny.

Aside from that minor disagreement, the committee was pleased to recommend support at stage 1 for the general principles of the bill, which is an important piece of legislation, and its suggested amendments were accepted at stage 2. There was certainly no disagreement about the need for the bill or the principle that everyone should be able to enter into a marriage or civil partnership without being forced or coerced to do so. When the bill is passed later today, it will bring us into line with other parts of the UK with similar legislation; indeed, I think that our legislation will be better.

We in the Labour Party are clear that the bill is needed to try to stop the horrendous practice of forcing anyone into marriage, whether male or female. However, we know that it is mostly young women and girls who are likely to be in that situation and that forced marriage is part of the continuum of violence against women and is completely unacceptable. As Marlyn Glen pointed out, it is linked with horrendous acts of violence, rape and domestic abuse. We need to be clear that forced marriage is not a cultural phenomenon but is abuse.

Sadly, the people in victims' families who should protect them are often the perpetrators, as Anne McLaughlin pointed out. When the bill was first proposed, it was welcomed by a victim, who chose to remain anonymous, in a statement that was provided through Shakti Women's Aid. The victim described the experience of forced marriage as surreal and immensely traumatic. She added:

"We often rely on our families for support but when that family subjects you to marry unwillingly you feel it is impossible to escape."

It is up to us as a society to protect vulnerable people, and we have a duty as lawmakers to ensure that appropriate legislation is in place to help to do that. We also need to raise awareness about the issue of forced marriage and ensure that victims know what support is available to them, as other members have said. If the number of victims coming forward increases, we may need to consider the resources for support agencies.

I thank all the witnesses who helped the committee with the work of scrutinising the bill and I acknowledge that all committee members worked together in a non-partisan fashion to ensure that the bill would be the best legislation possible. I note the consensual way in which the Government accepted most of the amendments that were proposed to improve the bill, which meant that there was no need for a great deal of amendments at stage 3 today. Last but not least, I thank the clerking team who, with the Scottish Parliament

information centre, helped to draw information together for the committee.

The bill is not a major piece of legislation in parliamentary terms, but it will have a major impact. It will not affect vast numbers of people but, for those whom it helps, its impact will be substantial. With the passing of the bill later, the Parliament will send out a clear message that forced marriages are completely unacceptable, are part of the spectrum of violence against women and girls and will not be tolerated in Scotland.

10:02

**Hugh O'Donnell:** This has been a short and sweet, consensual debate. However, I suspect that another event later this morning, commonly known as First Minister's questions, is likely not to take a lesson from the way in which we have conducted ourselves in dealing with the politics of this place.

As other members have said, the bill demonstrates Scotland choosing a piece of legislation that is desperately needed, taking it forward in a constructive and positive manner and arriving at a conclusion to which everyone who has spoken in the debate contributed, such as Anne McLaughlin, who gave an emotive recounting of a constituent's experience, Christina McKelvie, Marlyn Glen and Elaine Smith, who again demonstrated her command of the Latin language.

As has been said, we will need a mechanism to allow us to undertake post-legislative scrutiny. If I have had a theme as a member of the Scottish Parliament for the past four years, it is that, although the process is sometimes contentious, we as a Parliament are good at taking legislation forward but are not necessarily as good at reviewing its effectiveness and usefulness. In that regard, I am pleased to have been a member of a committee that has reviewed legislation on mental health and other issues.

As my final contribution to this session of Parliament, I ask that, whoever is in government in the next session, we consider what we have done as well as what we would like to do and ensure that it all works for all the people of the country.

10:05

**Jamie McGrigor (Highlands and Islands) (Con):** I, too, thank Marlyn Glen for everything that she has done in the Parliament and wish her happiness and success in the future.

It is a pleasure to close for the Scottish Conservatives in this short debate on the last day of the present session. Like others, I pay tribute to

the work of the Equal Opportunities Committee, ably led by my friend Margaret Mitchell, for a very good stage 1 report and for its subsequent work at stage 2. All those who gave evidence to the committee are to be commended, as are the staff members of SPICe, who produced two extremely useful briefings that helped to inform our debates.

The bill has enjoyed widespread cross-party support since its publication last year, and rightly so. The whole Parliament is united in seeking to ensure that people who wish to marry or enter into a civil partnership can do so freely and without coercion of any kind. It is the duty of any Government to protect the citizens who elected it from bullying, harassment and threats, especially in the case of marriage. It is appropriate that the bill will bring Scotland into line with legislation elsewhere in the UK. The value of the bill also lies in the public message that it sends: that the Parliament is prepared to bring the matter out into the open and to take the lead in achieving a consensus that forced marriage will not be tolerated.

As we heard earlier and during the stage 1 proceedings, although the evidence suggests that the incidence of forced marriage in Scotland is low, it is an extremely high-impact occurrence, and one that it is right that the Parliament takes strong action against. The ability for victims of forced marriage to apply to a civil court for a forced marriage protection order has been widely welcomed. As Louise Johnson told the committee,

"it does what it says on the tin".—[*Official Report, Equal Opportunities Committee*, 23 November 2010; c 2180.]

In conclusion, the Scottish Conservatives welcome the improvements to the bill that were made at stage 2 and are very happy to support its passing at stage 3. All of us hope that, when its provisions are enacted, the bill will prove to be of real use in preventing forced marriages and assisting the victims of such a dreadful occurrence. Our Parliament can be proud to pass the bill.

**The Presiding Officer:** I call Johann Lamont to close on behalf of the Scottish Labour Party. You have quite an amount of flexibility, Ms Lamont.

10:07

**Johann Lamont:** Hugh O'Donnell described this as a short and sweet debate. Neither the minister nor I often contribute to short and sweet debates, so we should cherish the moment—it is possible for anything to happen in this world.

It is an important debate and, as has been said, the bill is significant. Its journey through the parliamentary process has been highly productive. Now, the challenge is to ensure that it makes the difference that we aspire for it to make. I add the

thanks of Labour members to the clerks, the committee's convener, Margaret Mitchell, the witnesses, committee members—for taking their job so seriously—and the bill team, who will have had to wrestle constantly with what was possible from the point of view of the legal people and with the political imperative of addressing what the witnesses brought to the table.

Forced marriage is an important issue, but it is fair to say that it does not form part of mainstream discourse on a regular basis. The bill is not one that I expect will create a huge number of headlines but, for all that, we must recognise that it may make a difference to the lives of women and to the attitudes and views of families, individuals and communities, and in that regard it is important.

I know that I have a great deal of time to speak, but I plan to make only a couple of points. One point that it is worth making is that, although the Parliament has a proud record of exposing and highlighting issues to do with violence against women, I would not want anyone to think that, in debating issues to do with violence against women and abuse, we can somehow always reach a consensus. In fact, those who first raised such matters, who first challenged attitudes to marriage and who first discussed the role of women did so in a context of hostility, not one of consensus. It is a mark of the journey that we have made that we can discuss such an issue as forced marriage in a Parliament that has constructed a consensus. However, we must understand how that has happened, because it was not by accident. It has happened because women's organisations have spoken out on behalf of women and have found a way of bringing the experience of individuals into the political process. Parliament must continue with that important job, not with a sense of self-satisfaction but recognising how challenging it is. It is about changing lives, expectations and people's fundamental roles in life.

Women are suffering disproportionately in these challenging economic times and we must also challenge that situation. The economic challenge that women are facing is an expression of their inequality.

It is also true to say that one reason why the Parliament has got to a place where it can spend time talking about issues to do with women's role in society and violence against women, and where Governments of all colours fund organisations that help it to do that job, is that there are a significant number of women in the Parliament—some feminists and some not, but women who understand the important job that Parliament might have in making a difference to women's lives. Across the chamber are women who are choosing to leave the Parliament today. Those of us who

have to face the electorate have yet to have that verdict passed upon them. However, we know that there will be a challenge in future to make sure that women's voices continue to be heard in Parliament.

Although I recognise and celebrate all the women who have chosen to go today, I am sure that I will be forgiven if I mention in particular my sister Marlyn Glen, who has a long and proud record of fighting to ensure that women's voices are heard. Her persistence and passion for working on behalf of those who are without power, particularly women, are probably without match. She played a part in shaping the Parliament and has played a significant part in its work since she became a member. I wish her all the best. Should I be in the privileged position of coming back to Parliament, I know that Marlyn Glen will continue to work from outside Parliament to ensure that we continue to understand the importance of speaking out about the needs of the most vulnerable people in our communities—those without voices.

The message to all parties is that, if we want to form a consensus around difficult issues, it is critical that all ensure that women's representation in Parliament is sustained. The first parliamentary session was record breaking and there has been some retreat in all parties. Parliament will be weaker if we go back to not reflecting the experience of women, not representing women and not facing the continuing challenge to reflect society's diversity. It is not simply that the representation of women and black and minority ethnic communities is important in itself but that that representation helps Parliament to understand disadvantage and inequality and brings us to this bill and issues that matter to communities across Scotland. I support the bill and look forward to it being passed at decision time.

**The Presiding Officer:** We come to the minister to wind up the debate. Minister, I can offer you your second 15-minute slot in a row. You have until 10.30 should you choose to use the time.

10:13

**Alex Neil:** Johann Lamont started by saying that it is not often she and I do short and sweet. I disagree. We do short and sweet all the time: she does the short, and I do the sweet. *[Laughter.]*

I endorse all the comments that have been made about Marlyn Glen. SNP members will miss her input, particularly in relation to equal opportunities issues. We appreciate and admire her contribution to the Equal Opportunities Committee and to issues around equal opportunities, human rights and women's rights. We wish her all the best in whatever she decides to do next.

I endorse Anne McLaughlin's comments about the late Bashir Ahmad. In this four-year session, the high point at the beginning was when he was elected as the first Muslim MSP; the low point was when he passed away so suddenly halfway through the session. The bill is as much a tribute to him, his philosophy and his thoughts as it is to anyone else.

Bashir would have been not just very proud of our passing the bill but proud and appreciative of the tremendous contribution that his successor Anne McLaughlin has made to the Parliament and, particularly, to the kind of issues that we are discussing this morning. She has been an able and fit successor to him.

As members from all sides of the chamber have said, forced marriage has no place in any civilised society. Today the Scottish Parliament is taking an important step towards eradicating this dreadful practice in Scotland. I thank members from all sides of the chamber for their excellent contributions to the debate. As I said in my opening speech, I have been encouraged by the support for the bill throughout the parliamentary process and throughout the country. It truly has been an example of the Parliament at its best, and it has been a pleasure to be the minister in charge of the bill.

Nearly every member who spoke raised the importance of awareness raising. A big part of the success of the bill's implementation will be that people know about the legislation and the issues surrounding forced marriage. As a Government, we share the Parliament's view that significant work is required to raise awareness and understanding of forced marriage in Scotland—especially, although not exclusively, among young people. We are committed to undertaking that work and have established a group of forced marriage network members to develop and take it forward as a matter of priority over the coming months. The group has already met and is due to meet again in early April. Members will also know from the bill's financial memorandum that I have allocated resources to that work over the next three years.

I want to pick up on the point made by Hugh O'Donnell, Johann Lamont and Elaine Smith that it is important for the Parliament to engage in post-legislative scrutiny. As a Government we will take measures to monitor the effectiveness of the implementation of the legislation. That will be done 12 months on from the bill's passage today. We have already put resources in place for that, and we will share all the information with the Parliament and with the relevant committee in particular. If we identify any issues that need to be taken forward to make the implementation of the



legislation more robust and effective, we will be prepared to address them.

On the wider issue of representation, we have identified a budget of £90,000 over the next three years to support implementation. Half will be committed during this financial year to the development of practitioner guidance and the delivery of training. In subsequent years, resources will be committed to monitor and evaluate the success of the legislation, as I just said.

Although as everybody has said the bill concerns an issue that affects a relatively small number of people, it potentially has a huge impact on the lives of that small number of people. I believe that it also sends an important message to wider Scotland about the kind of country that we want Scotland to be: a Scotland where no one is at risk of abuse or is forced to do anything against their will and where everyone is free to participate in society and achieve to their fullest potential. A country that does nothing to tackle the evils of forced marriage fails on all those counts. Today we have taken the first important step towards ridding Scotland of that totally unacceptable practice. Importantly, we have made it clear that we are just as concerned about issues that impact on the few as we are about issues that impact on the many.

Earlier, we agreed amendments to the bill that will ensure that it is as clear and unequivocal as it can be. I thank individual members and the committee as a whole for their suggestions on amendments, which I think have strengthened the bill and made it much more lucid and therefore much more effective.

I apologise that I could not accept Elaine Smith's amendment on *nobile officium*—a common term in Coatbridge—but as I said to the committee the advice that we received was that the equitable distribution provision in the bill incorporates the points validly and lucidly made by her and by the Law Society of Scotland about *nobile officium*. On the campaign trail, therefore, we can all discuss *nobile officium* knowing very well that we all know what it is, as does everyone out there.

**Elaine Smith:** Will the minister join me in thanking Jean McFadden for my knowledge of Latin? She taught me at St Patrick's high school in Coatbridge.

**Alex Neil:** The Minister for Community Safety has just intimated to me that the correct pronunciation is "nobil-ay" *officium*. I am sure that the minister knows all about Latin, having been a top-class lawyer prior to being a top-class minister.

**Robert Brown (Glasgow) (LD):** I was going to make that point to the minister.

**Alex Neil:** Another lawyer—they are all around me this morning. I put on record the fact that Robert Brown, who nearly made an intervention, has made an enormous contribution to the Parliament.

Before I close, I pay tribute to the most important people in the debate: those who have been the victims of forced marriage. They have helped us to understand the importance of the issue and what we needed to do to protect others from ending up in a similar situation to theirs. It is hard to imagine how horrifying it is for someone to be told that they are going to be married against their will and perhaps taken from Scotland, where they have lived all their life, to another country where they know no one, possibly do not even know where they are being held and are cut off from any source of support or help. That is not only humiliating but dehumanising.

The bill will not eradicate forced marriage overnight. We know that there is a long road ahead, involving awareness raising, training, monitoring and robust enforcement of the legislation. We must all play a part in taking us closer to where we want to be: a Scotland in which everyone is free to marry or not, as they choose for themselves. In passing the bill on the final day of this parliamentary session, it is important that we do so on a totally consensual basis. I look forward to decision time at 1 o'clock today, which I believe will be a celebratory decision time because we are passing the bill. Given the provisions that I introduced this morning in relation to the protection of Her Majesty, I do not expect any problems with royal assent.

## Double Jeopardy (Scotland) Bill: Stage 3

10:23

**The Deputy Presiding Officer (Alasdair Morgan):** The next item of business is stage 3 proceedings on the Double Jeopardy (Scotland) Bill. In dealing with amendments, members should have in front of them the papers that are available to them at the back of the chamber.

### Section 4—New evidence

**The Deputy Presiding Officer:** The first group of amendments is on minor and technical drafting changes. Amendment 2, in the name of the minister, is grouped with amendments 3 and 4.

**The Cabinet Secretary for Justice (Kenny MacAskill):** Section 4 will permit the retrial of an acquitted person when that person was originally prosecuted in the High Court and new evidence strongly suggests that the case should be retried. Amendment 2 is a minor technical change that is designed to make it clear that that exception covers acquittals secured not only at the original trial, but on appeal.

Amendments 3 and 4 are minor technical amendments inspired by a question that was raised by Robert Brown at stage 2, when he queried whether the reference in section 9 to “justice of the peace” covered stipendiary magistrates. After reflecting on his point, we think that there is a potential gap and that it would be worth making a small modification. The amendment adopts the language used in the Criminal Proceedings etc (Reform) (Scotland) Act 2007, which refers to

“justice of the peace courts”

rather than to individual justices of the peace. The change makes it completely clear that stipendiary magistrates are covered by the provision. I am grateful to Mr Brown.

I move amendment 2.

