



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# MEETING OF THE PARLIAMENT

Wednesday 2 February 2011

Session 3

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## Wednesday 2 February 2011

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## Scottish Parliament

### Meeting of the Parliament

*Wednesday 2 February 2011*

[The Presiding Officer *opened the meeting at 14:30*]

### Time for Reflection

**The Presiding Officer (Alex Fergusson):** Good afternoon. Our first item of business is time for reflection, and our time for reflection leader today is Janet Fenton from the Edinburgh peace and justice resource centre.

**Janet Fenton (Edinburgh Peace and Justice Resource Centre):** First, I wish to thank you for the opportunity to speak here in our Parliament, and to say how happy and proud it makes me that devolution has given us a more accessible Parliament and has significantly improved the representation of women in our democracy.

Edwin Morgan expressed a hope for this place when he wrote:

“Dear friends, dear lawgivers, dear parliamentarians, you are picking up a thread of pride and self-esteem that has been almost but not quite, oh no not quite, not ever broken or forgotten.”

I wish to talk to you about one strand in that thread: the idea of covenant, in particular Scotland’s peace covenant, which I have brought with me today.

Today, covenanters might be regarded as prejudiced or religiously intolerant, but they represent a strong strand in our history. The point is about the anger that was felt by people who were being dictated to on a matter of conscience. That was unacceptable, and the democratic deficit was unacceptable, so people chose to witness their resistance. The need to commit to something better was paramount, and the right to hope for something better was irresistible.

The covenant, as promise and witness, goes back as far as Scottish history itself—witnessing, through signatures, when people are gathered in a common cause.

More than 1,000 people have been happy to sign this “Scotland’s for Peace” covenant. The First Minister, along with a moderator and Scottish church leaders, participated in a signing here in the Parliament. The covenant has attracted signatures at rock concerts, film screenings, public rallies, small focus groups and christenings. Those events all have in common the commitment not just to opposing a violent image of our country, but

to raising our eyes to the vision of the kind of country that we want to be part of.

Scotland’s peace covenant is no commitment to any particular group or political party—just to our kind of Scotland. Alasdair Gray has produced inspiring and beautiful artwork, which resonates with our history, for the covenant books. We collect signatures at churches and workplaces, at mosques and museums. People from all walks of life can and do sign the Scottish peace covenant.

I hope that our MSPs not only sign it but enjoy, as I do, sharing the words and the aspiration that

“We desire that Scotland should be known for its contribution to peace and justice rather than for waging war”.

## Business Motions

14:34

**The Presiding Officer (Alex Fergusson):** The next item of business is consideration of business motion S3M-7849, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a suspension of standing orders.

**The Minister for Parliamentary Business (Bruce Crawford):** I will explain to the Parliament the purpose of suspending standing orders in this case. It is to allow a debate on the Non-Domestic Rates (Levy) (Scotland) (No 3) Regulations 2010 (SSI 2010/441), which will take place immediately following the stage 1 debate on the Local Electoral Administration (Scotland) Bill. Decision time will now be at 5 minutes past 5.

I move,

That the Parliament agrees that for the purposes of allowing up to 30 minutes to debate motion S3M-7841 on Wednesday 2 February 2011, the second and third sentences of Rule 10.4.4 of Standing Orders be suspended.

*Motion agreed to.*

**The Presiding Officer:** The next item of business is consideration of another business motion, motion S3M-7846, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a revision to today's business.

**Bruce Crawford:** The motion has the same purpose as motion S3M-7849 on the suspension of standing orders.

I move,

That the Parliament agrees the following revision to the programme of business for Wednesday 2 February 2011—  
delete

5.00 pm                      Decision Time

and insert

5.05 pm                      Decision Time

*Motion agreed to.*

## Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill: Stage 1

**The Presiding Officer (Alex Fergusson):** The next item of business is a debate on motion S3M-7820, in the name of Alex Neil, on the Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill. I call on Alex Neil to speak to and move the motion. Time is very tight this afternoon. You have seven minutes, minister.

14:35

**The Minister for Housing and Communities (Alex Neil):** I am pleased to open the stage 1 debate on the Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill, which henceforth I shall refer to as the bill.

Before turning to the Equal Opportunities Committee's stage 1 report, I would like to spell out briefly the Government's intentions in introducing the bill and the context in which it sits. The Scottish Government believes that all people in Scotland who are eligible to marry or to enter into a civil partnership have a right to do so freely and without coercion. The bill aims to help protect some of the most vulnerable people in our society through the legal process in a very proactive, flexible way. I was heartened by the committee's comment in its report that, although the number of victims may be relatively low, the detrimental impact of forced marriage is extremely high and cannot be tolerated.

In addressing forced marriage, we cannot and should not separate it from the Government's wider work to address other forms of violence against women. Yes, we know that men are affected by this terrible problem but, predominantly, it is women who are the victims, and the work to tackle it sits in that context. There are clear links with domestic abuse and rape.

I thank the Equal Opportunities Committee for its scrutiny of the bill. It has listened to evidence from our key stakeholders and has clearly taken on board their concerns in drafting its stage 1 report. I am pleased that there is so much common ground in the report and that the committee supports the general principles of the bill.

The Government will respond to the committee's report, including its recommendations for amendments to the bill, in writing, but I will comment on some of the main points that were raised in the report, many of which related to the bill's implementation rather than its content.

A recurring theme of the evidence sessions that is reflected in the stage 1 report is the need for a

clear and effective implementation strategy for the bill that includes guidance, training, awareness raising and education. We know that it is also essential that links are made with existing child and adult protection mechanisms for supporting people who are at risk. We continue to work with stakeholders to shape the implementation of the bill, on the proviso that it successfully makes its way through the parliamentary stages. The forced marriage network is vital to that work, and I thank its members who have been instrumental in driving forward the agenda as well as in shaping the bill.

As a first step in that process, the Government will consult widely on the draft statutory guidance that will accompany the legislation, to give public sector bodies an opportunity to shape and inform its contents to ensure that it is an essential tool in their development of informed and effective responses to victims of forced marriage whom their staff may have to support. In addition, the consultation will begin the awareness-raising process among practitioners who may never have come across the issue in their professional life.

We appreciate the concerns that the committee raised in its report about the importance of close monitoring of cases to ensure that a victim's safety is maintained once an order has been obtained, so that it continues to remain valid and in force. Such issues will be explored over the next few months, including during the consultation on the guidance, to ensure that when the bill comes into force, those who deal with cases know what their responsibilities are to ensure that victims and people who are in fear of forced marriage are kept safe.

A big part of that process is ensuring that people know about the bill and the issues surrounding forced marriage. We share the committee's view that significant work is required to raise awareness and understanding of forced marriage in Scotland. We are committed to undertake that work and have established a group of forced marriage network members to develop and take it forward as a matter of priority.

The Government will work with the Scottish Court Service, police and other public sector bodies, as well as third sector organisations that are providing direct support to victims of forced marriage, to improve the statistical information that is available about cases of forced marriage. That commitment is reflected in the bill's equality impact assessment. We know that we need to find out more, especially about lesbian, gay, bisexual and transgender people, male victims and those with physical and learning disabilities who are affected by forced marriage.

We hear what stakeholders and the committee said during the evidence gathering about concerns

that victims could be trapped in a religious marriage once the civil marriage has been ended. We are committed to continuing to engage with relevant religious authorities on the issue of the nullification of forced marriages and to raise awareness of the bill among all religious organisations and communities. The first of the forums will be with groups that represent the Muslim community in Scotland. We will also look at the links between forced marriage and trafficking.

I turn to some of the stage 1 report's recommendations regarding the content of the bill. I was pleased to see the committee's comment that the introduction of forced marriage protection orders would provide a simpler procedure, which is in contrast to the current complicated legal recourse of an order or an interdict. I was also pleased to see that committee members welcomed the introduction of FMPOs and felt that they would be an effective, preventive and protective measure in the fight against forced marriage.

One of the key elements of the bill enables the Lord Advocate, or local authorities acting as relevant third parties, to make an application for a forced marriage protection order on behalf of a victim. That recognises that, in many cases of forced marriage, victims feel unwilling or unable to take action against perpetrators who might be members of their family. Again, I take on board the committee's and stakeholders' concerns about the monitoring of cases following the issue of an FMPO.

It is vital that local authorities are supported to establish internal mechanisms that allow practitioners to know who will deal with cases and to ensure that those staff are trained and have access to guidance. We will work closely with the Convention of Scottish Local Authorities, as well as with individual local authorities, to ensure that their views are heard, that guidance is as effective as possible, and that local authorities are equipped to fulfil their role as relevant third parties.

The Government recognises that the bill is only the start of a journey towards eradicating forced marriage from Scotland forever.

I move,

That the Parliament agrees to the general principles of the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Bill.

14:42

**Margaret Mitchell (Central Scotland) (Con):** The Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill is important legislation. The Equal Opportunities Committee having been designated as the lead committee on the bill,

committee members were pleased to have the opportunity to consider it. My comments today are made as the committee's convener.

During the committee's scrutiny of the bill, a number of written submissions were received and members heard oral evidence from a range of witnesses, including representatives of Scottish women's Aid organisations that deal directly with the victims. I thank all those who gave evidence and made a valuable contribution to the committee's consideration of the bill. My thanks also go to committee members and to the EOC clerks for their work in compiling the stage 1 report.

Similar legislation has been in place in other parts of the United Kingdom since 2007. That means that Scotland is lagging behind and, having heard the harrowing evidence that was provided by those who work with the victims, the committee was in no doubt that the legislation is necessary to protect the victims of forced marriage and to help rid Scotland of an abhorrent practice that has no place in a civilised society.