*Amendment 2 agreed to.*

### Section 9—Plea in bar of trial: nullity of previous trial

*Amendments 3 and 4 moved—[Kenny MacAskill]—and agreed to.*

### After section 12

**The Deputy Presiding Officer:** The second group of amendments concerns disclosure of information. Amendment 1, in the name of the minister, is grouped with amendments 5 and 6.

**Kenny MacAskill:** Amendment 1 ensures that the statutory rules of disclosure of evidence apply to all double jeopardy matters.

When this Parliament passed the Criminal Justice and Licensing (Scotland) Act 2010, it agreed that the common-law system of disclosure of evidence in criminal proceedings should be placed on a statutory footing. Part 6 of the 2010 act is due to be commenced in June this year.

There will be three stages in a double jeopardy case. The first stage is the original trial and any appeal that follows it. The second stage is the application to the High Court for authority to prosecute again. The third stage, assuming that the High Court consents, is the subsequent trial. The provisions of part 6 of the 2010 act will apply to any trial in a double jeopardy case. No amendments are required to ensure that those rules apply to any such trial, but amendment 1 seeks to ensure that the scheme will also apply to the application procedure.

Amendment 1 is not fundamental to the bill. Disclosure at the application stage would take place under the common law if the amendment is not agreed to. However, we believe that, where possible, it is right to ensure that disclosure in any criminal proceedings is governed by the same framework. The application process is a new procedure and it is important to ensure that fairness to the accused is preserved. Disclosure of evidence is key to ensuring that fairness.

Amendment 1 is lengthy and detailed, but let me be clear about what it does. It does not change the way in which disclosure of evidence is made under the 2010 act; it simply ensures that the principles and procedures in the 2010 act apply in the same way to double jeopardy applications. Despite its length, the amendment does nothing more than that.

Amendment 1 introduces six new sections into part 6 of the 2010 act. New section 140A is an interpretation section. New section 140B introduces a prosecutor's duty to disclose information that was not previously provided in earlier proceedings. That is particularly important in double jeopardy situations in which, for example, the application is based on the discovery of new evidence. It is important that the accused has sight of that new evidence at the application stage. New section 140C ensures that the prosecutor has a continuing duty to disclose information throughout the application stage. New section 140D provides that the prosecutor must respond to further requests for disclosure of information that are made by the respondent during the application stage. New section 140E allows the respondent to apply to the court to rule on a disputed issue of whether particular information should be disclosed. Finally, if new

information becomes available, new section 140F provides further opportunities for the respondent to apply to the court for a review of any previous ruling on disclosure.

Those new sections mirror what part 6 of the 2010 act already provides for in other criminal proceedings. They ensure that disclosure in double jeopardy applications is carried out in a consistent way. The absence of disclosure provisions was discussed in the stage 1 evidence sessions before the Justice Committee. At stage 2, I advised the committee that I would lodge amendments on disclosure. Though confident that the statutory scheme applied to the trial stages in double jeopardy cases, we considered that, in light of the evidence sessions, some amendment to the recently enacted 2010 act would be required to ensure that the statutory scheme also applied to the application stage.

As members can see from this group of amendments, applying disclosure to double jeopardy is a technical and complex matter. The amendments have to fit in accordance with the provisions that are already contained in part 6 of the 2010 act. Furthermore, key principles of the bill were still being debated at stage 2, and the shape of the bill could have changed. For example, issues such as the merging of sections 3 and 4, the introduction of an application stage to section 11 and the type of offences that the new evidence section should cover were all being considered. All those changes could have required a rewrite of any disclosure amendments that were made at stage 2. Accordingly, the Government considered that it would be more appropriate to resolve those matters first, before inserting disclosure amendments at this stage.

Given the detail of part 6 of the 2010 act and the fact that we have introduced a new procedure in the bill, it is not possible to translate disclosure into a single-line amendment. It is important that we follow as closely as possible the disclosure process that is already enacted and do not create a new and unintended approach.

10:30

When discussing the bill, members of all parties have recognised that in allowing exceptions to the double jeopardy rule, fairness to the accused must be preserved. Amendment 1 provides an additional safeguard to ensure that that aim is met.

Amendment 5 provides a power to make transitional provisions for the bill, so that the Scottish ministers can ensure a smooth transition from the common-law rules on disclosure that may have applied in a trial some time ago to the new disclosure regime under the 2010 act that will apply where a double jeopardy application is

made. The power is restricted to making transitional provision that is necessary or expedient in consequence of the disclosure provisions in the bill only; it cannot be used in relation to any other aspect of the bill.

Amendment 6 makes a series of consequential amendments to the 2010 act, which follow from amendment 1. For example, it ensures that the question of disclosing sensitive information that is relevant to a double jeopardy application can be considered by the court, which provides a safeguard for the fair treatment of the respondent's position. The consequential amendments are necessary to ensure that the statutory disclosure scheme applies consistently throughout part 6 of the 2010 act to double jeopardy applications in the same way that it does to other criminal proceedings.

I move amendment 1.

**James Kelly (Glasgow Rutherglen) (Lab):** I support the Government amendments.

Disclosure is an important aspect of legal proceedings, and it is a fundamental right of the accused and their legal team that they have sight of the evidence against them.

The cabinet secretary was correct to lodge the amendments in order to make the disclosure regime in relation to double jeopardy consistent with other aspects of the criminal law. We would not want a situation in which the common law applied to what will be a very few—indeed, exceptional—serious cases.

Although it is quite unusual for an order-making power to be introduced at stage 3, I recognise that it is a precaution and that it will ensure that the appropriate transitional arrangements can be made in relation to disclosure.

**Bill Aitken (Glasgow) (Con):** I agree with James Kelly, although perhaps for different reasons. As is generally known, I am a great supporter of the common law, which I believe has served Scotland well over the centuries. However, James Kelly is right to support these amendments today, and we will support them too.

The cabinet secretary has had to lodge lengthy, convoluted and complex amendments, but when one looks at them, one sees that the issue is fairly simple. We are tied into the provisions in the 2010 act, and the issue of disclosure has quite appropriately caused tremendous excitement—to say the least—in Scottish legal circles in recent years.

The fact is that we have to operate under a code of disclosure. Many of us spent a great deal of time on providing input to the code, and it was agreed largely unanimously. Although what is being done today may seem on the face of it

unnecessarily complex, it is necessary; otherwise there would be an inconsistency in the approach that is taken in two major pieces of legislation, which would be unfortunate to say the least.

*Amendment 1 agreed to.*

#### **After section 13**

*Amendment 5 moved—[Kenny MacAskill]—and agreed to.*

#### **Schedule 2—Consequential amendments**

*Amendment 6 moved—[Kenny MacAskill]—and agreed to.*

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

## **Double Jeopardy (Scotland) Bill**

**The Deputy Presiding Officer (Alasdair Morgan):** The next item of business is a debate on motion S3M-8156, in the name of Kenny MacAskill, on the Double Jeopardy (Scotland) Bill.

10:34

**The Cabinet Secretary for Justice (Kenny MacAskill):** I am pleased that, at the end of the parliamentary session, we will complete what is an important reform. The Double Jeopardy (Scotland) Bill, the final piece of legislation that the Parliament will consider in the current session, can be traced back to a debate at the end of the previous session. On 22 February 2007, the Scottish National Party, together with the Conservatives, made the case for reform of double jeopardy. In a thought-provoking debate, a number of weighty points were made and there was general agreement that the issue necessitated careful study. The parties comprising the then Administration argued against making a commitment to reform, but I am pleased that they have now joined us in a widespread consensus that change is needed. I welcome the support for the bill in the Justice Committee and today in the chamber.

Later that year, as the Cabinet Secretary for Justice, I asked the Scottish Law Commission to consider possible reforms in four complex areas of criminal procedure. That was a substantial piece of work. Each issue that was referred to the commission covered difficult technical questions of law and required the balancing of the many and often competing concerns of fairness to victims, fairness to the accused and fairness to society. The proposed reforms prompted searching questions about the type of criminal justice system that we want for Scotland. Such a substantial review could never have been undertaken lightly, and it was not. It required an enormous amount of careful fact finding, consultation and analysis.

The Scottish Law Commission responded to my challenge with its customary diligence. The Government and Parliament have seized and built on the commission's work and have made great progress in a remarkably short period. On Monday, the first part of the project—the reform establishing a Crown right of appeal—will become law. I think that all members welcome that, as the current situation is an anachronism. The measure will allow prosecutors to challenge decisions by judges to end a trial before the case can go to a jury. It will permit contested decisions that there is no case to answer to be challenged—an innovation that I am sure all members welcome. Again, I record my appreciation for the unanimity

that the Parliament showed when that measure was passed.

We now have before us the fruits of the second part of the reference, in the form of the Double Jeopardy (Scotland) Bill. The commission is conducting a consultation on the rest of the project, to consider the use of evidence of similar conduct and the admissibility of evidence on previous convictions. That will be a matter for a future Parliament to consider. It is one of three proposals that the Lord Advocate raised some time ago, on the Crown right of appeal, double jeopardy and evidence of similar fact. When we conclude the bill, we will have delivered two out of those three proposals.

The commission's current work is an even more complex task. In essence, it focuses on the extent to which the accused's past conduct should be brought to the attention of the jury. The use of evidence of similar fact involves the difficult balance of considering the value of certain information as evidence, but weighing up whether its usage would be unfairly prejudicial. We expect the commission's final report on that to be published by the end of the year. I have no doubt that the Parliament in the next session, whatever the Administration is, will wish to assess that report. On behalf of my Administration, I confirm that we have a desire to implement the recommendations in that report.

In reforming double jeopardy, we have built on the commission's work through a public consultation and by considering the Justice Committee's thorough evidence taking and analysis. We have taken on board most of the commission's recommendations, but we have gone further by including a general exception for new evidence; by applying the exception to a wider range of serious cases; and by extending it to historical crimes. I am convinced that those changes are right as a matter of public policy and I am grateful that members have supported them. They were discussed and debated in the Justice Committee. I understand where the commission came from, but I believe that the position that has been adopted is correct and takes on board wider views in our society.

The bill achieves a careful balance, as it must. It weighs up the rights of the accused and the broader rights of victims in communities. It upholds and enshrines the ancient principle of double jeopardy and restates it comprehensively and in modern terms. That is appropriate because it is only in a few exceptions that cases will arise. As much as I agree with what was said earlier about the importance and benefit of our common law, it is important that from time to time we enshrine certain things in statute. It is appropriate that we enshrine in statute the accused's right, in the

normal course of events, not to face a subsequent trial.

The legislation provides for some strictly limited exceptions in which there is a clear and compelling case for a new trial. In short, it will—as it should—permit a trial tainted by threats or corruption to be re-run. It will allow a new trial when evidence, such as an admission or DNA material, emerges, demanding a new look at the case—the public expect no less. It will also clarify the rules that apply when a victim dies after a trial for assault.

I am pleased that the reforms in the bill have near-unanimous support. The Justice Committee has made a significant and thorough contribution to the development of the bill. My amendments at stage 2 responded positively to many points aired at stage 1. The scrutiny and the resulting amendments have improved the bill.

As Mr Kelly and Mr Aitken commented, many amendments are lengthy but relatively simple. Unfortunately, we require to state the changes at length.

Together, we have raised the test for assessing admissions; we have restricted new evidence retrials to cases previously decided by the High Court; and, today, we have improved the disclosure regime that applies to the bill.

I look forward to hearing members' views on the bill and thank them for the manner in which they have worked with us in committee and elsewhere.

I move,

That the Parliament agrees that the Double Jeopardy (Scotland) Bill be passed.

10:41

**Richard Baker (North East Scotland) (Lab):**

As we enter the final hours before the dissolution of Parliament, I have no doubt that justice issues will be some of the most hotly debated in the weeks ahead. It is an area in which there are significant disagreements between parties. Where we cannot agree, we should be clear about that and debate the issues fully.

It is good that on the last day of this session of Parliament, our final justice debate—indeed, our final debate—should be an opportunity to reflect on an important area of agreement, which is the decision to reform our outdated laws on double jeopardy. Considering that we are talking about a change to 800 years of Scots law, I admit to having some reservations about the fact that the debate is only a short one. However, I concede that the stage 2 consideration of the bill was notable for its high degree of consensus, to which the cabinet secretary referred. The Labour Party, too, was keen that the law should be changed

before the end of this parliamentary session. We believe that victims and families who have not seen justice served should not face further uncertainty or wait longer for a change in the law. We welcome our being able to pass this law today.

The change that is represented by the bill maintains the correct balance between the rights of an accused and those of a victim of crime. The bill reconfirms the principle of double jeopardy in statute, while ensuring that in future there can be new proceedings against the accused in exceptional cases in which there are clear reasons for believing that justice was not done in the original trial.

Exceptional cases and cases involving serious crimes are the right parameters. On that basis, we supported the approach of the Scottish Government at stage 2 that the changes should be restricted to High Court decisions. Notwithstanding the concerns that were expressed by Robert Brown at stage 2 about the issue of admissions, we appreciate that the Government's intention is extremely clear: that in this area, too, the application of the new provisions should be with regard to serious cases.

We should not expect a high number of cases to be affected by the bill, but those that are affected will be serious. We all know that there are people in this country who, with good reason, believe that they have not received justice for great wrongs committed against them and their loved ones. People who are guilty of serious crimes have evaded justice in Scotland. If we can properly rectify injustices in which killers have walked free from court or people who are guilty of serious offences have bragged of their culpability after acquittal, we should do so. That is why we were persuaded of the case for the legislation to have retrospective effect. Prosecutors now have access to new technologies such as DNA evidence that can show proof of criminality even in cases that are many years old. That offers hope in cases where victims and families are still waiting to see justice done for the crimes committed against them and where the Crown has the appropriate evidence to seek new proceedings. I am sure that in cases where the Crown believes that it is appropriate to do so, it will work diligently with the families and the victims involved.

The experience of the reforms that were made to the law in England and Wales in 2003 can give us confidence that the changes that we propose are as proportionate as they are important. The reforms to the law on double jeopardy in England and Wales have not created a situation in which accused persons are routinely retried for the same offence. Although those laws were reformed in 2003, it was not until last year that Mark Weston became the first person to face a second murder

trial in England, following the discovery of new forensic evidence. He was convicted of the murder of Vikki Thompson in 1995. The provisions have been used sparingly, but where they have been used, serious injustices have been rectified and they have doubtless been of huge importance to all those affected.

This is our last justice debate in this session of Parliament. None of us can be certain of our return in the next session, although I notice that the cabinet secretary is standing on a list as well as for a constituency, which I would say is a sensible precaution on his part. However, we know that Bill Aitken is leaving us. We owe Bill a great debt of gratitude for his contribution to this Parliament, particularly as convener of the Justice Committee, and I wish him very well for the future.

Not through his own doing but because of the spectacular unpopularity of the Deputy Prime Minister, we might not be joined by Robert Brown in the next session. Robert and I have not always seen eye to eye, but we should all recognise his hugely important and informed contribution to our consideration of justice policy in this Parliament. I for one—I am sure that I speak for our whole group—would very much like to thank him for that and to wish him well should he not be here next session. *[Applause.]*

Of course, Deputy Presiding Officer, in the next session we shall also miss you and your now-famous catchphrase, "The member's time is up. Please turn off their microphone." I am moving speedily to a conclusion.

**The Deputy Presiding Officer:** I was just going to say that you can carry on, Mr Baker.

**Richard Baker:** Oh, really? Such largesse, Deputy Presiding Officer—you are obviously demob happy. We wish you well. I for one very much valued your convenership of the Enterprise and Culture Committee in the previous session of Parliament—it was a very important contribution, as was your contribution in the chamber.

I am pleased to join Bill Aitken, Robert Brown and ministers in supporting the bill. In the next session we want to see more support for victims, so I am pleased that we can conclude this session by passing a bill that makes an important but correct change to Scots law, which is very much in the interests of getting justice for victims of crime in our country.

10:48

**John Lamont (Roxburgh and Berwickshire) (Con):** Like others, I am very pleased to speak in this stage 3 debate on the Double Jeopardy (Scotland) Bill. It has taken us some time to get to this point, but I am pleased that at decision time—

the last decision time of this session—we will vote to enact one of the Scottish Conservatives' key manifesto pledges from 2007.

It is important that we record our gratitude to the Scottish Law Commission and the Justice Committee for their hard work in bringing us to where we are today on this subject. The Scottish Government also deserves credit for taking the first step in 2007 by inviting the Scottish Law Commission to review the law in this area.

There have been some disagreements during the passage of the bill, but the process has generally been marked by consensus and mature debate from all sides in the chamber.

At this point, I pay tribute to my colleague Bill Aitken; as Richard Baker pointed out, Bill will be standing down from Parliament and will be making his final contribution to Parliament later this morning. Bill Aitken has been a loyal servant to the people of the city of Glasgow for many decades and, more recently, he has been a formidable convener of the Justice Committee. On a personal level, I will certainly miss his advice and constant support and I am sure that everybody wishes him well for his retirement. *[Applause.]*

At stage 1, several members detailed the history of the double jeopardy principle. They highlighted the fact that it is not a technical term in Scots law but a principle or rule that has never been formally codified. The principle is good, as the finality of criminal verdicts allows the individuals who are involved in a trial to get on with their lives in the knowledge that the matter has been resolved. It also provides the more general benefit of retaining public confidence in the court system. The double jeopardy rule limits the state's reach over individuals' lives and protects individuals from the stress of repeat trials.

However, as I said in the stage 1 debate, every good principle ought to have exceptions. Many people consider it to be common sense that, when compelling new evidence of guilt arises that was not available at the time of the original trial, the Crown should be able to bring a new trial. However, as such a step is serious, it is right that it should occur only in exceptional circumstances and for the most serious crimes; otherwise, we risk eroding the integrity of our courts and public confidence in the wider justice system.

The principles in the bill reflect the interests of not just the accused but the justice system and wider society. As we have seen, it is important for decisions of courts to be upheld and seen to be conclusive. However, it is clear that exceptional circumstances could arise, and our justice system must be capable of dealing with such exceptions.

We believe that the principle of double jeopardy is right and should continue. However, it should be

reformed and restated in Scots law to allow exceptions when new evidence in the form of an admission of guilt or other new and compelling evidence emerges. When we allow exceptions to the principle, we must put safeguards in place. We are satisfied that the bill strikes the right balance between ensuring that we have a fair and effective justice system and protecting the rights of victims and of individuals who are accused of crime. I am pleased that the Government introduced the bill, which the Scottish Conservatives will support at decision time.

10:51

**Robert Brown (Glasgow) (LD):** I am glad to open for the Liberal Democrats in the last justice debate, the last stage 3 debate and the last substantive debate of the parliamentary session. As with many justice debates, the bill raises substantial issues around the interface between personal liberty, public safety and public confidence in the law. The rule against double jeopardy is an important part of that debate.

It is right that, in general, the state should have one go at prosecuting a person who is accused of crime. We thank Patrick Layden QC, the Scottish Law Commission's lead commissioner on the double jeopardy project, and his colleagues for their work. He put the position well when he said:

"The rule against double jeopardy has protected the citizens of Scotland against repeated prosecutions for hundreds of years. Essentially, it prevents the state from running the criminal prosecution system on a 'Heads we win; tails, let's play again until you lose' basis."

Against that background, the commission rightly recommended that the rule should be kept and should be put in legislation.

Repeated prosecutions until the state thinks that it has got the result right are oppressive. In Scots law, if a person has tholed their assize, they cannot be prosecuted again. "Tholing the assize" is the phrase in this context, as against "nobile officium" in the previous debate, about whose pronouncement we have had interesting discussions.

It is right that the rare cases in which a jury or a magistrate is nobbled and in which proceedings have been tainted because they have been undermined by illegality should be regarded as null and able to be started again. No great exercise of legal reasoning is needed to support that proposition. What has perhaps been more difficult to deal with is new evidence or admissions—perhaps even bragging—by the accused. In the case of a serious and appalling crime, there would—rightly—be public outrage if major new evidence, such as a new witness, the discovery of a body or compelling DNA evidence,

could not be used and if a potentially dangerous criminal was allowed to walk the streets.

I disagreed with the wide approach to new evidence and particularly to admissions evidence. The cabinet secretary was right to restrict the new-evidence exception to cases that were taken on indictment in the High Court, but it would have been desirable to deal with admissions in the same way, as I suggested at stage 2. However, the bill lays down considerable safeguards to give the High Court significant reasons for determining whether a case should proceed in appropriate instances. It is important to narrate those reasons, which are that

“the case against the person is strengthened substantially by the new evidence”;

that

“the new evidence was not available, and could not with the exercise of reasonable diligence have been made available”

at the original trial; that

“it is highly likely that a reasonable jury properly instructed would have convicted the person”;

and that

“it is in the interests of justice to”

proceed.

Those are fairly stringent tests by anybody's account; they give us the confidence that the new legislation will operate in exceptional and unusual circumstances, which will nevertheless allow prosecutions in the significant cases that I have spoken about.

The final issue of controversy is perhaps that of retrospectivity. I am personally satisfied that creating a new procedure is a different matter from creating a new offence. It would be scandalous if new evidence that emerged in the week before the bill came into effect could not be made use of in this regard.

I thank Justice Committee members, committee clerks, ministers and the Scottish Law Commission for their work on the bill. It has been a great pleasure to serve on the Justice Committee, which—dare I say it—is one of the highest-quality committees of the Parliament. As others have said, that owes a lot to Bill Aitken's convenership of the committee over the last period. As I have mentioned previously, Bill is a colleague whose career has gone in tandem with mine in terms of our council and Parliament commitments. Bill Aitken will be greatly missed; I am sorry that the new session of the Parliament will not have the benefit of his advice and support. As others have said, that may be my fate, too. If so, it will happen in a slightly less voluntary way. Support from the clerks and Scottish Parliament information centre

researchers, and members' intelligent and sensitive input have all been important aspects of the consideration of the bill.

Finally, I thank the ministers. Like their predecessors in the previous Government, members of the ministerial team have taken their responsibilities seriously; they have applied their minds to the detail of this important matter. Obviously, we did not always agree, but in large measure we did. I am grateful to the ministers for their liberal and reasonable approach. I wish them all success in the next session of Parliament.

Against that background, I have great pleasure in indicating Liberal Democrat support for the principles and detailed provisions of the Double Jeopardy (Scotland) Bill.

10:57

**Stewart Maxwell (West of Scotland) (SNP):** I thank in particular the Justice Committee clerks for their assistance, advice and support on the bill and over the past four years. I have been a committee member for the past two years of this session of the Parliament. The clerks made a great team; they served the Justice Committee very well.

I am absolutely delighted to be taking part in this final justice debate in this session of the Parliament. As other members have said, this is the final debate of the parliamentary session. The debate is an important one, dealing as it does with an ancient tenet of Scots law. I am slightly disappointed—I had hoped to be the first member to mention tholed assize, but Robert Brown got in first. There you go. I will stick to double jeopardy, given that he used that other phrase.

Before I turn to the meat of the issue, I join other members in commenting on Bill Aitken's convenership of the Justice Committee. Bill Aitken has been a top-class servant of the Parliament over the past 12 years and a top-class servant of the Justice Committee over the past four years. We wish him well in his retirement. I will miss in particular our jousting on BBC Radio Scotland of a morning or evening. Bill and I suffer from the same problem of living relatively close to the BBC headquarters—indeed, it may be no problem, but a useful thing. Our proximity to the BBC meant that our parties often called upon us to be available to put forward our respective points of view. I wish Bill very well in whatever he chooses to do in future.

One thing that has been slightly overlooked in the debate on the bill is that, although the provisions will allow trials to take place for a second time, we are putting a very important rule and safeguard of Scots law—double jeopardy—on a statutory footing for the first time. It is critically important that we all understand that. Double



jeopardy does, of course, give a solid line of defence to those who have been tried and acquitted. As other members have said, there are some underlying fundamental reasons why we have had to make this change in the law.

I have not always agreed with Paul McBride QC, but he got it right when he said:

“If one thinks of rape cases involving children, rape cases involving adults, horrific murder cases, and new evidence of a compelling nature comes to light that wasn’t available at the trial that demonstrates beyond any question the person is guilty, is it right as a society to say that persons should go free?”

For me, that sums up why we are here today to make this change. It cannot be right that society knows that a person is guilty but allows that person to go free. For that reason, it is absolutely correct that we make the change.

However, we must be exceptionally careful when making such a change. Many have argued that it may be a step too far. Given that there is consensus across the chamber for the change, we must accompany it with rigorous safeguards to ensure that people are rightly protected. Those safeguards are in place in the bill at stage 3. As Professor Christopher Gane said to the Justice Committee in evidence, people should not be found “guilty by attrition”—a phrase that sums up some of the risks in making such changes. However, I am sure that that will not happen in this case.

The strength of our committee system emerged strongly during consideration of the bill. In the bill as introduced, the offences to which it applied were listed in schedule 1. The Justice Committee disagreed with that approach and thought that there were better, more logical ways of deciding which cases should be dealt with. I am glad that the Government agreed with that recommendation and that the cases to which the bill will apply are now defined as cases that were originally tried in the High Court. That is a much more logical way of treating the issue.

The argument about retrospectivity always seemed slightly odd to me. Is the legislation retrospective? If new evidence comes forward today, tomorrow, next month or next year, surely it is new evidence, even if it relates to old cases. In my view, it would be unjust to ignore that evidence and, effectively, to say that because a case took place a number of years ago—or, as some members have said, literally a week before the legislation came into effect—the legislation should not apply. I have never accepted that argument. The argument about retrospective application was a slight red herring in our discussions, but it led to a detailed debate about the issue, in which we came to the right conclusion.

My concluding remarks concern not the technical aspects of the bill but the reasons why we should be here today. There are five such reasons. First, other members have spoken about the scientific and technical advances that have been made, which may allow DNA or other compelling evidence to come forward. Secondly, there is a moral principle, which we often take for granted, to what we do. It is undeniable that justice should be brought to bear on those who are guilty of serious crimes.

The third reason is public perception and confidence. Surely our justice system comes close to being undermined if public confidence is lost because people walk free, although we have the evidence to prove that they are clearly guilty, or, as members such as Richard Baker have said, because people boast about their previous crimes and having got away with them. The bill is an important measure to address that issue.

The fourth reason is consistency. It is and has always been right that people should have a right of appeal against a sentence, if new evidence comes to light. It seems fair and consistent that, if new evidence comes to light on the other side, we should be able to deal with that issue, too.

The final reason that I want to mention is the most important one of all. The bill provides justice for victims and victims’ families. Irrespective of all the debates that we have had, that is the fundamental reason why this is the right change to make to Scots law. It gives me great pleasure to support the bill today. The bill will make an important change. It will seldom be used, but when it is, it will be very important to the families, to the victims and for the credibility of our legal system.

11:04

**Cathie Craigie (Cumbernauld and Kilsyth (Lab)):** Presiding Officer, thank you for allowing me the privilege of speaking in the last debate in this session. I thank the people of Cumbernauld and Kilsyth for sending me here as their representative in the Parliament. I hope that, with their good will, it will not be the last time that I speak in this great Scottish Parliament.

As other members have done this morning, I place on record my thanks to the clerks to and fellow members of the Justice Committee. Like other members, I have found it a very enjoyable committee to be on. Party politics have been left at the door—in most cases—and we have put the interests of justice at the heart of everything that we have done.

I also thank the ministerial team, their civil servants and all the individuals and organisations that engaged with the committee and the Parliament in providing written and oral evidence

and in co-operating with us as we scrutinised the bill. It has arrived here, in the very last hours of the parliamentary session, as a very important piece of legislation.

There is broad consensus on the proposals. Without question, the time is right and change is due. That view is supported by the vast majority of Scots. Throughout the process, I have emphasised the need for reform and I have indicated many problems with the current system—problems that go beyond the World's End killings that we have discussed so often throughout the process.

My view, and that which is taken by many colleagues, is that the double jeopardy rule is deeply unfair to victims of crime. In previous debates, I have given the example of Billy Dunlop. His was a shocking example of years of justice not being seen to be done, and his case clearly illustrates why we need the new legislation—it is why opinions have hardened and changed over recent years, in my opinion. I make no apologies for mentioning Dunlop again today. He murdered 22-year-old Julie Hogg in 1989, and he faced trial twice. On both occasions, the jury failed to reach a verdict and the killer was never brought to justice. As a result of the changes in 2003 to the legal system in England and Wales, Dunlop was charged and convicted for the murder in 2006—and that after confessing his guilt to the authorities back in 1999.

Changing the system in England and Wales allowed for Dunlop to be punished for the crime that he had committed. For years, however, the authorities knew that he was the killer but were working with their hands tied behind their backs. I ask colleagues to imagine being a family member of a murder victim in those circumstances. As well as having to endure the endless grief of such a cruel and horrendous loss, families know that the killer cannot be prosecuted because of the outdated double jeopardy law. People must have been asking why the law was not standing up for the victims of crime. The status quo here in Scotland is simply wrong, and it is right that new legislation has reached the chamber—legislation that will stand up for victims and their families in my constituency of Cumbernauld and Kilsyth and throughout Scotland.

Times have changed, and our justice system must change to take account of that. The prosecution is able to establish evidence using modern techniques, and our justice system must be allowed to adapt to that. I hope that members throughout the chamber will support the bill today, and I urge them to do so. The changes that it will bring will not impinge on the civil liberties of the people of Scotland; they will help victims and families to see justice done.

Before I sit down, I, too, wish to pay tribute to some of our colleagues who are leaving us today. Bill Butler, as the convener of the Justice Committee for all but three or four meetings—

**Richard Baker:** Bill Aitken.

**Cathie Craigie:** What did I say?

**Members:** Bill Butler.

**Cathie Craigie:** Oh, goodness. That's Bill Butler got a promotion, although maybe he does not want it.

As convener, Bill Aitken has always dealt fairly with the committee's proceedings. He is a good parliamentarian, and we have all been able to look up to him. I am sure that Bill will find plenty to do with his time outside the Parliament, probably supporting that north Glasgow football team, Partick Thistle; then again, he might want to come through and visit here more often than he watches the football. I wish him well in whatever he chooses to do.

I pay tribute to Robert Brown. I do not know whether he will be back in the next session of the Parliament. During our time in the Parliament, he and I always seemed to end up on the same committees. I do not know whether he has interests or hobbies outside the Parliament, but I imagine him spending his free time brushing up on the law and learning even more about even more things.

I also pay tribute to you, Deputy Presiding Officer, as you step down from your parliamentary duties. Like Bill Aitken, I am sure that you will be out cheering on your local football team, in the east end of Glasgow—I think it is the Shettleston juniors that you support. I wish you all the very best.

I am grateful for the opportunity to pay tribute to some great parliamentarians who have certainly made a contribution to the Scottish Parliament and to the lives of the people of Scotland.

11:10

**Nigel Don (North East Scotland) (SNP):** I am in my characteristic position as the final back-bench speaker—a sort of tail gunner—so I must repeat one or two things, although that is not something that I do lightly.

I thank my colleagues on the Justice Committee for their hard work during the past four years. It has been a hard-working, largely consensual and always respectful committee. I was a newcomer to the Parliament four years ago and it has been a joy to work on a committee that regarded its business as important and did not get stuck into the somewhat unconstructive party politics that are perhaps more common in other committees.

It would be wrong not to thank Bill Aitken for his exemplary convenership of the committee during the past four years. I agree with members' remarks about Robert Brown. Robert Brown seems to think that it is unlikely that he will come back; I find it rather presumptuous of the rest of us to think that we are coming back—an interesting straw poll is going on in the Parliament, but let us not worry about that.