As the minister mentioned, there is a lack of data available on forced marriages in Scotland. Although the evidence that the committee received suggests that the number of such marriages is quite low, it was nonetheless clear that the adverse impact on the victim or victims is huge, which confirms the need for the legislation.

The bill introduces forced marriage protection orders. Witnesses welcomed the provision for making an order that they regarded as more straightforward than the complicated civil remedies that are currently in place. Scotland will become the only part of the UK in which the breach of an order will be a criminal offence that can result in up to two years in prison. Members consider that that approach strikes the correct balance, providing a strong deterrent to the perpetrators of forced marriage while helping the victims, who are frequently subjected to emotional blackmail from relatives, to overcome their concerns about criminalising family members.

The committee calls on the Government to provide greater clarity on the reporting and notification procedure for acting on the breach of a protection order and on who will have the authority to report a breach. The committee supported the view put forward by the Association of Chief Police Officers in Scotland and others that, to be consistent with other legislation, the bill should place the power of arrest for the breach of an order in the bill itself, and it recommends that the Government considers lodging an amendment to that effect.

On the jurisdiction, members agree that protection orders should relate to conduct outwith

Scotland, given that many forced marriages have an international dimension. The committee recognises, however, that the orders will have no jurisdiction abroad and for the orders to be successfully implemented there will need to be either an extradition treaty or good working relationships between the countries.

Members recommend that the Government considers tightening the provisions that relate to moving a protected person to another part of Scotland or outwith Scotland, and the committee invites the minister to respond to the recommendation. The committee also recommends that the Government considers an amendment to permit, in certain circumstances, the naming of the person who poses the risk to a protected person.

The bill reinforces a victim-centred approach that allows third parties to make protection order applications on behalf of victims. That is good, but members consider that greater clarity is required about the role that local authorities will play as third parties. The committee invites the Government to provide further information on the on-going responsibilities of third parties to monitor and implement aftercare services. Some specialist support agencies expressed a desire to be listed as relevant third parties, and the committee therefore welcomes the provision in the bill that allows the Scottish ministers to add to the list if required.

Scottish Women's Aid, ACPOS and other witnesses called for the definition of "forced" in the bill to be more explicit to include the physical aspect of coercion and abuse. The committee agrees that including that aspect in the bill would reinforce the message that physical violence will not be tolerated. Furthermore, the definition of "forced marriage" as used by the Scottish Government states that "duress is involved" in forced marriage. Duress may often be involved, but it is not necessarily always involved. The committee therefore invites the Government to reconsider its use of that definition.

Concern was expressed that a decree of divorce or a declaratory of nullity granted by a Scottish civil court cannot end a marriage according to the provisions of certain religious practices. The committee believes that it is important that the Scottish Government continues to engage with the religious authorities on the issue of nullification of forced marriage and to raise awareness of the bill among all religious communities. The minister's reassurance on that point this afternoon is welcome.

Guidance on implementing and using the legislation will be critical to ensuring that the legislation works effectively. Members therefore welcome the Government's commitment to lodge



an amendment to confirm that it will, rather than may, issue guidance.

In conclusion, the committee welcomes the bill and recommends that its general principles be agreed to.

14:48

**Mary Mulligan (Linlithgow) (Lab):** I am pleased to take part in today's debate on the Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill. I have read the Equal Opportunities Committee report, and I congratulate it on addressing the important issues in the bill while keeping the report clear and concise so that even a Johnny-come-lately such as myself can understand it.

For most people, discussions on marriage are generally happy and positive, but for a small number of people who face the threat or reality of forced marriage the issue is full of fear. Although the bill may apply to only a small number of people, it is important that we proceed with it.

I will concentrate on three aspects of the bill, starting with the central plank that is the forced marriage protection order. Like the committee, I welcome the introduction of that measure. The order is easily understood by both the victim and the perpetrator, and I believe that it is a better way of addressing the problem than the civil remedies that we have at present. I especially welcome the fact that the measure will be both preventive and protective.

Section 1(6)(b) sets out a definition of "to force" that includes to

"coerce by threats or other psychological means"

and to

"knowingly take advantage of a person's incapacity to consent to marriage or to understand the nature of the marriage".

I agree that the definition is fine as far as it goes but, like Margaret Mitchell and the committee, I have some sympathy with witnesses such as Louise Johnson of Scottish Women's Aid and Iain Livingstone of ACPOS who suggested that the physical aspect of force should be included. This is one of those debates that we frequently get into when discussing legislation: whether to imply that something is sufficient, as the minister suggests, or whether the bill needs to be more explicit. In this instance, I agree with the committee and those witnesses that the physical aspect of force should be included in the bill. I hope that the minister will look at that sympathetically.

Section 9 will make it a criminal offence to breach a forced marriage protection order and sets out the penalties that may be imposed. I

recognise that that makes the Scottish bill different from the UK Forced Marriage Act 2007, but on this occasion I think that we are right. I add one note of discord in observing that we are only just catching up with the UK act; nevertheless, I welcome the fact that we are now there.

I understand the concerns that have been expressed about the criminalisation of a relative, for example. However, I remind members that we had that debate when we discussed the introduction of antisocial behaviour orders. Both of the orders are about changing behaviour. In this case, as long as the family member does not force the victim into a marriage—an act that we all find abhorrent—they will not be criminalised. I say that not to be glib, but to point out that the course of action is simple and clear. I support the committee's plea for more clarity around the issue of how reporting and notification of a breach will be enacted, which is, I am sure, something to which it will return at stage 2.

I hope that I will avoid being chided by Sandra White for being negative today, as I am very supportive of the bill. I also hope that the minister will be able to respond positively to the committee's report. In those terms, he will have the full support of the Labour group.

14:53

**Bill Aitken (Glasgow) (Con):** The committee's report, for which I thank the convener, is fairly comprehensive. It is unable to evidence a substantial number of cases; however, although the cases that it finds may be few in number, they are undoubtedly large in impact. Clearly, the Government must act in respect of something that is completely disgraceful in modern times. The system that we have at present is more than unwieldy; frankly, it is a toothless tiger and totally ineffectual in dealing with the issue. We cannot leave ourselves open to having no legislation in place in Scotland when such legislation exists south of the border. That would put victims north of the border in a position of extreme disadvantage.

Over the past 30 to 40 years, this country—with the exception of the idiotic minority—has shown a praiseworthy degree of tolerance as many people from different parts of the world have settled here. Indeed, I often reflect on the fact that the degree of tolerance that is shown here to people from overseas is sometimes not reciprocated abroad.

We have a clear duty to do something here and I think that the FMPOs are the way forward, as they are simple and straightforward. There is, however, a major difficulty, which is reflected in the committee's report, when the offence is technically committed furth of these shores. There

is quite clear evidence that many instances of forced marriages have an international dimension. There will have to be a degree of co-operation on the part of the Scottish and United Kingdom authorities to ensure that the appropriate extradition agreements are made.

I flag up a problem over the issue of definition. I tend to agree that the issue of force should be included in the bill. I guide the minister along the route that the Cabinet Secretary for Justice took in relation to the Justice Committee's report on the Criminal Justice and Licensing (Scotland) Bill, and suggest that, in terms of sexual assault, we deal with the definition, which involves not only the question of physical assault but the way in which coercion can be applied. In many instances, we are dealing with physical violence but, in other cases, the coercion is much more subtle, and involves family loyalties or sometimes even tribal loyalties. That must be considered. There must be a protection for someone who might feel, because of those loyalties, misguided though they might be, that they should go down the route of a forced marriage. I commend that approach to the minister.

On balance, I believe that the name of the perpetrator should be included in the order that is applied for, although I recognise the Government's inhibitions in that respect.

I welcome the fact that the bill contains a provision for third-party applications, because a victim could be in a position of some difficulty if they had to make the application themselves. That is particularly evident if we consider the youth and comparative immaturity of many of the victims.

On behalf of the Scottish Conservatives, I say that this is a welcome piece of legislation. A bit of work remains to be done on it but I am sure that, at the end of the day, common sense will prevail, and we will produce a worthwhile piece of legislation.

14:57

**Hugh O'Donnell (Central Scotland) (LD):** The Scottish Liberal Democrats are happy to support the bill at stage 1. However, wearing two hats, as I am also a member of the Justice Committee, I support my convener's comments about the recommendations in the committee's report, and look forward to engaging in some of the issues that have been raised.

Over the years since the creation of the Scottish Parliament, there have been many opportunities to legislate, but some of the most significant ones have been ignored. In my view, this piece of legislation adds to the small but growing toolkit that we have to address fundamental human rights

issues. The existence of that toolkit is a credit to the country.

I do not remember whether the current Administration made a manifesto commitment to legislate on this issue, but I remember that I raised it with the Cabinet Secretary for Justice in 2007. I will, therefore, do the usual politician thing and take some credit for putting the issue on the agenda, if not necessarily, thus far, on the statute book.

The issue that we are discussing is important. Previous speakers, members of the committee, committee witnesses and myself—as someone who has worked with the ethnic communities over a number of years—have been keen to point out that this legislation is clearly and distinctly about force. Other members have spoken about how we define that, and that is a matter for future debate between the Government and the committee. However, I and others have been keen to ensure that we do not intrude on cultural traditions around arranged marriage. That tradition disappeared in the UK and Scotland many years ago, although I remember my great-grandmother being a wedding arranger in Ireland, but we must bear in mind that there is a distinction between arranged marriage and forced marriage. That must be part of the education programme around the legislation that we are discussing today, when it finally makes it into statute.