I also thank SPICe and the clerks, who did a fabulous job. I agree with members' comments about the ministers, who have been seriously constructive on all our work—I do not say that just because I am a Scottish National Party back bencher. It has been a pleasure to work with them. We should also pay tribute to the civil servants, because although we have two hard-working ministers I do not think that they do everything that we see, so they probably have a pretty good team behind them, to whom I am grateful.

Stewart Maxwell talked about the principles of the bill and why it is important. I am grateful to him and I have no desire to repeat what he said. The bill that I hope we will pass this afternoon is steeped in principle. The principles are two-fold. First, the law against double jeopardy is ancient and correct and has now been codified, which I am sure was the right thing to do. Secondly, we have established that provision for exceptions should be clearly set down in statute. At the very least, we have made the law of the land clear.

I will run through a few points and establish the principles behind them. First, in relation to cases in which a person has been found not guilty of assault but the victim subsequently dies, we have set down the old principle that a second trial can take place because there is a new offence. It seems to me that that is right, although I note in passing that there is little evidence that the principle is much used. However, there is also little evidence that it is a bad thing, so we have stuck with it.

The second general principle is that it should be clearly set down that the new-evidence exception applies only in serious cases. I reiterate my thanks to ministers for adopting the policy that I concluded a long time ago should be adopted, that is, that the approach should be restricted to High Court cases.

I do not disagree with Stewart Maxwell often. I very much agree with what he said about the principles, but my view of retrospectivity is completely different from his. The ancient principle was that once a court had found someone not guilty their status before the law had changed. By passing the law we are changing the status of people who have been found not guilty on a High Court charge to one that allows for their recall, when previously they could not have been

recalled. That is entirely the right thing to do because, as others have said, if new and compelling evidence comes to light—and the ways in which evidence can be garnered have now changed, of course—it is important that we are able to prosecute the acquitted person. We have changed the principle of retrospectivity, but it is the right thing to do.

Other members mentioned admissions. Such cases would come back to the court only if there was clear and compelling evidence and a new trial was in the interests of justice. I do not expect that there will be many such cases, but it would be a mistake to leave them out. Equally, we have dealt with tainted trials.

Members can see that I brought along the large file of papers on the bill. I did not do that to make any particular point, as colleagues are well aware of the size of file that we finish up with on such issues. Subject to some rather long amendments, which were almost as long as the bill, we have finished up with a short codification of the general principles on double jeopardy. We have got it about right. I am grateful and look forward to the opportunity to pass the bill later today.

11:16

**Mike Pringle (Edinburgh South) (LD):** As my colleague Robert Brown has already indicated, the Liberal Democrats will support the Government's Double Jeopardy (Scotland) Bill. We are glad to do so.

I associate myself with the comments that others made about Bill Aitken, who was a fine convener of the Justice Committee. I am not sure what he will do when he moves on, but he will clearly have a lot more time to do the things that he wants to do in his private life and to consider other things. I congratulate him on the great job that he did on the Justice Committee.

I also thank Robert Brown, who is one of the best Liberal Democrats in the Parliament. He will be sorely missed by our group if he is not re-elected. I thank him for all the help that he has given me over the past four years in the justice portfolio. As a lawyer, he comes with a slightly different perspective from mine, but his comments and help over the past four years have been welcome.

I also congratulate the rest of the Justice Committee, which has—along with the minister—guided the bill through its various stages and scrutinised it extremely closely. Today is the result of that scrutiny. Between them, the committee and the minister have produced an extremely solid bill.

I also congratulate the committee clerks on the excellent job that they have done, not only during

the bill's progress but over the past four years. We all know that, without our committee clerks, we would struggle seriously, particularly when trying to produce stage 1 reports.

The ministerial team that has guided justice issues over the past four years has also done a good job. Liberal Democrats have perhaps not always agreed with the ministers and perhaps do not agree with them on one or two matters, but justice is without doubt one of the biggest portfolios and to tackle it for four years is a huge job. I wonder whether, when the ministers are re-elected—I am confident that they both will be—they will look for a different portfolio.

Double jeopardy is a procedural defence that forbids the defendant being tried again on the same or similar charges following a legitimate acquittal or conviction. The rule against double jeopardy is a fundamental principle of Scots law that provides essential protection by preventing the state from procedurally prosecuting an individual twice for the same act.

Double jeopardy has always been extremely complex and often sensitive, so we welcome the bill and the clarification that it provides by setting out in statute the rule against it as part of a modern criminal justice system. Perhaps, when the rule was introduced, the criminal justice system was not quite so modern, but we now have a modern system.

We support the setting out of exceptions to the rule against double jeopardy—for example, when the original trial was tainted by jury tampering or when the acquitted individual has since confessed to the crime.

Perhaps the biggest debate on the bill has been whether a new-evidence exception should be applied retrospectively. That was the most complex issue that the Justice Committee had to deal with. Stewart Maxwell, in his final speech in this session, made a very good case for why that is the right way to go. Our view is that it would be arbitrary and unsatisfactory if acquittals that occurred before a certain date were final while those that occurred after it could be looked at again in the event of new evidence emerging. As my colleague Robert Brown said, in this day and age, given the advances in science in relation to dead bodies, it is only sensible that if solid new evidence, particularly DNA evidence, is found for an existing case, even if the case is old—it could be a considerable number of years old—the case should be brought back in front of the court so that justice is served.

Stewart Maxwell again put his finger on the main issue: victims. Victims will find the bill to be the best way forward. In the cases that we are discussing, a victim would surely want to be

satisfied that the perpetrator of the crime, even if it was some years ago, might finally be brought to justice. That would give the victim or victims, or the relations of the victims—perhaps children or grandchildren—closure. I agree with Richard Baker on the point about victims. Retrospectivity is an important aspect of the bill and it is the right way forward for victims.

There has been very little change to the bill between stage 2 and now. The Government lodged a considerable number of stage 2 amendments, which were all agreed by the committee without division. The Liberal Democrats also welcome the amendments that the cabinet secretary lodged for today. As James Kelly and others said, that is perhaps quite unusual at stage 3, but Kenny MacAskill, the cabinet secretary, realised that the amendments were necessary to finalise the bill and make it a really good, solid piece of legislation.

I am pleased that the Liberal Democrats are firmly behind the bill and will support it at the final decision time of this session.

11:22

**Bill Aitken (Glasgow) (Con):** It is appropriate that the final debate in this session should deal with an important legal principle. The principle of the rule against double jeopardy has been enshrined in Scots law down the centuries. It would be oppressive if we lived in a society in which the Crown or the prosecution service had carte blanche to prosecute time after time. No one in the Parliament would support that, but it is understandable that there have been objections from legal purists and scholars that what we are doing is perhaps not appropriate. Much as I respect them, I dismiss those objections. How could we, as politicians, explain to the public that people who walk free can remain free after they have admitted committing serious crimes or if their acquittals are found to have been tainted as a result of jury nobbling or coercion? We could not explain that away and it is therefore perfectly correct that the Government and the Parliament seek to change the law.

It is important that we relate what we are doing today to our contemporary circumstances. We are seeking to underline the fact that new evidence can now be brought forward that could only have been dreamed about 20 or even 10 years ago. Forensic science has improved and DNA technology now enables prosecutors and the police to deal with matters that could not have been considered some years ago.

We also seek to remedy the problem of tainted acquittals, many of which result from serious and organised crime. Members had better believe that

those who engage in such crime are serious and organised—they will coerce and threaten jurors and we cannot have that.

At the same time, we have built into the bill the appropriate protections to ensure fairness. The Government has accepted the view that I put forward, which was shared by others, that the general new-evidence exception should be restricted to cases dealt with in the High Court. That will deal with homicides, serious sexual assaults and other offences for which a high-tariff sentence could be expected. The public have the right to expect that such cases will be prosecuted.

There is also a provision whereby a decision to allow a re prosecution can be made only after the Lord Advocate has applied to the Scottish court of criminal appeal and a bench of three judges has decided that that is the appropriate route to take. That is surely a protection in itself. I do not imagine that there will be a rush of such cases. If the experience in England is replicated, not only will there not be a plethora of such cases, there will be very few of them indeed, and that is as it should be.

On more minor matters, the Crown has the option of prosecuting on a charge of attempting to pervert the course of justice, and that is the way forward.

Some members have said some very kind words about me during the debate, and I appreciate that very much indeed. Perhaps uncharacteristically, I propose to say some kind words myself. [*Laughter.*] First, I thank my staff: the Conservative researcher Erin Boyle; Gillian McPherson, who has done a huge amount of work on the legislation that the Justice Committee has considered over the past two years; and, in particular, my parliamentary secretary, Sandra Robinson, who has not only put up with me for the best part of 12 years but done so cheerfully, efficiently and effectively.

I turn to my political colleagues. Some cynic once said that in politics you do not make many friends, but you certainly increase the number and quality of your enemies. I have not found that to be so. I thank the Presiding Officer for his friendship over the years—for more years than either of us would like to remember. Robert Brown said that our political careers have run in tandem but, of course, he tried to puncture my bike way back in 1976, when he fought to prevent me from being elected in the council by-election, my success in which led on to my work as an MSP.

I have old friends and I have newer friends. When I came to the Parliament, I met Cathie Craigie on the Social Inclusion, Housing and Voluntary Sector Committee. I admired her common sense then and I still admire it. Later on, I

got to know others, such as Stewart Maxwell, Mike Pringle, James Kelly and Richard Baker, with whom I have no doubt that I will continue to fight like cat and dog on the various media channels. I thank Margo MacDonald for her friendship over the years—Margo is an incomparable individual—and I thank my group colleagues, particularly John Lamont, who have been tremendously supportive over the past four years.

It has been a privilege to serve in the Parliament, which is a quite different and much better place than it was 12 years ago. It is a matter for regret that some members are unlikely to come back, particularly in the case of Robert Brown, whose outstanding contribution the Parliament will miss a great deal, but to all my colleagues I express my best wishes for the future and thank them for their fellowship and friendship over the past 12 years. [*Applause.*]

11:28

**James Kelly (Glasgow Rutherglen) (Lab):** I welcome the opportunity to close the stage 3 debate on the Double Jeopardy (Scotland) Bill on behalf of the Labour Party.

It is difficult to follow such a strong speech from Bill Aitken. It is a measure of his class as a parliamentarian that, in his final speech to the Parliament, he was so dignified and made so many strong points about the bill that we are discussing and about his attitude to his colleagues. Today marks the end for him of 35 years of public service. I pay tribute to him for that public service as a councillor in Glasgow, as a Glasgow MSP and as convener of the Justice Committee. He has always been a very fair person, although we have had our disagreements. As the Justice Committee convener, he was always very supportive of other committee members and we saw that in his contribution today. I have a great regard for that. It is also right that his Conservative party colleagues have turned out in such numbers for his final contribution, which was fitting indeed.

I echo the comments that have been made about Robert Brown. If he does not return after the election, it will be a loss to the Parliament and the Liberal Democrats. He has a great deal of experience in justice matters and the constitution. He was a minister for education and he can speak in the Parliament on a breadth of issues. His contribution has been significant during the past 12 years and I wish him all the best for the future.

I also briefly mention Alasdair Morgan who, as Deputy Presiding Officer, chaired the beginning of the debate and who is standing down. It is significant that I have managed to reach the end of

four years in the Parliament and he has never once switched off my microphone.

I pay tribute to Trish Godman, Deputy Presiding Officer, for the way in which she has handled proceedings. She has always been fair and dignified, but perhaps her choice of outfit today shows her true colours. I wish her all the very best as she heads off to the paradise of her retirement.

It is right that this session should close on a debate on the Double Jeopardy (Scotland) Bill, about which there is consensus across the parties. We are passing a serious piece of legislation by, as Stewart Maxwell pointed out, putting the 800-year-old principle of double jeopardy into statute. It is right to build on the work of the Scottish Law Commission and, as Lord Gill said, this is a matter of considerable constitutional significance.

It is also correct that there should be exceptions to the double jeopardy rule and the principal reason for that is that victims and their families must get justice. For someone who has been the victim of a crime or who has lost a family member, there must be no feeling worse than that of not seeing justice done, or seeing someone acquitted when there seems to be evidence against them that could lead to a conviction but which is not allowed by the current law of the land. The main driver for the change must be justice and there is a strong moral argument in favour of that.

We have reached this point in 2011 because tremendous advances in science and DNA technology mean that a lot more information can be made available to retry cases than was the case 20 or 30 years ago. The bill's principles will also allow the law to be applied consistently and with certainty.

There has been some disquiet in legal circles about the bill's principles, but the Parliament has considered those issues carefully through all the stages. In its final form, the bill takes the correct position.

On tainted acquittals, it is correct that if someone has acted inappropriately to pervert the course of justice, the case should be brought back to court. The Crown Office and Procurator Fiscal Service got the right balance in its input into the legislation on tainted acquittals.

On admissions, there was some debate in the committee evidence sessions about whether it is right to include admissions when the new information is received pre or post acquittals. The weight of the evidence, including from Victim Support Scotland and the Association of Chief Police Officers in Scotland, supported taking the new evidence regardless of whether it was pre or post acquittal, and for me that is absolutely correct. It gets the balance right.

There has been some discussion about the general new-evidence exception and whether it is correct to apply it. Ultimately, as with so much of this debate, when new evidence comes forward we need to consider the impact on the victims and their family. It is correct to introduce the new-evidence exception.

On the offences to be covered, the Government's original approach was to draw up a list. I had some sympathy with that approach, but it was discussed at length in the committee at stage 1 and the committee put forward an alternative. That has been fine-tuned by the Government, so that the cases to which the exceptions apply will be those that have been tried at the High Court. On reflection, I think that that is the correct approach, as it captures the correct number of offences and gives the right amount of flexibility to bring appropriate cases forward.

There was quite a bit of discussion at committee about whether another case should be brought when a person is assaulted, someone is acquitted of the assault and the victim subsequently dies. Some concerns were expressed about that but, again, I agree with the approach in the bill. Appropriate safeguards have been built in to apply before a new investigation could be started. Such an investigation would clearly bring different aspects of evidence, and prosecutors would have to look closely at them to decide whether to bring forward a case.

Retrospectivity is one of the key principles of the bill. It is correct that the new evidence exception should be applied retrospectively. Obviously, the advance in DNA technology means that a lot more data can be acquired and brought forward as evidence than previously. We need only to consider cases such as the Dunlop case that Cathie Craigie has quoted in this and previous debates and which lends great weight to the argument that it is correct to apply exceptions retrospectively.

As there appears to be some time, I will highlight some of the contributions that have been made during the debate.

The cabinet secretary looked back to the debate on double jeopardy that took place just before the 2007 election. He was right to highlight that there were a lot of important contributions in that debate and that, in many ways, it set the scene for the bill. I was not a member of the Parliament at the time, but I have read the *Official Report* of that earlier debate and it is interesting to see how the issue has developed through to this closing debate of 2011.

Robert Brown, Stewart Maxwell and Nigel Don have all spoken about the importance of the Justice Committee and the contributions that it has

made. Nigel Don was right to bring out his file—although it might be said that it is one of the lighter files that we have had over the session. Nigel Don is a great supporter of the Justice Committee. He is always telling us how hard we work to examine things diligently. With his display of the folder, he was showing the large amount of work that produced this much smaller bill. That is not in any way a criticism of the bill—legislation worded correctly and succinctly is much easier for legislators and lawmakers to interpret. The Justice Committee, along with civil servants and the ministerial team, has made a tremendous contribution to that.

Cathie Craigie spoke about how opinion has progressed through the years. That is correct. When there is potential for a miscarriage of justice, the internet and 24-hour news mean that there is now a lot more publicity about it, so the concerns of victims are highlighted greatly. That is part of the reason that we have got to the situation that we are in today in passing the bill.

Like others, I pay tribute not just to the Justice Committee, but to the clerking team, which has given us great back-up and support. That has helped tremendously in enabling the committee to look expertly not only at the bill, but at the other aspects of legislation that have been dealt with in the Parliament.

This has been an important debate with which to close the session. There have been serious issues to consider and Scottish Labour firmly supports the passing of the Double Jeopardy (Scotland) Bill at stage 3. It is in the interests of justice, it will instil public confidence and it will ensure the consistent application of the law. With that in mind, we will support the bill at decision time.

11:41

**Kenny MacAskill:** This has been a remarkably consensual debate, as it should have been for two reasons: first, because it has dealt with the final bill that the Parliament will pass in the current parliamentary session; and secondly, because the Parliament has, in the main, united around the subject.

A great many thanks have been given, and I echo each and every one. As I mentioned in my opening speech, the bill started back in 2007. The issue was raised and commented on by John Lamont and Bill Aitken on behalf of the Conservative party, and we have been happy to work with the Conservatives throughout the bill process. Indeed, John Scott, who is not in the chamber, raised the issue before the bill process commenced.

We recognise that we have come into politics to make Scotland a safer place, and nobody from

any political party believes that the bill stands to make Scotland a less safe place or that we would have put forward proposals that would undermine our judiciary, our legal system or the rights of victims. We may disagree on some solutions—indeed, there will be hectic debates on the constitution, the economy and justice matters—but the debate has shown the Parliament at its best and has highlighted the genuine respect with which we can come together to make Scotland a safer place.

There have been disagreements, and not simply between members of the Parliament. For example, the Parliament disagreed with the Scottish Law Commission, which I believe was appropriate. That is not to undermine the Law Commission, which undertook a tremendous piece of work—I echo what other members have said about our great debt of gratitude to Patrick Layden and all those who work with the Law Commission. Nevertheless, we were correct in taking on board the view of many and the broader views of Parliament that retrospectivity, for example, had to be addressed. I echo Stewart Maxwell's comments on that.

I pay tribute not simply to all those who have contributed to today's debate, but to all those who have worked towards the passing of the bill. I echo the remarks that have been made about Bill Aitken. He has been thorough and has often been challenging, as I would have expected, but equally he has shown good grace and, more often than not, good humour.

The election will decide Robert Brown's fate, but I pay tribute to his service. He has been diligent both as a minister and as an Opposition spokesperson. The Government has often had the opportunity to work with him when we have shared his views; where we have disagreed, it has been on points of principle. I wish him well, whatever the outcome of the election may be.

As I said, the bill started its long journey back in 2007, when much public interest was raised by the Lord Advocate's statement in the chamber following the collapse of the World's End case. Changes have already been made by this Parliament. The Lord Advocate raised three issues that arose as a consequence of that case. The first issue was the Crown's right of appeal, which the chamber has addressed. It was wrong that the Crown was fettered in a way that meant that matters could go unchallenged and justice could not be done, at times. The Parliament was right to rise to that challenge. The second issue was double jeopardy, which I hope that we will address at decision time today. A matter remains outstanding around the issue of evidence of similar fact or bad character. That will be canvassed in the electoral debates and is being

investigated by the Law Commission as we speak. I have no doubt that it will come back to this chamber to be decided on at a later stage. However, I think that that represents progress.

As has been mentioned, the provision that we are dealing with today will be used in only an extremely small number of cases. Richard Baker mentioned the situation south of the border, where the numbers are still capable of being counted on two hands. The provision is not to be used lightly; it is to be used sparingly. As John Lamont and others mentioned, it involves a principle that goes back over centuries in our common law and of which we are all proud. However, as James Kelly and others mentioned, it is important that we make changes to reflect scientific changes and the changes in the media. If scientific changes show that there has been a manifest injustice, that has to be acted on. Equally, if people are found to be bragging in the modern media or it comes to light that they have subverted processes, action must be taken.

All of us in this chamber meet youngsters and others to discuss issues. I am frequently asked what is the hardest part of my job, and I have to say that the hardest part of my job is meeting victims, and the hardest part of that part of my job is meeting victims who have received no justice. The buck stops with me, it stopped with my predecessors and it will stop with my successor, if there is to be one. It will be for them to decide. Doubtless, they will have to do exactly what I have done. However, the fact of the matter is that it is difficult to explain to someone that no action will be taken in a case in which there has been a manifest injustice, even though clear evidence has come to light.

Justice must not only be done, it must be seen to be done. There will be instances where justice will not be done because of a lack of evidence, because witnesses cannot be found or simply because evidence cannot be gathered. However, where evidence is available, we cannot stand on ceremony. Clearly, we must ensure that the law balances the interests of the accused.

The provisions will be used sparingly, but they are complex. As Mr Aitken and others mentioned, they could involve cases going back many years, and there could be issues around whether the evidence has been protected and preserved. At stage 1, Mr Brown asked how we can preserve evidence so that we can ensure that the accused has a fair chance. As I said, we are talking not about ensuring that someone is convicted, but about ensuring that there is an opportunity for a retrial; it will be for a judge and a jury to decide whether the evidence is sufficient to justify a conviction. The issue is about delivering justice. That is what we seek to do.

I welcome the spirit in which the issues have been discussed. The issues are complex, particularly those around retrospectivity, which James Kelly and others mentioned. However, as Bill Aitken said, when we drill down, the issues become relatively simple.

It is not sufficient simply to rest on the common law. Given that we have brought in disclosure in other legislation, it is important to ensure that it applies in relation to double jeopardy, even if only in a limited number of cases. As we all know, the issue of disclosure will be revisited by the Justice Committee and perhaps even by this chamber. It is a matter that causes me some angst and concern, especially when I see the amount of paperwork that hard-working police officers who carry out diligent inquiries into serious offences have to produce and the amount of bureaucracy that they have to deal with. I am not sure precisely what the solution is, because nobody—neither the police, nor the Crown nor anyone else—is seeking to make the process more difficult. However, at some stage, we have to have a review because, clearly, something is not correct.

As members across the chamber have said, no Lord Advocate or High Court judge is ever going to assess the need for a new prosecution lightly. A double jeopardy retrial is designed for cases involving manifest injustice, where evidence that comes to light after the initial trial calls the acquittal at that trial into serious doubt. That is not to prejudge the outcome of any new trial: there will be a trial, and the normal rules and requirements for evidence will stand. Rather, it is about providing the fair trial that should have been: the one that was denied to the victim and to society because the full range of evidence was simply not available at that time, as Mike Pringle mentioned.

The hardest job that any of us has to do is to meet a constituent or a citizen who has not been given justice for their family. To continue the existing law and close the door on all such cases would be to continue a situation that is simply incomprehensible and unacceptable to the public at large, and manifestly wrong.

Once again, I express my thanks to all those who have been involved in the process: the Scottish Law Commission; those who responded to the Government's consultation; members of the Justice Committee and those who gave evidence to it; and those in the clerking and bill teams who have done extremely diligent work.

Together, we will deliver an important reform for the people of Scotland, which will promote confidence in our justice system and pursue persons who attempt to corrupt the trial process, brag about having escaped justice, undermine or suborn jurors or whatever else. As James Kelly and Bill Aitken mentioned, the tentacles of serious



organised crime are dangerous and must be tackled, and those involved cannot be allowed to get away with their guilt.

The reform will allow the fruits of new techniques and advances in science—which are spectacular—to be used to the utmost effect. It will allow justice to be done and to be seen to be done, and will deliver what victims want. That is the obligation on everyone who has the privilege of serving in this chamber.

I once again thank all those members who have been involved—in particular those who will not be returning—for their service, not only in relation to the bill but in relation to the chamber, their constituents and the country.

## Point of Order

11:52

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** On a point of order, Presiding Officer. I apologise for not being able to give you advance notice, and I am not sure, as it is the last day before dissolution, what can be done, but I am seeking advice.

On 22 February, the Finance Committee approved contingent liability for the Forth crossing of up to £300 million for three connected incidents concerning the crossing of the Forties pipeline. The meeting was held in private at the request of the Scottish Government because of national security considerations.

The Minister for Transport and Infrastructure has written to the convener of the Transport, Infrastructure and Climate Change Committee, in a letter dated 18 March, with all the information that was in the briefing that the Finance Committee received. Indeed, the letter contains further information that was not in the briefing. In particular, the minister says:

“Scottish Ministers liability will be capped to £100 million per incident, or series of connected incidents”.

My point of order is on the guidance that can be provided when Governments request private meetings of this Parliament on the basis of national security, when clearly they have published letters that do not state that any of the considerations concerned national security, and when we are considering such substantial sums of public money.

**The Deputy Presiding Officer (Trish Godman):** As you were not able to give me prior notice, I will take away that point of order and reflect on it, and you will get an answer before close of business.

11:53

*Meeting suspended.*

11:55

*On resuming—*

## Scottish Executive Question Time

### General Questions

#### College Principals (Meetings)

**1. Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** To ask the Scottish Government when it last met college principals. (S3O-13399)

**The Minister for Skills and Lifelong Learning (Angela Constance):** Ministers and officials regularly meet individual principals and representatives of the principals convention. I last met college principals on 16 March, when I had the great pleasure of attending the launch of a concordat between the Scottish Agricultural College, Oatridge College, Barony College and Elmwood College.

**Jeremy Purvis:** The minister, like all members, knows that the Scottish budget for the forthcoming year is being reduced by 2 per cent as a result of a reduction in revenue funding from the Westminster Government. However, the Scottish Government's reduction in revenue funding to the college estate in Scotland is 10.4 per cent in one year. Will the minister explain why it was decided to reduce college funding by such a disproportionate amount in relation to the overall reduction in the Scottish budget? The minister will be aware that Borders College, among other colleges, is in the dreadful situation of considering compulsory redundancies. When she made her request to colleges with regard to redundancies, did she explain the difference between the overall reduction in the Scottish budget and the reduction in the budget for colleges by the Scottish Government?

**Angela Constance:** I am glad that Mr Purvis recognises the implications of the reduction of £1.3 billion in the Scottish Government's budget by his Westminster Government. However, he fails to acknowledge that, south of the border, colleges are facing a 25 per cent reduction in their teaching grant over four years. Given the commitment by the Scottish Government and the Scottish National Party to try to remove the fear of compulsory redundancies, I would have thought that Mr Purvis would take the opportunity to encourage everyone in the Parliament to unite behind our attempts to secure that prize.

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** College principals tell me that budgets for the coming year have been cut significantly and

that, to maintain student numbers, they are having drastically to reduce the number of teaching hours that each student receives. Is that acceptable to the minister?

**Angela Constance:** I understand Cathie Craigie's point. She should be aware that colleges the length and breadth of Scotland have given a commitment to maintain student numbers. Of course, given the difficult economic times, there is increased demand on our colleges. Ultimately, they are at the front line of the economic recovery. I would have thought that Ms Craigie would welcome the fact that, despite the backdrop of the £1.3 billion that has been lost to the Government, we have record levels of student support and a guarantee to protect student numbers.

#### Public Sector Employment (Compulsory Redundancy)

**2. Anne McLaughlin (Glasgow) (SNP):** To ask the Scottish Government whether it is committed to a policy of no compulsory redundancies across the public sector. (S3O-13458)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** Yes, the Government is committed to a policy of no compulsory redundancies. There is real benefit in providing security of employment in uncertain times to the dedicated and professional staff who work in all parts of the public sector. I was delighted to announce last week that the Scottish Government has extended its no compulsory redundancy agreement for its staff for a further year, to March 2012. I have always been clear that the Government wants to extend that type of agreement across the public sector in Scotland. We are continuing to work closely with our partners to achieve that goal.

**Anne McLaughlin:** That is indeed welcome news for many people. There are 34 Glasgow City Council workers who are being transferred under the Transfer of Undertakings (Protection of Employment) Regulations against their will as a result of the awarding of the United Kingdom Border Agency asylum support contract to Ypeople. Like lambs to the slaughter, if those workers accept the transfer, they face an insecure future, and many face imminent redundancy. However, if they do not accept, Glasgow City Council says that they will have made themselves redundant, despite that Labour council's no compulsory redundancy policy. Does the cabinet secretary agree that those workers, who have been praised throughout the UK for the standard of their work, and who have been producing financial surpluses for their employers in today's tough economic climate, are the very people whom the public sector should not only protect, but actively retain? Does he agree that a local

authority the size of Glasgow City Council cannot possibly argue that it cannot redeploy a mere 34 workers?

**John Swinney:** It is important in all of those circumstances that the employees concerned are treated with care and dignity, and in an atmosphere of fairness. I encourage Glasgow City Council to engage with the workforce concerned to try to find ways of avoiding compulsory redundancies at all costs. With flexible working and a committed management within the organisation, a better way than the one that has been set out by Anne McLaughlin can undoubtedly be found.

**Duncan McNeil (Greenock and Inverclyde) (Lab):** I heard and welcome the cabinet secretary's answer that he would try to extend the policy of no compulsory redundancies throughout the public sector.

Will he take this opportunity to make it clear that whatever the outcome of the tendering process and eventual decision on the Gourock to Dunoon ferry route, it will not result in a single compulsory redundancy? If he gave us that assurance, it would be good news for the 66 employees who face an uncertain time between now and the final decision in June.

**John Swinney:** Mr McNeil has made his point fairly on the record. He will understand that it would be inappropriate for me to comment on any of the details that he has raised, given that there is a live tender process in relation to the contract. He has clearly set out his position and I understand the concern of the workforce that he represents.

#### **Cabinet Secretary for Health and Wellbeing (Criteria for Meetings on Individual Cases)**

**3. Gavin Brown (Lothians) (Con):** To ask the Scottish Executive what criteria the Cabinet Secretary for Health and Wellbeing uses when deciding whether or not to have meetings regarding issues arising from individual cases. (S3O-13471)

**The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon):** I value the opportunity to meet individuals when that is possible and appropriate. I believe that listening and responding to feedback is a vital part of the process of improving health services.

I cannot intervene directly or offer comments on clinical decisions affecting an individual's care and treatment. However, I am always prepared to consider how the system can be improved to ensure patient safety and improve the quality of care.

**Gavin Brown:** Will the cabinet secretary look into the circumstances of a case involving my constituent Graeme McLaren, who went in with back problems and now has to be in a wheelchair most of the time? I have tried to assist Mr McLaren for several years, but in my view NHS Lothian has done nowhere near as much as it should to assist him. Will she agree to meet Mr McLaren and look into the details of his case?

**Nicola Sturgeon:** I say to Gavin Brown, as I did in my initial answer, that I cannot intervene in or comment on the clinical circumstances of someone's care. I am sure that he appreciates that that would be entirely inappropriate.

I am sure, too, that he is aware of the national health service complaints procedure and the right of any individual to refer a case to the ombudsman if they are not satisfied with the outcome of a complaint. It may be that Gavin Brown's constituent has already gone through those processes.

Of course, if Gavin Brown wants to forward the details of this particular case to my office, I will ensure that it is looked into and that any appropriate action is taken. I hope that he will take me up on that offer.

#### **University Tuition Fees**

**4. Patrick Harvie (Glasgow) (Green):** To ask the Scottish Executive how it plans to fund its commitment not to introduce university tuition fees. (S3O-13473)

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** There is no silver bullet to the question of how we place funding for universities in Scotland on a long-term sustainable basis. What is clear, though, is that if the Government is re-elected there will be no return to tuition fees, either up front or back door.

The joint work that we have undertaken with Universities Scotland has given us a clear estimate of any funding gap and allowed us to explore a number of funding streams, including up to £62 million from students from the rest of the United Kingdom and an estimated £22 million from students from the rest of the European Union. That is before we factor in any other sources, such as philanthropic giving, increased commercial activity or efficiency savings that the universities themselves have agreed are deliverable.

The First Minister has made a clear and unequivocal commitment that any funding gap will be closed. We will ensure that our spending plans are balanced to deliver on that commitment.

**Patrick Harvie:** There is debate about the size of the gap in funding of our higher education. There is also debate about the impact that adding

fees for students from beyond Scotland would have on universities' ability to attract them. However, we can all make a reasonable guess that as the market takes hold, the gap, whatever it is today, will likely only grow.