**Elaine Smith (Coatbridge and Chryston) (Lab):** Does the member agree that we must be very clear that forced marriage is not cultural, but is firmly viewed as abuse?

**Hugh O'Donnell:** I have no argument with that at all. I recognise fully that forced marriage in any form, whether it involves physical, psychological or other duress—or indeed cultural duress—is not an acceptable way for anyone to proceed.

Where both parties enter into an open agreement and arrangement of their own and their families' will, that is an entirely different situation, and we need to ensure that the statutory guidelines are clear on how we should proceed in that regard.

I am pleased that the minister has said that he will address the issue of potential difficulties in relation to religious annulment and the statutory civil annulment. I look forward to being part of the committee and discussing those issues with the minister. We will have a very good piece of legislation in Scotland that will, in its final form, be significant in its own way.

15:01

**Anne McLaughlin (Glasgow) (SNP):** It is incumbent on us all when we talk about forced

marriage to keep making the point that it bears absolutely no relation to arranged marriage. We in the chamber may not need to hear that over and over again, but there are people out there who believe that those practices are one and the same thing. That is a problem because it shows a lack of understanding of the perfectly legitimate practice of arranged marriages, but more important is that it undermines the seriousness of forced marriage.

We need to get the point across that forced marriage is completely against the will of at least one of the marriage partners, and that it is recognised in the United Nations Universal Declaration of Human Rights as a contemporary form of slavery, trafficking and sexual exploitation. It is serious stuff: as Elaine Smith said, it is not cultural, but a form of abuse, and the bill helps to make it stand out as such.

I was surprised to learn that there is at present no law in Scotland that expressly prohibits forced marriage, and that it is not a specific criminal offence. In March 2007, as Mary Mulligan said, the UK Government decided to support a private members' bill on forced marriage. The bill will introduce to Scotland broadly similar provisions.

Of crucial importance is the provision in the bill for local authorities and the Lord Advocate to be able to apply on behalf of a victim for a forced marriage protection order. That is important in cases in which the victim is unable or unwilling to take action themselves. Given that families of victims are often involved in organising a forced marriage, it must be a terrifying prospect for an individual to decide to ask for help, knowing that they will lose their families altogether.

Not everyone is as brave as my constituent, who I will call Nina. Nina is 20 years old and, considering her frightening childhood, given the fact that she no longer has any family support and taking into account that she is on her own many miles from everyone she has ever known, she does remarkably well. At the age of 15, she ran away to avoid being taken overseas to marry a man in his 50s. When her parents found her, they locked her in her bedroom and starved her for a week to teach her a lesson. She managed to get away again, but it is likely that the fear of them finding her and the loneliness of being completely isolated from her entire family and all her friends will never leave her.

I was interested to read the submissions to the Equal Opportunities Committee's investigation into the bill. Many groups, including Shakti Women's Aid, Hemat Gryffe Women's Aid and Black and Ethnic Minority Infrastructure in Scotland, called for work to be done to bring about a shift in social attitudes.

We must not forget that simply telling people that we do not approve is not the most effective deterrent in the long term. The most effective deterrent is to demonstrate the terrible harm that the practice does to individuals and their families. We must keep in mind that a shift in attitude is needed, but that will not happen overnight, nor will it happen simply as a result of the bill.

BEMIS expressed concerns that tackling the issue could

"foster culture stereotyping and antagonism against some groups."

That is a valid concern, and a reminder that the issue will be used by some people to further their racist views.

When we talk about the issue, and when we legislate, we must be careful about how we articulate our arguments. We should acknowledge that forced marriage happens in all communities, and that it is not simply about religion or race. Indeed, we are hearing about more cases in which someone is forced into marriage to care for a physically or mentally disabled spouse.

We should be clear that it is very rare, in whichever community it happens. There will be cases of which we are unaware, but in 2009 we were aware of 40 incidents of forced marriage in Scotland. It is relatively rare, but each of those 40 people deserves our protection, if that is what they want. For those 40 in 2009, for the many in the years before and for all those who are too frightened or too resigned to their fate to tell someone, the bill says that it is not all right, and that we recognise their right to consent to marriage or not, if it is not what they want to do.

I commend the bill at stage 1.

15:05

**Malcolm Chisholm (Edinburgh North and Leith) (Lab):** I am pleased to support the Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill. I believe that it has successfully addressed the problems that were highlighted when legislation on the issue was last considered in Scotland. In 2005, in conjunction with the Westminster Government, I launched the joint consultation "Forced Marriage—A Wrong Not a Right", to examine whether legislation to create a specific criminal offence would help to combat forced marriage. At that time, the majority of respondents felt that making forced marriage a criminal offence could be counterproductive because it might deter victims from seeking help for fear of the legal repercussions for their families. Consequently, the proposals in the consultation were dropped for the time being.

I am pleased to say that the forced marriage bill that has come before the Equal Opportunities Committee achieves the right balance between categorically setting out Scotland's opposition to this breach of an individual's human rights and providing realistic and sensitive access to protection for its victims. The forced marriage protection order creates a simple and understandable legal recourse that will enable a court to both prevent and require certain actions on the part of the perpetrator, thereby ensuring that an appropriate response is tailored to the individual circumstances of each case.

Unlike south of the border, where breach of a protection order is classed only as contempt of court, in Scotland, breach will constitute a criminal offence, with penalties of up to two years in prison for the most serious offences and/or a fine. Together, the provisions will create a strong deterrent to potential perpetrators and send out a clear signal that forced marriage will not be tolerated in Scotland. That message came through strongly in the evidence that was presented to the committee.

However, witnesses were also clear that the bill will live up to its potential only if it is accompanied by a strong public awareness and education campaign. As Assistant Chief Constable Iain Livingstone of ACPOS told the committee:

"The bill's ... value lies in its public message. We need to bring the matter into the open and to secure an absolute consensus that forced marriage will not be tolerated".—  
[*Official Report, Equal Opportunities Committee*, 23 November 2010; c 2175.]

The committee strongly supports that view and agrees that legislation needs to be supplemented by a strong public awareness raising campaign.

Another strength of the bill is the provision that allows forced marriage protection orders to be sought by third parties including a local authority, the Lord Advocate, or a person specified by Scottish ministers. That will ensure that we have a victim-centred approach by reducing the burden of responsibility on the victim and—at least in theory—by ensuring that the victim receives continuing support through monitoring and aftercare.

However, the committee seeks clarification on a number of points, including which roles or sectors within a local authority will be able to make third-party requests, whether specialist support agencies will also be granted third-party status and, if so, what criteria will be used to decide which organisations qualify, and whether further information will be provided about the continuing responsibilities of third parties to monitor and implement aftercare services. That detail is vital because, as the joint submission from Scottish

Women's Aid, Shakti Women's Aid and Hemat Gryffe Women's Aid states,

"it is absolutely crucial that those directly involved in applying for Orders do not simply have this responsibility 'bolted on' to their other duties and that care and attention will be taken to ensure that this work is regarded as a specialised support area."

I am pleased that the Scottish Government has committed to providing statutory guidance to support the legislation and I look forward to consultation on the guidance in the near future. I hope that it will provide essential information for third parties, the police, the judiciary and so on about the practical implementation of the bill, and that it will provide strategies for wider public education campaigns for, for example, health and education providers and local communities.

I wanted to say something about the interrelation with immigration issues, but I see that time is running out, so I will merely conclude by saying that, although the scale of forced marriage in Scotland might be relatively small, the impact is extremely big and it cannot and must not be tolerated. The bill and its accompanying guidance will provide some much-needed relief for those who have nowhere else to turn.

15:09

**Sandra White (Glasgow) (SNP):** I thank Mary Mulligan for her positive response. It has been noted. I also pay tribute to my colleague Bashir Ahmad, who felt strongly about the issue—I think that we all know that—and who led a Government debate on the subject in this very Parliament in 2008. He was clear in his speech in that debate and in the many conversations that I had with him about the issue that arranged marriage with the consent of all is not to be confused with forced marriage. That message has come across well in today's debate.

I congratulate the Equal Opportunities Committee, of which I was a member for a number of years, on its work on the bill. As other members have pointed out, the issue is very emotive. It is not always easy to put emotions to one side when considering legislation, but the Equal Opportunities Committee has managed to do so very successfully.

One thing that we must remember is that although, as the minister has said, the problem predominantly affects women, it can also affect men. Indeed, I was reminded of that fact by a number of young men who spoke to me after a debate on the subject in which I participated in Glasgow city chambers.

Abuse in forced marriages can take many forms: rape, domestic violence, beatings, forced slavery and the victim's inevitable feeling of

helplessness. Perhaps the worst aspect is that the helpless people who are subjected to that continual violence and abuse are also cut off from the outside world and from help; basically, they have been abandoned by the vast majority of the community. I simply do not know how they manage to cope with having to live in such a terrible atmosphere. Anne McLaughlin was very articulate in highlighting the situation that was faced by one of her constituents, but there are many more such people out there.

We need to get what is a very forward-looking bill right for the victims. I sincerely hope that it gives people the courage to come forward to get the help and guidance that will be provided. I note and welcome the minister's comments in that respect.

The UK forced marriage unit has stated that in 2009 it dealt with 375 actual forced marriage cases. Up until 2009, approximately 10 per cent per year—or, under the 2009 figure, 40 cases—involved people from Scotland. As Malcolm Chisholm and others have pointed out, that might not seem like a huge number, but given the population differences between England and Scotland, that 10 per cent is quite a large number for a country the size of Scotland. As a result, I ask the minister whether during the bill's passage and when it comes to fruition, the number of cases, which I hope will not rise, will be monitored.