One political party in Parliament wants to raise a tax on graduates. Another wants to raise a tax on all wealthy people. Is not the least credible position the one in the middle, the one that is held by the Government and the main Opposition party, which say that they can close the gap but will not say where the money will come from? How are parents of current and future students in Scotland supposed to view that remotely credibly?

**Michael Russell:** I would have thought that the member would welcome the renewed commitment that this Government has given to the strong Scottish tradition of free access to higher education—access on the basis of the ability to learn, not the ability to pay. The fact that he refuses to do so reveals his posturing on this issue. He is therefore quite unfit to pronounce on anything educational—or, indeed, anything else.

### Addiction

**5. Bill Wilson (West of Scotland) (SNP):** To ask the Scottish Government what its position is on the view of the Canadian expert on addiction, Professor Bruce K Alexander, and of many Scottish drugs workers, that addiction should be viewed as a response to psychosocial dislocation largely caused by the disruptive effects of the economic system and that it is unhelpful to demonise either individual substances or people. (S3O-13469)

**The Minister for Community Safety (Fergus Ewing):** There is much in what Professor Alexander says.

**Bill Wilson:** Is the Government willing to amend the drugs strategy, acknowledging that addiction and recovery from addiction are socially determined phenomena, which require, in addition to treatment and support of the individual, a commitment to an economic strategy that enhances psychosocial integration? Therefore, will the Government commit to phasing out gross domestic product as the main measure of economic progress—a measure that takes no account of inequality and other dislocating factors?

**Fergus Ewing:** The drugs strategy “The Road to Recovery: A New Approach to Tackling Scotland’s Drug Problem” already takes account of the economic links between drug addiction and poverty. As for the member’s suggestion that we abolish GDP, I have to say that that decision is slightly above my pay grade—at least at the current time.

However, just yesterday on my last ministerial engagement—at least for the time being—I had the pleasure of visiting Cothrom Eile, which is funded by the Mungo Foundation and provides just the kind of facility that we need.

I pay tribute to Bill Wilson for the passionate, articulate and informed way in which he has championed the cause of tackling poverty in this Parliament.

**The Presiding Officer (Alex Fergusson):** I call Margo MacDonald.

**Margo MacDonald (Lothians) (Ind):** Thank you, Presiding Officer. Try and follow that!

I ask of the cabinet secretary and whoever is the cabinet secretary in the next session that they look again at how drugs are classified and that they carry out a study into who uses them, when, where, why and why they stop. We have never looked at that properly. I hope that the next cabinet secretary will undertake such a study.

**Fergus Ewing:** I acknowledge Margo MacDonald’s lifetime interest in these matters and pay tribute to the work that she has done. This Parliament does not have power over the classification of illegal drugs—would that it did—but we certainly work constructively with the Westminster Government on all these matters. I thank all parties in the Parliament and all members for the approach that they have taken to “The Road to Recovery”, which has seen us all work together to try to deal with the scourge of drug addiction in Scotland.

### Proposed Container Terminal (Rosyth)

**6. Jim Tolson (Dunfermline West) (LD):** To ask the Scottish Executive what discussions it has had with Port Babcock Rosyth Ltd regarding the proposed development of a container terminal at Rosyth and its environmental impact on the surrounding area. (S3O-13405)

**The Minister for Transport and Infrastructure (Keith Brown):** Officials have had various discussions with the company to explain the procedures for submitting harbour orders. They have also issued a formal screening opinion outlining environmental issues to be considered by the company in preparing the supporting environmental statement for the proposed development.

**Jim Tolson:** While remembering that this is a major project for both my constituency and Scotland, I hope that the minister will agree that the environmental effects on my constituents in the Limekilns and Charlestown areas should be minimised as part of any approval that the Government might give to the Rosyth container

terminal. What assurances can the minister give my constituents in that regard?

**Keith Brown:** The member is right to point out the possible major environmental concerns for his constituents and others. The proposed development is located in an area of international ecological importance. For that reason, it is essential that all the environmental sensitivities surrounding it are considered in the process. During the dialogue that we have with the applicants, any issues that require further clarification or additional information will be raised and addressed. The Scottish ministers will also undertake an appropriate assessment under the habitats regulations prior to taking a decision on the development.

### Antisocial Behaviour

**7. Patricia Ferguson (Glasgow Maryhill) (Lab):** To ask the Scottish Executive what its priorities are for tackling antisocial behaviour in communities. (S3O-13417)

**The Minister for Community Safety (Fergus Ewing):** The Scottish Government is committed to making our communities safer and stronger. With record numbers of police on our streets and a renewed focus on prevention and education, that commitment has resulted in the lowest levels of recorded crime since 1978.

Our priorities for tackling antisocial behaviour are set out in "Promoting Positive Outcomes", which was published in spring 2009. That approach continues to have the full support of the Convention of Scottish Local Authorities, the Association of Chief Police Officers in Scotland, the Society of Local Authority Chief Executives and Senior Managers, academia, the third sector and other partners. The first annual progress report to Parliament on implementing the antisocial behaviour framework was published on 30 November 2010 and endorsed by the Parliament on 16 December.

**Patricia Ferguson:** Does the minister agree that Labour's antisocial behaviour legislation has made a difference to people's everyday lives across Scotland? Does he also agree that Labour's new five-point plan on the issue is an important step forward in combating the scourge of antisocial behaviour? Will he join me in congratulating the community and agencies of Possilpark on their positive response to the dispersal order in the area, which has reduced disorder by 80 per cent in the period in which it has operated?

**Fergus Ewing:** We have always acknowledged that legislative measures are one tool in the box that local authorities may use as appropriate. I hope that all members also acknowledge that,

during the parliamentary session, with the funding and supply of more than 1,000 additional police officers on our streets, crime has fallen to its lowest level for 32 years. We are never complacent, but that is a proud record that we will be pleased to commend to the electorate in due course.

### Leith Biomass Plant (Consultation)

**8. Malcolm Chisholm (Edinburgh North and Leith) (Lab):** To ask the Scottish Executive how many submissions concerning the proposed Leith biomass plant it had received by the 11 March consultation deadline and how many were objections. (S3O-13414)

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** The energy consents and deployment unit received 1,900 consultation responses from organisations that were consulted on the proposed development and from members of the public who submitted representations. Of those responses, 1,156 were objections, which include holding objections that were made pending the submission of further information; two supported the development; and 732 were received only recently and have yet to be logged. In addition to public representations, responses have been sought from a number of formal consultees.

**Malcolm Chisholm:** I accept that the minister cannot give a view on the proposal, but I am sure that, if the future energy minister is sitting in the chamber, he or she will recognise the massive local opposition to the proposal. However, the current minister could give a view on a policy on large-scale biomass plants. Will he support, as a policy, a moratorium on developing such plants, on the ground that they will contribute nothing towards meeting our vital 2050 climate change objectives?

**Jim Mather:** I note Malcolm Chisholm's comments. We are working closely with the United Kingdom Government to help it to develop its biomass strategy. As he properly said, I cannot comment on live planning applications. It is obvious that I cannot comment on any call for a moratorium on applications for large-scale biomass plants when ministers are involved in determining the process for such schemes.

**Shirley-Anne Somerville (Lothians) (SNP):** I put on record my tribute and best wishes to Jim Mather as he answers his last question as a minister. [*Applause.*]

Given the strength of local opinion on this issue, I will find consensus with Malcolm Chisholm at this point, before we fight the same seat in the election campaign.

**The Presiding Officer:** Just come to a question, please.

**Shirley-Anne Somerville:** Given the strength of local opinion, will the minister pass on advice to his successor about the need for a public inquiry on the proposal, so that the public in Leith have a further chance to respond?

**Jim Mather:** I note that suggestion. We should note that the process has been properly followed, open and consultative. I hope that such features will be the hallmark of future processes.

**The Presiding Officer:** Before First Minister's question time, I know that members will wish to join me in welcoming three visitors to the gallery: the chairman of the Council of Federation of the Russian Federation, Mr Sergy Mironov; the ambassador of the Russian Federation to the UK, His Excellency Alexander Yakovenko; and the Austrian ambassador to the UK, His Excellency Dr Emil Brix. *[Applause.]*

## First Minister's Question Time

12:15

### Engagements

**1. Iain Gray (East Lothian) (Lab):** To ask the First Minister what engagements he has planned for the rest of the day. (S3F-2978)

**The First Minister (Alex Salmond):** Today, I have great pleasure in joining Doosan Power Systems in Renfrew to welcome its planned £170 million investment in an offshore wind research and development centre of excellence for renewables which, along with the jobs announced by Steel Engineering for the same site, will deliver more than 300 jobs for Renfrew. As the memorandum of understanding that we have signed with Doosan sets out, we expect to see 1,700 new jobs for Scotland in this great technology in which we lead the world.

**Iain Gray:** Today, we meet to squeeze in two bills at the end of the First Minister's time in government. However, thousands of Scots are still waiting for his bill to abolish their student debt. What happened to that? That was a bigger promise than the one that Nick Clegg made to students in England. It was a £2 billion promise—or, as the First Minister likes to have it, a £2,000 million promise. Did the bill just slip his mind or did he never have any intention of ever bringing it forward?

**The First Minister:** As Iain Gray well knows, this Government moved in legislation to abolish Labour's back-door tuition fees in Scotland. *[Applause.]*

**The Presiding Officer (Alex Fergusson):** Order.

**The First Minister:** I am glad that the chamber is keeping up with the Labour Party positioning on the matter. In a matter of weeks, tuition fees in Scotland have gone from being "inevitable"—or so said the Labour spokesman a few weeks ago—to being the subject of a pledge on Labour's pledge card. I welcome Iain Gray's conversion to the principle of free education in Scotland, which the Scottish National Party has fought for, defended and introduced.

**Iain Gray:** No, Presiding Officer. Tuition fees were abolished by the Parliament in 2000. I was there, as was the First Minister, as it was just before he ran off to Westminster. I voted for the abolition of tuition fees; he abstained.

We are still waiting on the First Minister's crazy local income tax bill, too. What happened to that? Did he run out of time or did he just realise that the idea is unfair, unworkable and unwanted? Working

families would have had a 30 per cent hike in their income tax. Does he still think that that is a good idea?

**The First Minister:** Let us start with the record, which is important in these matters. Labour introduced back-door tuition fees. If Iain Gray had not voted for the back-door tuition fees that Labour introduced, we would not have had to abolish them in 2007. Iain Gray is not going to persuade many students that they were not paying back-door fees under the Labour Party. Of course, if the Labour Party's position is that it introduced front-end fees only in England and just back-door fees in Scotland, it will have some difficulty with the student population, who will believe no more than anyone Labour's last-minute conversion to free education.

Another recent Labour conversion is on the council tax freeze, which also appears on Labour's pledge card. Labour will have to be very careful in terms of the Trade Descriptions Act if its pledge card turns out to be what the SNP delivered in office in Scotland.

**Iain Gray:** Labour introduced support for students from low-income families. That is what the First Minister abolished. If he wants to, he can speak to students on the matter; they are outside the Parliament. Let us see him explain to them why he did not abolish their student debt as he promised four years ago.

Let us go to the core of Mr Salmond's beliefs. I always thought that the First Minister was a proud separatist, so why are we still waiting on his referendum bill? We have lost count of how many times it was definitely coming to the Parliament. Now, one of the First Minister's favourite commentators is writing that the SNP

"is no longer a serious party of separation".

Is that true? Is that why the referendum never appeared? Has the Scottish Government had a deathbed conversion to the union?

**The First Minister:** I would have thought that, after so many attempts at First Minister's questions, Iain Gray would have realised that he should not wander from subject to subject when trying to articulate questions in front of the country. The SNP's policy of free education in Scotland has now been adopted by the Labour Party in the Parliament. I welcome that, but Iain Gray should pause for thought to wonder whether his deathbed conversion will give him any credibility with the students of Scotland. I am happy to confirm that the SNP will offer the people of Scotland the right to vote on their constitutional future.

**Iain Gray:** After 92 times at this, you would think that the First Minister would have realised that I get to choose what the questions are about, but

his turn will come soon enough. Is the referendum not the problem of the past four years? For four years, the First Minister was distracted by a referendum that never was, while unemployment in Scotland raced ahead of that in the rest of the country. There was the nonsense of a national conversation, while youth unemployment soared by 350 per cent. While budgets were rising, the number of teachers and nurses was cut. Now, we have had four weeks of frantic announcements that were held back and timed for party advantage. That does not make up for four years of promises broken, schools unbuilt, projects cancelled, criminals released and thousands extra on the dole. Time is up. Has the First Minister not failed on all the issues that matter to the people of Scotland?

**The First Minister:** Iain Gray should get outside. I have no complaints about the questions that he reads out week after week—they are brilliant from our point of view.

Let us take Iain Gray's claim on schools. I want to be absolutely precise about this answer. Page 26 of the Labour Party manifesto for the previous election promises 250 more schools to be built. As he will remember, we promised to match that brick for brick. I am delighted to announce that, this very evening, Michael Russell will open Goldenhill primary in Clydebank, the 330<sup>th</sup> school built by this Administration.

Iain Gray should have the grace to welcome the employment announcements that I have brought to the chamber, which are good news for Scotland. I have been looking at his record as the Minister for Enterprise, Transport and Lifelong Learning—yes, he was the enterprise minister. In all the time in which he was enterprise minister, Iain Gray's top employment figure in Scotland was 2,407,000. Employment in Scotland is now substantially higher than that—2,480,000. If, after a world recession in which the Labour Party played a substantial part when it was in government, we have managed to achieve an employment total—after eight months of rising employment in Scotland—that is higher than the one that Iain Gray achieved when he was enterprise minister, he should learn to welcome that achievement.

As enterprise minister, Iain Gray managed to take Scotland into recession when the rest of the world did not have one. Those employment figures are only one of the reasons why the Government will be re-elected. This morning, the *Daily Record* had the grace to include the welcoming, terrific announcement that the Government is on fire as it goes to the people of Scotland.

### Prime Minister (Meetings)

#### 2. Annabel Goldie (West of Scotland) (Con):

To ask the First Minister when he will next meet the Prime Minister. (S3F-2979)

**The First Minister (Alex Salmond):** I have no plans to meet the Prime Minister in the near future.

**Annabel Goldie:** When I met the Prime Minister on Friday, the Libyan situation was obviously uppermost in our minds. I know that the Prime Minister's decisions reflect the overwhelming sentiment of political parties and politicians here in Scotland. I am sure that the thoughts of everyone in the chamber are with our brave men and women in our armed services. [*Applause.*]

In the past four years I have asked the First Minister almost 300 questions. Occasionally, he has found the right page in his big book of notes, and occasionally he has listened to the sweet nothings of Ms Sturgeon in one ear and the murmurings of Mr Swinney in the other, but rarely has he found the right answer. Let me give him one last chance.

I remember that, at one point, the Scottish National Party was going to give us only 500 more police officers. Then it saw sense and increased the figure to 1,000. What changed the First Minister's mind?

**The First Minister:** We determined to have 1,000 more officers on the streets and in the communities of Scotland to reduce recorded crime in this country to a 30-year low. I freely acknowledge that Annabel Goldie's party voted for and supported that measure in the chamber. There have been other proposals that Annabel Goldie's party voted for—for example, on the council tax freeze. I was grateful for that, particularly because the council tax freeze did not appear in the Conservative party's manifesto in 2007. I was therefore slightly surprised to see Annabel Goldie at her conference at the weekend seeming to claim it as a Conservative party policy. One wonders at what point she decided that a council tax freeze was a good thing for the Scottish people.

**Annabel Goldie:** Just to refresh the First Minister's memory, without the Scottish Conservatives we would never have got 1,000 extra police; we would have been stuck with the First Minister's broken promise.

The bottom line is that facts are facts. In addition to voting for the measures on the police, the Scottish Conservatives did indeed vote for a council tax freeze; we also voted for help for small business, for a town centre regeneration fund, for a new national drugs strategy and for a £26 million boost to business, construction and housing. Those were all delivered by Scottish Conservative

votes—we have made the difference. All those commonsense policies—and more—have been delivered by the Scottish Conservatives and were credible and costed. Does the First Minister agree that “credible” and “costed” should be the watchwords of all politicians in the weeks ahead, and that all politicians need to be straight with the voters and tell it like it is?