Finally, with regard to section 2(3)(g), the Law Society of Scotland has said that,

"given that forced marriage legislation is already in place in England and Wales it would suggest substituting 'United Kingdom' with 'Scotland'."

Is the minister seeking to amend the bill to follow that recommendation or will it be up to members to do so?

I think that we all agree that we need to do something about forced marriages, and I welcome the contributions that have been made by members of all political parties. I look forward to the bill going through Parliament and coming to fruition to give justice to the people in this country who are suffering in forced marriages.

15:13

**Marlyn Glen (North East Scotland) (Lab):** I am pleased that the Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill has at last come before Parliament, thereby allowing us to catch up with legislation in the rest of the UK, and that it will make a breach of an FMPO a criminal offence. I understand the reservations that some witnesses have expressed about that move, but the most important thing is to send a strong signal that Scottish society does not condone forced marriage.

Such marriages have been described as low incidence but high impact, so the issue will not be easy to deal with, but we need to protect all our citizens, whatever their circumstances. Moreover, it must be recognised that human rights cannot be seen to be diluted by culture.

Forced marriage is recognised as a specific manifestation of domestic abuse that can affect both men and women, although in most cases it will be young women and girls who are likely to be forced into marriage. Given that evidence can come to light only after the victim complains of domestic abuse—and when, after further inquiry, it appears that there has, in fact, been a forced marriage—I welcome the fact that the legislation will help victims of forced marriages in the past.

As we have heard, there is broad agreement on the bill's principles; that consensus will allow us to have a real discussion about the details. Although amendments will be lodged at stage 2, they will be largely technical and will cover, for example, the bill's definition of relevant third parties applying for a protection order and, as we have heard, its definition of force.

The committee report goes into a lot of detail, but I want to concentrate on one or two issues. The definition of forced marriage that the Scottish Government uses is taken from the UK forced marriage unit's definition, which says:

"A forced marriage is a marriage in which one or both spouses do not (or, in the case of some adults with learning or physical disabilities cannot) consent to the marriage and duress is involved."

The report asks the minister to reconsider the use of that definition. Committee members heard evidence of women being forced into marriage to act as carers for physically or mentally disabled spouses or to produce an heir. The distress that is caused by such situations is hard to imagine. There is no informed consent from either partner in those situations. One may have been duped or coerced into the marriage, and the other may not have been capable of giving consent. However, there need not necessarily be duress in the case of a person with learning difficulties, for example. Such a person may not be able to give consent, so the marriage is forced. The definition is not included in the bill, but it still needs to be reconsidered.

That scenario also makes me question the Law Society of Scotland's suggestion that forced marriage protection orders should have a maximum time limit of five years, unless perhaps a review procedure is to be included. Again, I am concerned about people with permanent learning disabilities. If such people are unable to give consent, the passage of time will not change that fact. A permanent FMPO would therefore be more appropriate in the circumstances.

I welcome the minister's commitment to all the work that he outlined, and I look forward to hearing his response and to the further passage of this important bill.

**The Deputy Presiding Officer (Trish Godman):** We move to the winding-up speeches. Hugh O'Donnell has a tight four minutes.

15:16

**Hugh O'Donnell:** It seems almost no time since I stood up for my opening speech. Unfortunately, this is a very limited debate. I would have welcomed having much more time for it, because it is clear from the speeches that we have heard that people have an interest in the subject, as is only right.

Several members have made the valid point—perhaps I did not make it as clearly as they did—that the difference between an arranged marriage and a forced marriage must be recognised, and that must be followed through in how we engage with communities. We must ensure that they understand such things and that people know what the law is. Sandra White referred to Bashir Ahmad, who spoke eloquently and frequently about that issue, including to me. His contribution in that regard as a person from one of Scotland's ethnic minority communities was valid, important and significant.

I am not sure where we will get the resources to ensure that, alongside the bill in its final form, the necessary educational framework will be provided. There is concern, which others have voiced, that if we use the legislation as a bolt-on to the responsibilities of women's aid groups, we will further stretch their resources to do the work that we expect them to do. I hope that, in his winding-up speech, the minister will clarify how things may work, where the targeting will be and how the targeting will be achieved to ensure that people in public agencies, the voluntary sector and community groups are given the information that they need—whether in English or other languages—to make sure that the wider community understands what is going on. A little bit of resource will be needed. I am interested to hear from the minister how resources will be allocated and used, what guidance will be given, what suggestions will be made, and what consultation will take place. Any legislation can be put on to the statute book, but if people do not know that it is there for their protection, they will not use it. It is important that we have a framework or strategy to address those issues as we progress matters.

Marlyn Glen raised the issue of duress. Definitional challenges have been posed, and I agree that there must be some way of overcoming

them, but duress takes place in many ways, shapes and forms, of course. I support her view on the issue of what we might call a sunset clause for protection orders. For people who have a learning disability, it might not be appropriate to have a time limit. We might need a case-by-case approach so that each individual case is reviewed over a given period. I would welcome the minister's response on that, either during his summation or during further discussions with the committee.

I get the sense that we all support the bill at stage 1. Certainly, the Liberal Democrats will support the bill at decision time.

15:20

**Jamie McGrigor (Highlands and Islands (Con):** As members have said, we are clear that there is a key and fundamental distinction between forced marriages, in which one or both people are forced to marry against their free will and which often involve abduction or abuse, and arranged marriages, to which both parties give their free consent. Although the evidence suggests that the incidence of forced marriage in Scotland is low—we support moves to improve the collection of data on that—it is an extremely high-impact occurrence, so it is right that the Parliament should take strong action against it. It is also right that we bring Scotland into line with legislation elsewhere in the UK to prevent forced marriage and protect victims.

In paragraph 16 on page 5 of the Equal Opportunities Committee's stage 1 report, I read about the distressing case that was outlined by Laura McCrum of Saheliya in which a young girl of 15, the bride, and a young disabled British national with learning difficulties were turned into tragic victims through no wish of their own and to their considerable detriment through a forced marriage. That is the sort of thing that we hope the bill will prevent. The bill sets out Scotland's position on forced marriage—namely, that we will not condone it.

There is widespread general support for the bill from many organisations, including Shakti Women's Aid, Black and Ethnic Minority Infrastructure in Scotland, the Scottish Council of Jewish Communities and ACPOS, to name but a few. I was struck by the comments of Assistant Chief Constable Iain Livingstone of ACPOS, who told the committee:

"The bill's ... value lies in its public message. We need to bring the matter into the open and to secure an absolute consensus that forced marriage will not be tolerated."—*[Official Report, Equal Opportunities Committee, 23 November 2010; c 2175.]*

We support the committee's calls for the Scottish Government to continue to engage with all

relevant religious authorities on the issue of nullification of forced marriages, to raise awareness of the bill among all religious organisations and communities and to ask for their points of view.

When the Parliament debated the issue in December 2008, as the then communities spokesman for the Scottish Conservatives I said that we were ready to work with the Scottish Government to ensure that the legislation

“is as effective as possible, in the interests of all victims and potential victims of forced marriage.”—[*Official Report*, 4 December 2008; c 13143.]

That remains our approach. We look forward to the subsequent stages of the bill and to achieving a positive outcome for all in what is a sensitive area.

Louise Johnson told the committee:

“The beauty of having a forced marriage protection order is that it does what it says on the tin”.—[*Official Report, Equal Opportunities Committee*, 23 November 2010; c 2180.]

She beautifully summed up what the bill should do.

15:23

**Elaine Smith (Coatbridge and Chryston) (Lab):** Consensus seems to have broken out in the chamber this afternoon in what has been a regrettably short debate on an important subject. I agree with my colleague Mary Mulligan that it would have been better to have had the bill sooner but, that said, because of the wait we now have a better bill.

In closing for the Labour Party, I speak in support of the general principles of the bill, which will bring us into line with other parts of the UK. As has been said, the Equal Opportunities Committee expects the Scottish Government to lodge amendments at stage 2 on various matters, many of which were outlined by the committee convener, Margaret Mitchell, in her opening remarks. We on the Labour benches are clear that the bill is needed to try to stop the horrendous practice of forcing anyone into marriage, whether male or female, but as Marlyn Glen made clear, we recognise that it is mostly young women and girls who are likely to be in that situation. According to Karma Nirvana, 14 per cent of callers to the forced marriage unit are under 16. The committee heard in evidence that the youngest victim that the FMU has dealt with was aged only nine.

Forced marriage is clearly part of the continuum of violence against women and is completely unacceptable. It must, therefore, be exposed and challenged.

The harm to women and girls is becoming clearer as more find the help, support and—importantly—the courage to speak out and to try to leave their situation. Victims seek support from various places, including women’s aid organisations, rape crisis centres and mental health support services. In many cases, only when they seek such help—perhaps for domestic abuse or other issues—does it become apparent that they are in forced marriages.

Harrowing examples were provided to the committee. Some are outlined in the report, and we heard about real-life cases from Anne McLaughlin and, latterly, Jamie McGrigor. I will quote from Jasvinder Sanghera, the author of “Shame”, who founded Karma Nirvana in 1994. The charity, whose name means “peace and enlightenment”, helps the victims of so-called honour crimes and operates a phone line to help the victims of forced marriages. In an article in *The Guardian*, Jasvinder said:

“I come from a family of seven sisters, and I watched each of them disappear. They’d be taken out of school, sent abroad, and brought back as wives...I saw my sister suffer horrific domestic violence.”