**The First Minister:** Mr Swinney is the finance minister who has delivered a balanced budget over the past four years, and I am quite certain that, as finance minister, he will be prepared to do that for the next five years.

Annabel Goldie should not underrate her persuasive powers. It is true that, in order to deliver the council tax freeze, the votes of Conservative members were very important. Now, of course, we have the votes of Labour Party members as well. That joint articulation of the benefits to families in Scotland has finally got home to the Labour Party, just a few weeks afore we go to the polls.

I do not wish to say that Annabel Goldie's support is redundant or superfluous in any sense but, as the next Government, we in the SNP can confidently look forward to the Labour Party's support in opposition in implementing our policies.

### Secretary of State for Scotland (Meetings)

**3. Tavish Scott (Shetland) (LD):** To ask the First Minister when he will next meet the Secretary of State for Scotland. (S3F-2980)

**The First Minister (Alex Salmond):** I have no plans to meet the Secretary of State for Scotland in the course of today.

**Tavish Scott:** As happened eight years ago, the parliamentary session ends with men and women from our armed forces in conflict. This time, however, the war is not illegal but is based on a United Nations Security Council resolution. That is the difference between what is happening now and the illegal war in Iraq that the previous Labour Government prosecuted, which split the nation.

This week, the First Minister issued a Government statement on Libya. Will he tell us his position on the Scottish military bases?

**The First Minister:** I strongly support our air bases, which are under threat.

I will respond to Tavish Scott's broader point. I think that every member in the Parliament supports the position of our armed services who are called into combat, particularly when they are called into combat to protect the lives of others, as in the present circumstances. I fully accept and support Tavish Scott's point about the importance of the UN mandate and the legality of conflict, as



he well knows. That is important in terms of getting not just international support, which is of course reflected in the UN resolution, but as much domestic consensus as possible.

Tavish Scott and I agree that there is a world of difference between a situation in which brave men and women are sent into battle and conflict to pursue a UN mandate, with the united support of the population, in pursuit of the international community's obligations, and a divisive and illegal conflict such as the Iraq war. That seems to me to be the most substantial difference of all: not just the honesty of purpose but the legality of the conflict.

**Tavish Scott:** I support those words on the legality of the current position and I will continue to make that case.

There is broad cross-party agreement about the importance to Scotland of our soldiers, sailors and air crew, and about the military and support jobs that are important to many Scottish communities. The First Minister will know that a Royal Navy Trafalgar-class submarine has launched cruise missiles at anti-aircraft defences in Libya this week. Trafalgar submarines and their successor Astute-class submarines are to be based in Scotland, at Faslane. Does the First Minister welcome and support those submarines and all the associated jobs being based on the Clyde?

**The First Minister:** As Tavish Scott should well know, we have never argued against conventional weaponry in the Faslane base. Indeed, he and I, along with the other party leaders, put forward that point of view in our joint submission to the armed forces review.

At a time when our armed forces are being called into conflict, we should be careful not to trespass into party-political arguments on the matter, particularly because the bases that are under threat in Scotland are not under threat from this Parliament or this Administration.

**The Presiding Officer:** There is a supplementary question from Jack McConnell.

**Jack McConnell (Motherwell and Wishaw) (Lab):** With your permission, Presiding Officer—and I expect that I am speaking for all retiring members of the Scottish Parliament—in advance of my question I take this opportunity to thank the staff of the Parliament for their support, in my case and in the case of some others, for these past 12 years. I thank the civil servants, ministers and special advisers who supported us, particularly Elish Angiolini, who is in the chamber, who will retire in the spring after breaking new ground as Solicitor General for Scotland and Lord Advocate. I thank my constituency and research staff and MSPs of all parties, who at many times have been

kind and have given me great support over these 12 years in the Parliament.

I particularly want to thank the people of Scotland for the opportunity that they gave me to lead their Government and this country, for the honour of being First Minister and for the privilege of being MSP for Motherwell and Wishaw. I hope that at the end of these 12 years more Scots walk a little taller, cringe a little less and occasionally have ideas above their station.

Last week, my 17-year-old constituent Jayne Copeland won two awards: youth volunteer of the year and youth worker of the year. She assists the local Girls Brigade and Boys Brigade and the local dancing class; she volunteers in a nursing home for the elderly and in the paediatric unit of Wishaw general hospital; she learned British Sign Language so that she could talk to her deaf granny; and she raised more than £600 for the Teenage Cancer Trust last year, after she had personal use of the trust's services. She represents what is and can be good about young Scots and the future of our country, and I ask the First Minister to congratulate her. *[Applause.]*

**The First Minister:** I willingly congratulate Jack McConnell's constituent. That is a tremendous and inspiring story for us all and an example that we should all follow.

In a few minutes' time I will have an opportunity to say a word about departing MSPs in general, but first I pay particular tribute to my predecessor as First Minister, Jack McConnell. Perhaps we agreed on rather more than we were ever prepared to admit when we were crossing swords, but there is no doubt that as First Minister and as a member he has made a substantial contribution to the Parliament and a very substantial contribution to Scottish society. We wish him well. *[Applause.]*

## Job Creation

**4. Kenneth Gibson (Cunninghame North) (SNP):** To ask the First Minister what the Scottish Government has done to support job creation over the last four years. (S3F-2982)

**The First Minister (Alex Salmond):** We have taken a range of measures because job creation and employment are at the forefront of our policy programme. I point in particular to the 300,000 training opportunities that we have provided since May 2007, including next year's record 25,000 modern apprenticeships. The range of employment provisions, that level of training and that level of modern apprenticeships will fit the country well for the future.

**Kenneth Gibson:** According to Scottish Enterprise, between May 2005 and May 2007, 1,733 jobs were lost in North Ayrshire through 28

major redundancies. During that time, Cunninghame North was represented in the Parliament by the Deputy Minister for Enterprise and Lifelong Learning, Allan Wilson, and Labour controlled North Ayrshire Council, held power here in Holyrood and was in government at Westminster. So many livelihoods were lost before the recession—which was caused by Labour's chronic mismanagement of the world's largest financial centre, the City of London—even began. *[Interruption.]*

**The Presiding Officer:** Order. Please come to a question, Mr Gibson.

**Kenneth Gibson:** Does the First Minister agree that that litany of Labour economic incompetence shows that Scotland's economy is not safe in the Labour Party's hands and that it is vital to secure the re-election of a Scottish National Party Government that is committed to investing in skills, infrastructure and our small businesses to tackle the scourge of unemployment?

**The First Minister:** Yes, I agree with that. *[Laughter.]* We should all welcome eight months of rising employment in Scotland, as we should welcome the considerable number of positive and major jobs announcements.

As the Parliament and our society look to the future, we should be able to demonstrate, from the position that Scotland now has in some of the cutting-edge technologies that will generate the 21<sup>st</sup> century's energy future, that the nation is well placed across a range of those activities. I hope the Parliament will increasingly unite behind getting the financial and economic powers that will allow us, as a lucky country with huge natural resources and a talented people, to maximise that great opportunity.

**John Scott (Ayr) (Con):** The First Minister recognises the need for job creation in Ayrshire. Nowhere is that more important than at Prestwick airport in my constituency. Does he agree that, in light of its recent strategic use for Royal Air Force purposes, its role in keeping Scotland's commercial airspace open over the past two winters and the jobs that it supports directly and indirectly, the airport's strategic importance needs to be recognised at a Scottish Government level and a United Kingdom Government level?

**The First Minister:** John Scott knows my interest in Prestwick airport and that I visited recently. Vital though the airport is, we should think of it not only as an airport but as part of an aerospace hub. I know that he particularly welcomed the major £8 million investment by Ryanair, which makes Prestwick its engineering hub for the whole of Europe. Investments such as that will secure the future of Prestwick and Ayrshire.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** Three of the jobs that have been created in the past four years have been the highest paid in the public sector. I refer to three top bosses of Government bodies, who are under contracts that were signed by the First Minister's ministers, with terms and conditions that his ministers set. Does he believe that a combined salary of £600,000 plus bonuses is the fair amount or is there a case to reduce the pay of the top paid in the public sector?

**The First Minister:** Jeremy Purvis well knows the measures that John Swinney has announced to freeze the pay of top civil servants and people throughout the public sector. I hope that those measures have Jeremy Purvis's support.

### First-time Home Buyers

**5. Andy Kerr (East Kilbride) (Lab):** To ask the First Minister what support the Scottish Government is offering to first-time home buyers. (S3F-2986)

**The First Minister (Alex Salmond):** The Scottish Government has supported a variety of schemes over the past four years to help first-time buyers, such as the new supply shared-equity scheme, the open market shared-equity scheme, shared ownership and schemes to provide ownership support in rural areas. Over that time, we have supported more than 6,400 households to buy a home, compared with just over 4,000 households in the previous four years.

**Andy Kerr:** The First Minister did not mention the Scottish National Party's 2007 manifesto commitment to introduce a grant of £2,000 for first-time home buyers. He could not mention it because he did not offer it. When we return to this place in six weeks or so, will the First Minister—from the Opposition benches—support Labour's plans to offer real support to first-time home buyers to get a foot on the property ladder, which is a measure that is supported by many in the financial services and construction industries?

**The First Minister:** How churlish: Andy Kerr forgot to mention SNP-led East Lothian Council, which has introduced just such a scheme in the last week. Our investment of £300 million over the past four years was made through the schemes that I mentioned, such as the new supply and open market shared-equity schemes, shared ownership and the rural home ownership grants.

As Andy Kerr well knows, we put the "Firm Foundations: the Future of Housing in Scotland" document out to consultation and a range of experts and organisations told us to devote the resources to those schemes. They also told us to restart a council house building programme, which is why we have provided funding over the past

four years for 3,300 council houses. The Labour Party, as Andy Kerr will well remember, managed to build six.

**Anne McLaughlin (Glasgow) (SNP):** Does the First Minister agree that getting on to the housing ladder would be considerably easier had Labour ensured a proper supply across all tenures during its time in office? The Scottish people will examine the SNP Government's record on housing, as well as that of the previous Labour Executive. Which record does the First Minister think offers a more promising future for housing in the next parliamentary session?

**The First Minister:** The SNP's record, which is what people in the housing sector think, too. When the member was making her point, I heard another sedentary intervention from Andy Kerr, denying the fact that Labour refused to build the houses for its housing policy. I find that quite remarkable because, in an unexpected moment of candour, Iain Gray said in *The Herald* on 21 August 2008 that the previous Administration had

"the best homelessness legislation in the world, but we didn't build the housing to make it work."

Even the Labour Party leader admits that Labour did not build the houses and I think that the Scottish people will come to the same conclusion.

### Renewable Energy (Planning Guidelines)

**6. Murdo Fraser (Mid Scotland and Fife) (Con):** To ask the First Minister whether the Scottish Government considers that planning guidelines for renewable energy projects strike a balance between the interests of developers and those of local communities. (S3F-2989)

**The First Minister (Alex Salmond):** The Scottish Government works with planners and communities to ensure that the correct balance is struck between the interests of developers and local communities in considering applications for renewable energy projects.

We are determined to ensure that Scotland's local communities enjoy the benefits of increased renewable energy generation. I am sure that Murdo Fraser will join me in welcoming the work that has been undertaken by the Scottish Government to ensure that communities do so benefit.

**Murdo Fraser:** Notwithstanding the First Minister's response, he should be aware that, in the absence of clear locational planning guidance, communities up and down Scotland feel under siege from speculative wind farm planning applications. The Scottish National Party manifesto in 2007 pledged a nationwide assessment of renewables sites, but that has not been delivered. Should the First Minister be re-

elected, will he keep his promise this time, or will this be a matter for post-election negotiations?

**The First Minister:** As Murdo Fraser should well know, planning guidelines have been substantially clarified over the past four years in terms of that objective. Murdo Fraser also knows well that major renewables developments come to the Government for consent. I am delighted to say that, today, the Minister for Enterprise, Energy and Tourism has approved the 41<sup>st</sup> major renewables project under this Administration. That is twice the number of the previous Administration.

All that I say to Murdo Fraser is that we believe and expect that, as part of a green economy of over 100,000 jobs that will be created between now and 2020, at least 40,000 to 50,000 will be generated by offshore wind developments and, indeed, the facilities that have been put in place to allow Scotland's renewables to reach the marketplace.

I am sure that most people—maybe everyone in the chamber—wants to see such jobs. I say as gently as possible to Murdo Fraser that we cannot have the jobs unless we are prepared to approve the developments. If he takes a position against major investments in this industry then, by definition, he takes a position against Scotland having tens of thousands of jobs in the industry.

**Karen Gillon (Clydesdale) (Lab):** Does the First Minister accept that the decision to remove the right of communities to automatic notification when plans are outwith a development plan, at the stroke of a ministerial pen and without consultation with the Parliament, has been a retrograde step?

**The First Minister:** No. I think that the planning guidelines are a substantial improvement on what went before. As Karen Gillon represents communities in which there have been and are to be major projects, I hope that she contributed to the Scottish Government's consultation on exactly how community benefits can be further enhanced, because that is certainly the way forward.

If she argues that there should be a more defined community benefit onshore and is prepared to join us in arguing for the Crown Estate to be brought under Scottish Parliament control, she will find a willing ear from this First Minister. That would seem to me to be a productive way of securing the benefits of the renewables revolution.

**Liam McArthur (Orkney) (LD):** On a point of order, Presiding Officer.

**The Presiding Officer:** Before I come to Liam McArthur's point of order, I will deal with the point of order that Jeremy Purvis made earlier, when the Deputy Presiding Officer was in the chair.

I have previously made it clear that, essentially, the matter that he raised is one for the convener of

the Finance Committee, but I will reflect further on the point of order and, if I have anything further to add, I will come back to the member in writing.

**Liam McArthur:** As the session comes to a close, can you advise on what opportunity exists to rectify the false impression that was created, perhaps inadvertently, by an answer that the First Minister gave to a question at question time last week? In response to a question from me on the circumstances surrounding the resignation of the Rev Graham Blount from the Scottish fuel poverty forum, the First Minister stated:

"It is quite clear from the Rev Graham Blount's letter that he doubts the effectiveness of the schemes that relate to the £12.5 million for local councils."—[*Official Report*, 17 March 2011; c 34610.]

As the First Minister will be aware from the letter that Graham Blount sent to his minister in which he tendered his resignation, Graham Blount made it explicit that he was reacting not

"to the substance of the policy change"

but to the fact that the forum—and he, as its chair—had been left in the dark about that announcement and a range of other matters.

How could the First Minister set the record straight, in the interests of tackling an issue that all of us in the chamber take very seriously?

**The Presiding Officer:** I have made it abundantly clear over the past four years that the matter of veracity is not a point of order for me; it is a matter for those who speak on the subject.

## Motion of Thanks

**The Deputy Presiding Officer (Alasdair Morgan):** The next item of business is consideration of motion S3M-8185, in the name of Alex Salmond, which is a motion of thanks to the Presiding Officer.

12:48

**The First Minister (Alex Salmond):** Before I address the motion of thanks to the Presiding Officer, I would like to pay tribute to all those members of the Parliament—including you, Deputy Presiding Officer—who are not standing for re-election. The chamber is losing some of its leading lights. In my view, some people, at least, are retiring disgracefully early and the chamber will be the less for their departure.

No fewer than 20 members are not standing again. Although it is always good to see new faces, there is great sadness that we are losing such talent and experience. Three Liberal Democrats are to leave us, a stalwart of the Green party is to leave us, two Tories are departing, it is five Scottish National Party members' final session, and a total of nine Labour members are leaving the Parliament. As a Parliament, let us wish all the members who are to retire well. [Applause.]