She said:

“When I was 14 my mother showed me a photo of the man I’d been promised to since I was eight years old. I refused to marry him, and for that I was abused, physically and mentally”.

Later, Jasvinder discovered that one of her sisters, Robina, had committed suicide aged 24. She described it:

“She’d doused herself in paraffin and set herself on fire. She knew that because of izzat, or shame, that suicide was the only way out of her marriage.”

There are many such stories of women being beaten, raped, locked up in bedrooms for months on end and murdered. The list of atrocities is huge, and they are being suffered by young women in Scotland as we speak. That is why legislation is important to raise awareness about forced marriage and, ultimately, to stop it happening. Malcolm Chisholm spoke about raising awareness and reiterated why it is so important.

There must be no confusion among official organisations or anyone else about the fact that forced marriage is not cultural but abuse. Sandra White emphasised that in her speech.

Although the bill is a positive step in offering protection to victims of forced marriage and sends a strong message that the practice will not be tolerated in Scotland, it needs amendment. For example, the definition of forced marriage that the Government uses states, “duress is involved”. However, as Marlyn Glen outlined, it could also involve a lack of understanding, so the Government needs to revisit that definition.

Perhaps we will hear something about that in the minister's closing speech.

Section 1(6) is drafted to assume that major force is included. However, having reflected on the evidence, the committee would like an amendment to strengthen that provision and to make it explicit in the bill, as Bill Aitken outlined. I suggest that the Labour Party would support that, too.

I am pleased that the minister has committed to considering amendments. He has heard various suggestions in the debate.

Hugh O'Donnell raised the matter of religious practices. The committee was keen for the Government to liaise further with religious bodies on nullification of forced marriages. I am pleased to have heard a commitment to that in the minister's opening speech.

It is difficult to imagine the suffering that those in forced marriages endure, but the bill may give hope to many and provide them with a means of escape to live their lives in peace away from the all-encompassing shadow of fear.

I conclude with more of Jasvinder's words. Talking about the research for her second book, "Daughters of Shame", she said:

"I listen to those stories—told by women who have been drugged, beaten, imprisoned, raped and terrorised within the walls of the homes they grew up in. I listen and I am humbled by their resilience."

Labour will support the general principles of the bill at decision time, but we look forward to seeing the amendments that will address our concerns.

15:28

**Alex Neil:** Although this has been a short debate, it has been a high-quality one and there is a great deal of consensus around the chamber.

As Sandra White did, I pay tribute to the work of the late Bashir Ahmad, who was keen that we pass such legislation.

I also make it absolutely clear that we will respond positively to the committee's recommendations. If we are unable to accept a recommendation, we will give a detailed explanation as to why and, if appropriate, offer alternatives. We are all singing from the same hymn sheet on forced marriage and we all want to ensure that the bill fits the bill for what we are trying to do.

I will give some indication of our current thinking on some of the points that have been raised by all parties, although in the short time that is available I will not be able to cover all the points that were raised.

Everybody mentioned the definition of force. I confirm that we will consider the committee's recommendation on section 1(6). The committee made a fair point and we will give empathetic consideration to it.

On the power of arrest, we do not think it necessary to include an express general power of arrest, because such a power already exists. However, we will consider, with the committee, whether the bill ought to include a specific power for a constable to arrest without warrant a person who is reasonably believed to be breaching, or to have breached, an order.

We will give genuine consideration to the other points that members made. Sandra White mentioned the letter from the Law Society of Scotland. This relates to a minor amendment, but I am happy to consider the Law Society's suggestion that section 2(3)(g) be amended to substitute "Scotland" for "United Kingdom"—not for any narrow, nationalist reason but because it is a reasonable suggestion, which will no doubt carry unanimous support in the Parliament.

I very much take on board Hugh O'Donnell's points about resources and the points that Malcolm Chisholm, Sandra White and other members made about implementation and, in particular, the need for education, awareness and training. We will consider our approach to that.

We will consider data collection, which a number of members mentioned. I do not want to underestimate the challenge of data collection. However, we think that we can improve data collection, through partnership working and learning from successful work such as the roll-out in the health sector of routine inquiry about gender-based violence. That is an example of an area in which we can improve data collection.

We will also take positive steps in relation to the police's approach to identifying cases of honour-based violence. An objective of the work of the national group to address violence against women and the forced marriage network is to improve statistics, not just on forced marriage but on the agenda across the board. We have written to the chief statistician to seek his support in achieving that objective.

**Hugh O'Donnell:** Will victims automatically appear on the vulnerable persons database, which the police manage, and will that be flagged up through partnership agencies that have access to the VPDB?

**Alex Neil:** I imagine that that will normally be the case, but there are situations in which the police have discretion to decide what appears on the database. I do not want to interfere in that operational discretion, because part of the issue is protection and we must ensure that we do not do



something that has indirect consequences, to which we have not given proper thought. However, the member has made a fair point.

Bill Aitken talked about marriages that take place abroad. I dealt with the issue in detail when I appeared before the committee. By passing the bill we will send a clear message to other countries and to people in other countries that forced marriage is not acceptable, and we will join countries that want to end the practice, not just in their countries but worldwide.

We will co-operate with Interpol, international organisations and the UK Government as appropriate, to ensure that an individual who attempts to bypass the legislation on forced marriage is brought to justice in Scotland or in another jurisdiction—in some cases, people who have broken the law in Scotland will be brought to justice in other jurisdictions. We will work with other jurisdictions to ensure that that happens.

We will seriously consider the suggestions for amendment and improvement to the bill. I am happy to talk to all concerned parties, including the committee, because the Government is keen that we maintain consensus—indeed, unanimity—on the subject. The greater the unanimity, the louder the message that goes out from the Parliament that the days of forced marriage in Scotland are over.

## **Local Electoral Administration (Scotland) Bill: Stage 1**

**The Deputy Presiding Officer (Trish Godman):** The next item of business is a debate on motion S3M-7818, in the name of Jim Mather, on the Local Electoral Administration (Scotland) Bill.

15:35

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** I thank the Local Government and Communities Committee for its work in considering the bill and preparing the stage 1 report. I also thank those who gave evidence to the committee and who contributed to the development of the proposals in the bill.

The Gould report into the 2007 local government and Scottish Parliament elections found that the fragmentation of roles and responsibilities was a critical constraint on the smooth administration of elections. We passed the Scottish Local Government (Elections) Act 2009 to decouple local elections in Scotland from elections to the Scottish Parliament.

Having separated the two sets of elections to remove confusion and to give each its place, we have introduced the Local Electoral Administration (Scotland) Bill with two main objectives. The first is to establish the electoral management board for Scotland and the second is to extend the Electoral Commission's remit.

The bill will establish the electoral management board on a statutory basis to supervise Scottish local government elections. The board's general function will be to co-ordinate the administration of local government elections in Scotland by assisting local authorities and others to carry out their functions and by promoting best practice.

I recognise the arguments in favour of the board having responsibility for Scottish Parliament elections. The United Kingdom Government's Scotland Bill will devolve some powers for the administration of Scottish Parliament elections, but we cannot anticipate that transfer by including Scottish Parliament elections in the board's proposed remit. Therefore, we will extend the board's functions as soon as it is practicable to do so and we are considering how best to do that.

The committee suggested that the board's remit should be extended to cover elections to other bodies, such as health boards and the crofting commission. As members know, such elections tend to cover specific geographical areas or functions. I see no need for such national co-ordination, but the board could continue to offer ad hoc advice. The Scottish Government will keep the

matter under review and will consider extending the board's remit if the need to do so is clear.

The bill establishes the post of convener and provides for the convener, who must be a returning officer, to be appointed by Scottish ministers. The convener will have the power to give returning officers and electoral registration officers directions that will relate primarily to administrative issues. The bill requires the convener to consult board members and the Electoral Commission before giving a direction. That process will help to ensure consensus about the need for any direction.

In the committee's evidence sessions, whether the board's convener should be able to be named in court cases that arise as a result of a direction being given was discussed. We consider that the convener could be the subject of an election petition under existing provision. Section 128(2) of the Representation of the People Act 1983 provides that

"any returning officer of whose conduct the petition complains, may be ... a respondent to the petition."

Given that the convener must be a returning officer, that section would apply. However, for a challenge to be founded, the direction would need to fall within one of the statutory grounds for challenge.

The financial memorandum sets out the costs that are associated with supporting the board. The committee and the interim board support the option of a dedicated secretariat and policy function. In any event, the Scottish Government will provide funding towards the costs of operating the board and will work with it to implement its preferred option.

Discussions have been held with the Scotland Office about support to the board, given that it will have a non-statutory role in European and Westminster Parliament elections. We will continue that dialogue in the coming weeks.

Members will know that the bill requires the board to provide an annual report to Parliament on the conduct of its functions. I stress that the report is to provide information on the board's activities and is not a report in the context of performance management. Subsequently, it will be for the Parliament to decide whether to have a detailed discussion of the report.

I would now like to say something about the Electoral Commission. The commission was established in 2000, post-devolution, but the legislation and resulting functions did not apply to local government elections in Scotland. With that, I come to the second objective of the bill: to extend the Electoral Commission's existing functions to include local government elections. This extension

reflects the spirit of the Gould report, in particular the need to remove fragmentation in responsibilities. It also provides consistent oversight of elections. Some of that activity—for example, public awareness campaigns—has already been done by the commission on an ad hoc basis. The bill formalises that work. During its evidence sessions, the committee heard some concerns about the commission's power to provide advice to candidates in local elections. We believe that the bill as drafted will allow this. However, my officials are in discussions with the commission to look again at the issue. If necessary, we will lodge an amendment at stage 2.

The financial memorandum sets out the likely costs of extending the commission's functions. Based on discussions with the commission, we believe that the total costs will range from between £1.69 million and £2.89 million until 2013-14. The actual annual cost will depend on the level of activity that is required from the commission—obviously, it will be more in election years. The bulk of spending covers information and awareness campaigns, which would be required regardless of legislation to confer powers on the commission. The Scottish Government will reimburse the commission for expenditure on local government elections and will agree a maximum amount in advance.

The bill requires the commission to report to this Parliament, rather than ministers, on the performance of its functions. That is important in reinforcing the commission's independence from Government. Again, it will be for the Parliament to decide whether it wishes to have a detailed discussion on the content of the commission's report.

The bill is a definite and further step towards improving the administration of elections in Scotland. The bill is part of our programme. Working with the electoral community, it will give voters the electoral system that they deserve.

I move,

That the Parliament agrees to the general principles of the Local Electoral Administration (Scotland) Bill.

15:42

**Duncan McNeil (Greenock and Inverclyde (Lab)):** I apologise to you, Presiding Officer, the minister and my colleagues for being slightly late. I had to be present at a meeting with a local colleague who faces a difficult situation, but I accept that there is no excuse for being late.

As convener of the Local Government and Communities Committee, I am pleased to take part in this debate on a bill that is designed to improve and benefit the administration of local government elections in Scotland. I thank all those

who provided written and oral evidence to the committee. I also thank our committee clerks, the Scottish Parliament information centre researchers and, of course, my fellow committee members for all their efforts during our stage 1 scrutiny of the bill.

As we have heard, the bill does two main things: establishes, on a statutory basis, an electoral management board for Scotland to oversee local government elections; and extends the Electoral Commission's remit to cover local government elections in Scotland. We already have an interim electoral management board that operates on a non-statutory basis and there was widespread support for the next step: putting the board on a statutory footing. Of course, the Scottish Parliament already has powers in relation to local government elections, but not in relation to elections to the Scottish Parliament or House of Commons or European elections. Therefore, the provisions in the bill are restricted to local authority elections. As we know, the Scotland Bill makes provision for the Scottish Parliament to have control over its own elections. Therefore, it seems logical that the electoral management board's remit should be extended to include other elections in Scotland, as and when that is appropriate.

When the minister gave evidence to the committee, he confirmed that the Scottish Government is considering the available mechanisms to extend the board's remit once responsibility for Scottish Parliament elections is transferred. We welcome the minister's comments in relation to those elections. We also acknowledge the UK Government's role in bringing forward legislation to give the board a statutory role in relation to other elections. Therefore, we have called on the UK Government to consider further extensions to the board's remit that would allow it to cover elections to the House of Commons, European Parliament elections and referenda. In addition, the wealth of electoral expertise that the board will have could be valuable in the administration of elections to institutions such as health boards and the crofting commission, and we have asked the Scottish Government to consider that.

There was a great degree of consensus on the bill's provisions, but slight disagreement arose in one area. The convener of the electoral board will be a returning officer, will be appointed by Scottish ministers and will, in turn, appoint the other eight members of the board, five of whom must be returning officers or depute returning officers. The Electoral Commission expressed some concern about having depute returning officers on the board as, in its view, they would not be legally accountable for their actions in the same way as returning officers are. However, members of the

interim electoral management board and the minister rejected those concerns, on the basis that depute returning officers provide much-needed practical experience and do their work on behalf of returning officers, who are ultimately accountable to the courts. Having listened to the arguments, we agree with the approach that is taken in the bill—that depute returning officers should be eligible to be full members of the board, especially given the expertise that they will undoubtedly bring to bear.

Under the bill, the convener of the board will be given a power of direction in relation to local government elections. The Electoral Commission expressed some concern that the bill did not provide for any sanctions if a returning officer failed to comply with a direction issued by the convener. Both the former and the current chair of the interim electoral management board envisaged that there would be a great deal of consultation and consensus and that there should not be any surprises. The former chair, Tom Aitchison, took the view that if a situation arose in which one direction was being issued after another, the board would have failed. However, we noted that the power was needed as a backstop against unforeseen eventualities.

Effective planning should reduce the need to issue directions. We also think that compliance with a direction will be dependent on returning officers and electoral administration officers adopting a consensual approach. In our report, we recommend that the Scottish Government monitor the effectiveness of the power of direction going forward.

The board will be required to produce an annual report. We agree with that provision.

Finally, the bill extends the function of the Electoral Commission to cover local government elections in Scotland. Again, that is a logical step, given that those are the only elections in respect of which the commission has no formal remit. As with so much in the bill, there was agreement on that provision, which will benefit electoral administration in Scotland by promoting consistency and good practice. We also welcome the requirement for the commission to lay an annual report before Parliament.

Although some of the bill's provisions needed clarification, there was a high degree of consensus on what the legislation sets out to do. The committee is of the view that the main provisions will improve electoral administration in Scotland. We support the bill's general principles.

15:48

**Michael McMahon (Hamilton North and Bellshill) (Lab):** I am pleased to be able to take

part in this afternoon's debate. I thank the Local Government and Communities Committee and all concerned for bringing us to this point.

Fortunately, this is a debate on a piece of legislation that has broad consensus. There are no major political or ideological differences between the parties on it, so there is nothing for anyone to get heated about. Unfortunately, as there is broad consensus in the debate and there is nothing for anyone to get particularly exercised about, the bill is likely to be placed on the growing list of worthy but dull legislation with which the Parliament has had to deal.

However, the bill is worthy of our consideration and support—for a very important reason. No one can forget the problems that we encountered with the ballot in the 2007 local government and Scottish Parliament elections. Lessons must be learned. We must move on from those events and the scarred memories that most of us carry from the 2007 election counts, and must introduce measures to improve electoral administration in Scotland.

I am particularly pleased that the bill will extend the remit of the Electoral Commission to include local government elections in Scotland and that the commission will now be required to produce an annual report.

I believe that the electoral management board for Scotland—the EMB—will be of great benefit to many people in promoting best practice and providing information, advice and training for local government elections.

Given the faith that those who took part in the consultation and in the consideration of the bill have placed in the future of the board, we have to wonder why it was not set up a long time ago to deal with the complex issues of local government elections. The bill creates the body to fill the gap that was identified in the Gould report, and I welcome the proposal to establish it now.

Like other members, I would like the remit of the board to be extended, as the Electoral Commission has called for, although I recognise that that has to be decided elsewhere. It surely makes sense to have one board covering all elections in the future, which would provide a great deal of stability for us all.

It is important to note, as the Local Government and Communities Committee did, that concerns have been expressed that the bill does not give the EMB powers to sanction those who do not follow a direction. I encourage the committee to look a bit further into that issue, to ensure that opportunities are not missed and that potential pitfalls are addressed.

I am also concerned that if a direction that is issued by the EMB is followed but subsequently leads to court action, a returning officer could be petitioned but the EMB would be exempt. Surely that loophole should be considered further.

I do not wish to add too much of a note of discord to what is otherwise a non-contentious debate, but this point should be made. The Gould report highlighted

“the additional complexity faced in Scotland in 2007 due to the use on the same day of the single transferable vote system for local government elections and the first past the post system and the Additional Member System for Scottish Parliament elections.”

We find ourselves facing the same problem with the election this May, with the potential alternative vote referendum likely to fall on the same day as the Scottish Parliament elections. I hope that Liberal Democrat and Conservative members will speak to their colleagues in the coalition Government in Westminster and remind them how difficult it was in 2007 when we had that problem. I will leave it at that for the moment, but I look forward to hearing the rest of the debate.

15:52

**Alex Johnstone (North East Scotland) (Con):**

I, too, pay tribute to the work that was done by the Local Government and Communities Committee and its clerks in preparing the stage 1 report on the bill. I was not a member of the committee until the very last minute so, although I voted to approve the committee's report, my colleague David McLetchie had the major input, and I look forward to hearing what he has to say later in the debate.

The issues surrounding the bill are largely non-contentious, and all members who have spoken in the debate so far have made that point. However, anyone who was around an electoral count on the night of that first Thursday in May in 2007—or perhaps the Friday morning—saw what happened as we appeared to sleepwalk into a situation in which hundreds of thousands of Scots had their votes discounted. That was a mistake that should have been foreseen, but the institutions did not exist to point out the problem. The bill marks a major step towards ensuring that such institutions do exist in future.

The terms of the Gould report made it clear that changes were necessary. The Scottish Local Government (Elections) Act 2009, which was designed to separate Scottish parliamentary and local government elections once and for all, was a major step. The Local Electoral Administration (Scotland) Bill, which will have the effect of establishing an electoral management board for Scotland, and which will extend the statutory powers of the Electoral Commission to cover local

government elections in Scotland, is the second major step forward in achieving the objective of avoiding the problem that we had before.

I was listening carefully to what the minister was saying, particularly in relation to the future remit of the electoral management board for Scotland. I accept what he said about not going forward or extending it to the whole range of subjects to which it could be applied, yet I welcome the minister's intention to ensure that the board's remit is extended to Scottish Parliament elections. I look forward to hearing what is said during the further passage of the bill on a range of other possibilities.