If you will forgive me, Deputy Presiding Officer, I will say a special word about the three former party leaders who are standing down, who are former sparring partners of mine at First Minister's question time. I say farewell to Nicol Stephen, Wendy Alexander and Jack McConnell. They say that regarding policemen as getting younger is a sign of getting older, so regarding members of the House of Lords as getting younger is certainly a sign of getting older. When I was at Westminster, they used to call the House of Lords God's waiting room, but with young, vigorous members such as Jack McConnell and Nicol Stephen entering it, that is no longer the case. I am sure that they will bring to debates in that place the same vigour and intelligence that they brought to debates in this chamber. I wish them well for the future.

I have a special word for Wendy Alexander who is leaving for her family. I wish her all the best with that choice and with her family in that new life. I doubt very much that we have heard the last of Wendy Alexander's contribution to Scottish politics. I think that she will be back to make a substantial contribution in a range of ways.

I wish all those former party leaders, along with the other members who are leaving, all the best for their future.

I turn to the motion and to our Presiding Officer, who is leaving us as Presiding Officer but who hopes to re-emerge as a Conservative member of the Scottish Parliament. He will understand that, even in these circumstances, I cannot wish him well for the election campaign. I might have to expel myself from the Scottish National Party if I were to do so. Nonetheless, we are delighted at his choice to come back to the chamber. It sets a precedent for departing Presiding Officers.

He brought to the office of Presiding Officer a huge amount of experience. He was, for example, the president of the Blackface Sheep Breeders Association, which stood him in good stead in herding some of the more difficult MSPs in the chamber. [*Laughter.*] I wish our Presiding Officer and his wife, Merryn, who has been such a support to him, every success for the future.

We all believe, whatever individual complaints we may have had, that the Presiding Officer's handling of the chamber has been impeccable and even-handed, and his conduct in the chair has been a credit to the Parliament.

In whatever guise, we expect to see a further substantial contribution from the Presiding Officer to Scottish politics. As the public face of this young Parliament, he has made a great contribution to the chamber and pursued the experiment in hope that the Parliament represents. Thank you very much, sir.

I move,

That the Parliament expresses its thanks to Alex Fergusson for his service as Presiding Officer for the third session of the Parliament.

12:52

**Iain Gray (East Lothian) (Lab):** I support the motion in the First Minister's name and pay tribute to colleagues who are leaving Parliament from all parties. However, I wish to give my personal thanks to Rhona Brankin, Marlyn Glen, Wendy Alexander, George Foulkes, Peter Peacock, Cathy Jamieson and Margaret Curran for their service to the Labour group and—which is more important—for their service to those whom they have represented in the chamber. In the case of Trish Godman, I add to that my appreciation of her service as Deputy Presiding Officer throughout the parliamentary session. [*Applause.*]

Mention of service brings me to Jack McConnell, the former First Minister of Scotland, who is also among those who will leave us today. Jack's legacy will be a lasting one, not least in the continuing work of the Parliament in international solidarity, especially with Malawi. The legacy of the smoking ban, which he led, is a real one that will eventually be measured in saved lives of many of Jack's fellow Scots. He leaves the Parliament

but—as the First Minister said—Jack McConnell has much public service to give and I wish him well in that. [*Applause.*]

It is somehow invidious to pick out other members, but for those of us who grew up in Edinburgh politics, Robin Harper was always a presence and a character. It is one of the Parliament's strengths that it has given Robin the opportunity to make his unique contribution during the past years. His door was always open to the civic Scotland that we serve. He has served Parliament and his city well. [*Applause.*]

I turn to the motion itself and to our Presiding Officer. Alex Fergusson and I have a little-known bond through the village of Leswalt. He was born and grew up there, my mother-in-law lives there and, as it turns out, the manager of my football team grew up there, too. Leswalt really rules all aspects of my life. Fortunately, all of those figures of authority carry out their duties with grace and success—even Colin Calderwood, these days—and the Presiding Officer does so particularly. The First Minister is right that the Presiding Officer has not lost his political antenna. On at least one occasion in visiting Leswalt, I had been there only five minutes when I received a text from him to let me know that he knew that I was in his constituency. [*Laughter.*]

Alex Fergusson has presided over debates and even First Minister's question time with a careful mixture of light touch and firmness. I think that the uniqueness of his task as Presiding Officer has been to preside over a Parliament not just of minorities in general, but in which the Administration itself is a minority, too. That has led to high drama once or twice, not least at budget time, and to occasions when the Parliament has chosen a direction in defiance of the Government, as in the Calman process. Throughout that, the Presiding Officer has presided with care and kept the integrity of our Parliament intact, for which he deserves our thanks.

Alex Fergusson has also discharged his duties of representing the Parliament at home and abroad with great dignity and gravitas. I do not think that he will mind my saying that he did not seek the office but, rather, had it thrust upon him. He has, nonetheless, served us well and he has done us proud. [*Applause.*]

12:56

**Annabel Goldie (West of Scotland) (Con):** I, too, support the motion in the name of the First Minister.

As has already been indicated, the past four years have seen a new development in the life of our Parliament—minority government—that reflected a very different political territory from the

previous eight years of coalition. Some who witnessed this interesting period in our parliamentary development will leave the Parliament today, and I share the sentiments for them that have already been expressed.

From the Conservative benches, we will lose Bill Aitken and Ted Brocklebank. If not exactly the odd couple, they certainly reflected diverse and distinctive attributes that enhanced our benches and Parliament. Bill has been renowned for clearly expressed and uncompromising views on justice and the interests of the victim, and Ted for his informed and entertaining contributions to debates on numerous subjects, not least those involving culture and the media—I did not want him to feel excluded because I had not mentioned culture. I thank them and the other MSPs, not least, Deputy Presiding Officer, yourself and your colleague Trish Godman, who have served this Parliament with such distinction. I thank all our colleagues who leave the Parliament today for their contributions in the past 12 years.

I am aware that the period of minority government to which I referred has presented political opportunities and scenarios that were not present in the first eight years, and which in turn have created administrative challenges for this session of Parliament, not least for the role of Presiding Officer. Through you, Deputy Presiding Officer, I congratulate and thank our Presiding Officer for the courteous and capable way in which he has discharged his responsibilities.

I am in no doubt that Mr Fergusson's previous life as a farmer was of invaluable assistance in helping to herd together the disparate and colourful presences that constitute the different political parties and their members in this chamber. I know that there has been universal appreciation of his engaged and consultative approach, which has greatly facilitated navigation of the inevitable challenges that arise in the course of chairing a Parliament for four years.

On behalf of my colleagues, I thank the Presiding Officer not only for his stewardship and commitment as our Presiding Officer and for the support that has been given by his wife, Merryn; I thank him, too, for being a principled and decent human being whose attributes have enhanced both the role of Presiding Officer and this Parliament. If protocol permits me to say it, I look forward to seeing him again. *[Applause.]*

12:59

**Tavish Scott (Shetland) (LD):** I, too, support the motion on behalf of my party. As one former sheep farmer to another, I say that I have appreciated Mr Fergusson's management of our parliamentary flock—which has not been the

easiest of tasks, not least today. I suspect that, when you have lunch with our distinguished visitors who are in the VIP gallery, explaining today's behaviour will be an interesting exercise in studies of politics. *[Laughter.]*

I also acknowledge the roles of your deputies, Alasdair Morgan and Trish Godman, and all that they have done for us, not just in the past four years, but in their 12 years in the Scottish Parliament. We have shared many exciting parliamentary moments and they have undoubtedly added to our deliberations and thoughts. *[Applause.]*

I thank our Presiding Officer for his work not only in Scotland and in our Parliament, but internationally. He has led many of us on international visits on international occasions, and he has done that with great distinction and value. That has been helpful both to our Parliament and to the way in which we present our case around the world. That is a valuable role that all Presiding Officers play, and Alex Fergusson has played it with considerable skill and determination.

I recall a fact-finding visit that he and I went on to Bergen some years ago, when he was convener of the Rural Development Committee, on which we were accompanied by Robin Harper. Robin was—if I remember correctly—wearing the same tie. *[Laughter.]* We were looking at salmon farming. There is a picture on my office wall of a number of us from different parties standing at the top of the funicular railway on the mountain in Bergen. We look incredibly cheerful but I cannot remember why—and I do not really want to remember why.

Along with the other party leaders, I express my best wishes for all the members who are leaving the Parliament, although not politics, at this time. From the Liberal Democrat benches, the loss of Jamie Stone, of a former Deputy First Minister in Nicol Stephen, and of John Farquhar Munro will be keenly felt. John Farquhar Munro's leaving will be felt not least because I will no longer have to ask my press secretary what John Farquhar Munro said on Gaelic radio the night before, which will be a relief. *[Laughter.]*

I would like to share an observation. Mr Fergusson is standing for Parliament again. I believe that we should not have too many conventions in a young Parliament and the breaking of convention to ensure that a Presiding Officer can leave that post and stand again for his or her party is an important step, which is good to see. I look forward to an exciting battle in his constituency, in which the Liberal Democrats will do very well.

I also commend your accessibility to members, Presiding Officer. Being around and always

available in his or her parliament is perhaps the most important part of the job of a Presiding Officer. Your availability to members, on the purchase of a judicious glass of red wine in the parliamentary bar, in order to explain your decisions has been one of the most important parts—possibly not the wine, but the other part—of your job. For that and for many other reasons that other members have eloquently described, I thank you for all that you have done. [*Applause.*]

13:03

**Patrick Harvie (Glasgow) (Green):** I echo the comments that have been made and express my best wishes, on behalf of my party, to those members who are not standing for Parliament again. I wish them well in whatever they choose to do in the future. I hope that members will understand if I direct that comment towards my colleague, Robin Harper, in particular. In 1999, he did what some people predicted could never happen by leading the Green Party into parliamentary politics. He did more than that, though; he kept his enthusiasm every step of the way. I suspect that none of us will be able to see a rainbow scarf or a brightly coloured tie without thinking of Robin. Thank you, Robin.

Nearly four years ago, on being elected, the Presiding Officer spoke of his initial reluctance and his concerns about whether he really wanted to strike the difficult balance between his constituency duties and those of the Presiding Officer. His client group has not always made it an easy job—perhaps we should apologise for that as well as offer thanks.

Like other members, I have reflected on where the skills come from to become a Presiding Officer and the comparisons with, as well as the differences from, sheep farming. I do not know a lot about sheep, but I suspect that they raise fewer points of order, probably switch their mobile phones off when they are told to and never raise his blood pressure by offering him a difficult casting vote—sorry about that, by the way. However, wherever the skills have been acquired, they have been well applied. I am sure that the Presiding Officer and his deputies have the thanks of the entire chamber for the work that they have done and the service that they have provided over the recent session of Parliament.

13:05

**Margo MacDonald (Lothians) (Ind):** Presiding Officer, I wonder whether I can set a precedent, even as late in the session as this, by telling you that I will hurry up—instead of having you tell me. However, this is not an occasion for casting up. Annabel Goldie can refer to the 300 times that she has had a chance to ask questions of the First

Minister; I will not remind the chamber that it has been two years since I got the chance to ask Alex a question.

Bitterness aside, my only real regret about the Presiding Officer's time in the chair is his attachment to an unworthy Belgian—d'Hondt—who should have been hunted from this Parliament. I hope that the Presiding Officer's legacy paper will recommend changes to our procedures, where they have proved to be too constraining. I think that perhaps Mr d'Hondt could be called in to give evidence.

Until we meet again—in the white heather club or in a jobcentre plus near you—I thank Alasdair Morgan, Trish Godman and Alex Fergusson for their commitment to the Scottish Parliament.

## Decision Time

13:06

**The Deputy Presiding Officer (Alasdair Morgan):** There are three questions to be put as a result of today's business. The first question is, that motion S3M-8157, in the name of Alex Neil, on the Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill be agreed to.

*Motion agreed to,*

That the Parliament agrees that the Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill be passed.

**The Deputy Presiding Officer:** The Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill is therefore passed. [*Applause.*]

The second question is, that motion S3M-8156, in the name of Kenny MacAskill, on the Double Jeopardy (Scotland) Bill, be agreed to.

*Motion agreed to,*

That the Parliament agrees that the Double Jeopardy (Scotland) Bill be passed.

**The Deputy Presiding Officer:** The Double Jeopardy (Scotland) Bill is therefore passed. [*Applause.*]

The final question is, that motion S3M-8185, in the name of Alex Salmond, on a motion of thanks to the Presiding Officer, be agreed to.

*Motion agreed to,*

That the Parliament expresses its thanks to Alex Fergusson for his service as Presiding Officer for the third session of the Parliament.

## Presiding Officer's Closing Remarks

**The Deputy Presiding Officer (Alasdair Morgan):** It is with great pleasure that I invite the Presiding Officer, Alex Fergusson, to make his closing remarks and close this session of Parliament.

13:07

**The Presiding Officer (Alex Fergusson):** So, we come to the close of the third session of the Scottish Parliament. Like all of you, I am sure, I find myself wondering where on earth the past four years have gone—but gone they most certainly have.

I thank those who have just spoken for their remarks, which are infinitely more than I deserve, and I thank you all for the trust that you put in me when you elected me to this position at the start of this session. At that time we were embarking on our first session with a minority Government. As you will recall, many experts predicted an early election, but we have arrived, relatively intact, at the end of our allotted four-year term. For that, I give credit to the Government and the Opposition parties alike, and I want to thank those who have served so responsibly on the Parliamentary Bureau for the parts that they have all played in ensuring that a full four-year term has been served.

I also thank colleagues on the Scottish Parliamentary Corporate Body, membership of which can be a pretty thankless task at times—but it is nevertheless vitally important. This past session has involved the SPCB in a number of difficult processes, reviews and decisions, but I can say without fear of contradiction that its members always kept the best interests of the Parliament at the top of the decision-making process. For that they deserve the thanks of us all.

However, none of the work of the Parliamentary Bureau, the SPCB or any other work within or beyond our parliamentary campus would be possible without the dedicated efforts of the parliamentary staff. I therefore want to record my thanks to Paul Grice and his team, who have continued with that necessary level of commitment and dedication, despite the considerable restructuring that has been taking place around them.

I thank the two Deputy Presiding Officers, who merit every one of the compliments that have been paid to them today and in the previous days and weeks. Alasdair Morgan's parliamentary experience at Westminster and Holyrood, combined with an encyclopaedic knowledge of



standing orders, and Trish Godman's experience as a Deputy Presiding Officer in the second session of our Parliament has meant—I hope—that the sum of the whole has been more effective than the three individual parts. I have greatly valued their support, advice and guidance, and I join every member here in wishing them every happiness and success in whatever the future may hold for them. *[Applause.]*

While I am on the subject of support, advice and guidance, I want to thank my private office. I was a complete rookie—and a slightly reluctant one, as was pointed out—to this post in 2007, but the help I received was quite outstanding. In Jane McEwan I have been blessed to have a principal private secretary who is quite simply second to none. I would literally not have got through the past four years without that support, and I will be forever grateful for it, as I will to my constituency staff Gill and Susan, and of course to the effervescent Gillian Gillies, who has always been on hand to help me with constituency issues here at Holyrood.

My dear wife deserves more than a passing mention for her unflagging support. She tells me that she is looking forward to seeing more of me, although whether she will appreciate the reality of that situation remains to be seen.

These past four years have been the most privileged of my life, whether it has been in chairing the Parliament, receiving many of our numerous visitors from home and abroad, representing the Parliament in the USA and Canada, Australia, New Zealand and Malawi, meeting the extraordinary people of Scotland during my summer work programmes or in the many other activities and responsibilities that make this such a wonderful role. I have simply endeavoured always to carry out my duties to the best of my ability.

Unlike the two Deputy Presiding Officers, and unlike my two predecessors, I will be seeking a return to Parliament, as has been mentioned. However—lest there is any doubt—I will not, should I be successful, seek a second term in this truly privileged office. That I have done so at all is more than I ever sought or dreamed, and I thank you all for the opportunity that you gave me.

Thank you very much. I now close the third session of Parliament.

*[Applause.]*

*Meeting closed at 13:12.*



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