Much of what has to be said about the bill has been said already, so I do not intend to go into too much detail. However, I am interested in something that Michael McMahon raised, which I was tempted to raise myself but dismissed: the AV issue. I would dispute Michael McMahon's assertion that a referendum on AV on the same day as the Scottish election might be disruptive. I think that asking people to give a simple yes or no will not cause confusion or difficulty, but I am genuinely worried about what might happen in the longer term, when we could end up with an AV election and a Scottish Parliament election on the same day, which would result in our walking into a multiplicity of electoral systems. I am glad that, once it has been passed, the bill will have the effect of giving us bodies that can administer that properly. I am sure that everyone is well aware of the fact that I am opposed to AV, but you never know what might happen, so we should be prepared.

The Conservatives will support the general principles of the bill at stage 1. I believe that it is a major step forward that will complete the process that was necessary to overcome the problems that we experienced back in May 2007. I look forward to working in conjunction with the minister and the other parties to ensure that the bill is complete when it becomes an act later in the year.

15:56

**Jim Tolson (Dunfermline West) (LD):** I join colleagues in congratulating fellow committee members, the clerks and Scottish Parliament information centre colleagues on all the work that they have done to get us to this stage, and I welcome the opportunity to open for the Scottish Liberal Democrats.

As a member of the Local Government and Communities Committee over the past few years, I have taken a great deal of interest in issues relating to local government elections; as someone who has some 15 years' experience as a councillor, I experienced quite a few of them. As we have heard, the bill has a dual purpose: first, it

will establish the electoral management board for Scotland; and secondly, it will extend the remit of the Electoral Commission to include Scottish local government elections.

I am glad that we have cross-party support for some of the key proposals. As Michael McMahon quite rightly said, the bill is not one that will exercise us a great deal as far as our political differences are concerned, but in due course we will want to look, with the minister and others, at some of the detail.

As we are aware, the Electoral Commission invited Mr Ron Gould from Canada, an international expert on electoral administration, to conduct an independent review of the 2007 elections fiasco. His subsequent report made a series of recommendations, which included options for ensuring clear lines of responsibility and accountability in the future. Hopefully, the bill will, as Alex Johnstone said, be a major step towards that.

Prior to the local government elections in 2007, I had the opportunity to attend a trial of the new counting scanning machines. I decided to test the system by removing one of the dummy ballot papers from one of the piles to see whether the system would highlight the anomaly in any way. That caused some unease among the officials of the company that was giving the demonstration but, as they were determined to show how robust their system was, I was equally determined to test it. Despite the fact that the system passed my test, we all know that, on the night, the operation of the equipment and software was nothing short of shambolic.

Next Monday, I and other members of the Local Government and Communities Committee will go to see a demonstration of the new counting machines. I wonder what spanner I can throw in the works this time to provide a more robust test.

One of the Gould report's recommendations was that a chief returning officer for Scotland should be established, but the responses to the consultation in 2008 indicated that there was little support for that role. As a result, the Scottish Government is taking forward the setting-up of an electoral management board for Scotland. I would be interested to know whether the minister feels that local elections in Scotland would be better served by a chief returning officer or an electoral management board, and why he feels that to be the case.

In committee, I had the opportunity to question the minister on the financing of the board, and I was pleased to hear that the Government had had positive discussions with the Scotland Office about its contribution to the board's funding. Working together is, indeed, the way forward, and I wonder

whether the minister can give us an update on discussions with his Westminster colleagues in that regard.

The Liberal Democrats consider that it would be beneficial for the electoral management board to have wider responsibilities for co-ordinating the administration of other elections in Scotland, particularly given the expertise that it will have in the administration of elections.

In summary, the bill is a welcome step in making the arrangements for elections to Scottish local authorities more robust. It does not present a perfect system for any of us, but it is a welcome step nonetheless and, for that reason, the Liberal Democrats will be happy to give it our support at stage 1 at decision time.

16:00

**John Wilson (Central Scotland) (SNP):** Members who have stood in elections will have their own experiences, but the positive and negative aspects of the May 2007 elections to the Scottish Parliament and local government will live for a long time in the memories of those who participated.

I welcome today's debate on the Local Electoral Administration (Scotland) Bill. The bill deals with two specific items: the establishment of a statutory electoral management board for Scotland; and the extension of the Electoral Commission's remit to include local government elections in Scotland.

In its report on the bill, the Local Government and Communities Committee states quite clearly that it

"welcomes the proposal to establish the Electoral Management Board on a statutory basis".

The bill is part of a wider response to the events of the 2007 Scottish Parliament and local government elections. The number of rejected ballots in the 2007 local government elections was significantly higher than the number of rejected ballots in the 2003 and 1999 elections. However, it should be noted that the 2007 local government elections were held under the new single transferable vote ballot.

The Gould report reviewed the general administration of the 2007 elections and made several recommendations. The report is quite clear in advocating the separation of parliamentary and local government elections. The decoupling of those elections was enacted in the Scottish Local Government (Elections) Act 2009.

The holding of a referendum on the alternative vote and the elections to the Scottish Parliament on the same day runs the substantial risk of doing a disservice to the public in Scotland. It is not as if we have not been in this situation before.

Although the Electoral Commission's response to recent developments was not wholly negative, it maintains that

"The Government must support the Commission in putting in place a robust process to ensure ... planning for 5 May 2011".

Furthermore, the commission states that

"Adequate provision must be made for appropriate public awareness"

to support voters' understanding of the voting process.

The same point could have been made four years ago in the run-up to the Scottish Parliament elections. Lessons must be learned from the previous elections, and the Gould report on the 2007 elections states quite clearly that there was cause for serious concern about how the elections were conducted throughout Scotland. The Local Electoral Administration (Scotland) Bill attempts to address the need for change and challenges some of the antiquated election practices that we use. Clearly, the Parliament believes that the decoupling of elections is the way forward.

It is bad enough to hold the alternative vote referendum on the same day as the 2011 election, courtesy of the UK's Parliamentary Voting System and Constituencies Bill—we face the prospect of the coalition Government driving through the referendum as policy. However, as part of the coalition of the willing partnership agreement, the UK Government is also committed to holding the UK elections on the same day as the Scottish Parliament elections are scheduled to take place in 2015.

As I said in the chamber on 9 October 2008, "Scottish Council Elections 2007: Results and Analysis" by Bochel and Denver, which was published by the University of Lincoln in 2007, offers some useful background to provide context for the debate.

I welcome the general principles of the bill. I also put on record my thanks to those who provided oral and written evidence, the committee clerks, SPICe and, in particular, my committee colleagues for examining the issue. I look forward to the day when the Parliament controls all the elections that are held in Scotland.

16:04

**Patricia Ferguson (Glasgow Maryhill) (Lab):** Like my colleagues, I have been to many election counts in my time. I have attended just three as a candidate but many more as a Labour Party activist and full-time official. In my time, I have experienced some close calls, recounts and counts that were delayed because of the problem

of getting all the ballot boxes in from rural communities.

I have also witnessed elections in which the votes were cast on the Thursday, verified on the Friday and not counted until the Sunday. Such delays are unsatisfactory and I sincerely hope that the returning officers will think again about introducing them for the votes cast and decisions made by the electorate in May this year.

I had never experienced a situation like the one that followed the Scottish Parliament and local government elections in 2007. The local government count was always going to begin on the Friday morning, but I do not think that it was ever envisaged that we would still be counting constituency votes at 4 am on Friday in Glasgow and abandoning counts in other areas at 6 am.

As we know, the Gould report was commissioned as a result of the debacle. The debate that we are having today is a direct result of Ron Gould's inquiry, and it picks up on some of his recommendations. The minister alluded to previous legislation on the issue that was passed by the Parliament.

The bill that we are considering at stage 1 today provides for the establishment of an electoral management board for Scotland to oversee and co-ordinate local government elections in Scotland, and it extends the remit of the Electoral Commission to include local government elections in Scotland.

As we have heard, the discussions in the Local Government and Communities Committee were largely consensual, and we agreed that the establishment of the electoral management board is a positive step. However, we were also of the view that the United Kingdom Government should consider the possibility that the board should also have oversight of the elections to the House of Commons and the European Parliament and of referenda. We welcomed the comments of the Secretary of State for Scotland and the Minister for Parliamentary Business, who were both positive about the board's involvement in elections to the Scottish Parliament. As others have said, the committee was also of the view that the board might play a part in elections to, for example, thecrofting commission.

Imbuing any body with a power of direction is often controversial, but I think that in this case it is both warranted and useful as it will allow the board to ensure consistency across Scotland and help it to deal with unforeseen events. However, I genuinely hope that, more often than not, a consensual approach will be adopted in the relationship between the board and individual returning officers.

The Local Government and Communities Committee welcomed the minister's commitment to consider whether there should be a way of petitioning the board or its convener when a grievance arises as a result of a direction issued by the convener. I heard the minister address the issue today, and I am sure that the committee will happily listen to and think seriously about the points that he made.

Given the level of responsibility that the board will have and its role in our democracy, I believe that it is important that it produces an annual report that is laid before Parliament, and I am pleased that such a provision is included in the bill. Expanding the remit of the Electoral Commission will help to promote good practice and—just as important—consistency across Scotland.

The debate has been consensual, and I look forward to the stage 2 discussions on the bill. I am sure that the dialogue with the minister will continue to be consensual and that all the efforts to improve the administration of elections will be positive. That can only be a good thing for everyone.

16:08

**Bob Doris (Glasgow) (SNP):** Like other members, I start by thanking the clerks, SPICe, fellow committee members and all those who gave evidence, written and oral, to the committee for their assistance in helping us to reach the stage 1 proceedings today.

For many people listening—if there are many people listening, that is—this is a rather dry and dusty debate, but that does not make it unimportant. It is vital. Michael McMahon and Patricia Ferguson rightly pointed to the 2007 elections debacle as the reason why action is needed. I do not think that anyone should forget Professor Ron Gould's comments that in the whole process the voter was "an afterthought". I will come back to that point.

We should remind ourselves of the problem areas: combined elections, spoiled papers, electronic vote counting and the single ballot paper design. The problems went on and on, but at their heart was fragmentation—in the planning, the powers involved, the responsibilities and the accountability. Who was to blame? Where did power lie? Where did the buck stop?

Since then, action taken by the Scottish Government—in a consensual way with parties across the Parliament—has dealt with some of those problems. The Parliament supported the decoupling of Scottish Parliament and local authority elections, which is to be welcomed.

When we look back on today's debate, we will see it as the point at which we started to deal with the fragmentation in the system. Whether or not that is seen as the motivation today, the bill is about dealing with fragmentation. Putting the interim electoral management board on a statutory footing is vital in the process. Also vital is the independence of the board from Government. It will not be accountable to ministers, although its annual reports will be scrutinised. The minister said that the annual report will relate to the board's activities and not its competence. I would like more information about that. How will we drill down to scrutinise the effectiveness of the board, and what will the parliamentary procedure for that be?

Nevertheless, I welcome the bill and think that it brings a coherent structure to the expertise in running Scotland's elections that clearly exists throughout the country in the returning officers, the deputy returning officers and the various council officials who have generations of experience of running good elections. None of us should forget about that. The bill will allow information sharing and the sharing of best practice right across our nation and will provide a powerful framework for all elections—not, I hope, just council elections.

I will finish on the broad, cross-party consensus that we have achieved today. The Secretary of State for Scotland has intimated that the Government is poised to give the administration of Scottish elections to the Scottish Parliament, and the minister has said that he would speedily change the provisions in the bill to ensure that that was within the competence of the electoral management board. However, I would go further than that. We need full legislative competence over Scottish elections, and administrative competence in relation to UK elections. Of course, I would rather have the great efficiency saving of eradicating UK elections altogether—of not having any.

I mentioned the idea of fragmentation because, as far as the bill goes, the buck still does not stop in the one place. We must ensure that we have one Government, one minister and one management board with direct responsibility for all Scotland's elections. That is the only way in which we will get direct accountability and drive up standards in the process.

In terms of a respect agenda, it is an absolute farce that the Scottish Government—never mind Scottish voters—was not consulted on whether an AV referendum should be held on the same date as Scotland's elections. We should never forget the main reason for the problems with the AV referendum: in UK law, the chief counting officer for the UK determines certain things at 1 pm on the Friday, and certain other things must be done

with the AV referendum at 4 pm. That shows complete disrespect to the Scottish Parliament, to Scotland and to democracy.

However, we cannot deal with the AV referendum just now. The bill deals with what we can process and I welcome its principles at stage 1.

16:13

**Jim Tolson:** As many of us expected, this has been an interesting, if short and consensual, debate. Some of the key points, especially concerning the electoral management board, have been highlighted by a number of colleagues, including the minister, Duncan McNeil and others. A key function of the bill is to ensure that the system will be much more robust than it is at the moment. Having returning officers' experience as part of that is welcome, but we are not convinced by the decision that returning officers be appointed by ministers. I challenge the minister, in his summing up, to justify that decision.

The extension of the Electoral Commission's remit has also been mentioned as a key area. John Wilson, Bob Doris and others referred to some of the issues in that regard. Even Alex Johnstone suggested that we sleepwalked into the situation that arose in 2007, when the results came out. Like him and many other members, I felt the dragging on of those long hours—my colleague Patricia Ferguson alluded to that. Although this did not happen during my count, many colleagues had to come back the following day, in the middle of the afternoon, to get the results. For many of us, the 2007 election was a fiasco. For example, I did not get the result for Dunfermline West until 4 o'clock in the morning. It was a long night for everybody concerned. Many colleagues around the country faced similar situations. That is why, in looking at the details of what we want to take forward, we ask the minister to look in detail at what is imposed in the bill, what is necessary and, to some extent, what is not necessary further down the line.

There has to be more robust testing. That testing must not be just someone potentially throwing a small spanner in the works during a visit on Monday; it must ensure that the minister and the Government are absolutely satisfied that the electoral positions that this bill will put us in have been robustly tested in detailed, practical ways, including through discussions with the electoral management board and whoever leads it, once it is set up.

I hope that the chamber will join me in ensuring that we put as much pressure as possible on the Government to take forward the key recommendations in the committee's report.



The bill is designed to improve local government elections. I have some sympathy with colleagues, such as John Wilson, who wish the provisions to be extended to cover European or, perhaps, United Kingdom elections.

We have lessons to learn from the 2007 elections. We might not have got it right last time, but I urge the minister and the Government to ensure that we get it right next time.

Despite the fact that there will be a manual count for this year's Scottish Parliament elections, there will be an automatic count for next year's local government elections—rightly so, given the complexities of the voting system for those elections. We have to ensure that, this year, the current Government and the new Government that comes in, whatever shape it might have, do all that they can do robustly to check what is needed for those elections to ensure that they proceed correctly.

We commend the bill at stage 1.

16:16

**David McLetchie (Edinburgh Pentlands) (Con):** As a former member of the Local Government and Communities Committee, I had the pleasure of participating in the evidence-taking sessions on the bill, but not in the compilation of the stage 1 report. That task fell to my colleague, Alex Johnstone. However, I should say that I agree with the conclusions and recommendations that were reached by my former colleagues on the committee.

As a number of members—Michael McMahon, John Wilson and Patricia Ferguson—have narrated, the unhappy genesis of the bill was in the problems that arose with the conduct of the 2007 elections to this Parliament and to Scottish councils, which led to the Gould report and its detailed recommendations about how we might improve the administration of elections in Scotland.

As the minister said, the bill takes the Gould report forward in relation to local government elections in Scotland. Of course, not all Mr Gould's recommendations in that respect have been implemented. For example, his recommendation to establish the post of a chief returning officer for Scotland has not been adopted and instead the bill proposes to establish an electoral management board. At this stage, its remit will cover only the administration of local elections but I welcome the fact that the Scotland Bill, which I am now considering in a parliamentary committee, will transfer administrative responsibility for the conduct of elections to this Parliament to the Scottish Government, and that the new electoral

management board can thereafter exercise that responsibility, if so directed by Scottish ministers.

However, that transfer of administrative responsibility for the conduct of elections should bring with it a budget line for the financing of elections. I was struck by the evidence from the City of Edinburgh Council to the effect that councils are short-changed in relation to reimbursement of the costs of holding the Scottish Parliament elections. We expect a lot of our councils, in terms of the conduct of elections, and they and returning officers take a lot of flak and criticism from politicians and the public at what we all know is a stressful time. The least that we can do in return is to ensure that our councils are fully reimbursed for their costs in that respect.

I believe that the problem in 2007 arose not from the coincidence of elections but from the design of the Scottish Parliament ballot paper and the adoption of a new STV system for electing councillors, which, as we know, produced treble the number of spoilt votes in the council elections—a failure rate that would have been considerably higher if single Xs had not been counted as 1s, which demonstrated that many more voters did not clearly understand the new system.

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Does the member accept that there were in fact far more spoiled papers among the single X ballot papers?

**David McLetchie:** No, there is no evidence to that effect at all.

**Mike Rumbles:** Oh!

**David McLetchie:** The evidence is that the number of spoiled votes was treble what it had been before. If Mike Rumbles wants to consult the committee's report, he will find that evidence. Facts are chieftains: even Mr Rumbles cannot deny facts, despite his best efforts to do so.

It has been suggested, as some members have mentioned, that similar confusion may arise from the holding of the alternative vote referendum on the same day as our elections on 5 May this year. However, I do not think that that will be case. Putting a single X on a single ballot paper in council elections at the same time as Scottish Parliament elections in 1999 and 2003 did not cause any significant problems, so it is not obvious why putting a single X on a referendum ballot paper should cause problems.

Disappointment has recently been expressed about the possibility of delays in conducting the count for the coming election. There is no doubt that once administration for our elections is transferred to the new board, there will be even greater political pressures on returning officers to

stick with overnight counts for elections to the Parliament and to councils. That should be a matter for discussion by the political parties with returning officers and the electoral management board, rather than one for ministerial direction.

At the end of the day, those who are given the important role of conducting elections, whose independence and impartiality guarantee the integrity of our democratic system, must be free to make independent judgments as to the appropriate timetable, although I hope that we will be able to continue with our tradition.

16:21

**Michael McMahon:** It is standard practice in debates such as this to thank all those who took part in the discussion of the bill at the start of the debate, when one begins to consider the analysis of the bill and the consultation that took place. I decided to leave that bit until my closing speech on behalf of the Labour Party, in case there was nothing else left for me to say.

I therefore thank the clerks and the members of the Finance Committee and the Local Government and Communities Committee, who have contributed a great deal to the consideration of the bill. As I said at the beginning of the debate, it is a worthwhile piece of legislation that, in hindsight, should have been in place a long time ago.

Having listened to the debate, I remain of the view that there is a valuable debate to be had around the extension of the electoral management board's remit to cover all elections in future. However, I am pleased that, through the bill, local government elections will for the first time be managed in an appropriate way.

As we have heard, all political parties recognise the need for the bill and agree with most aspects of it. However, I hope that the proposed greater powers for the EMB, which would enable it to order sanctions against those who do not follow directions, will be re-examined; I would be interested to see how that debate continues to move forward.

It is important that we listen to the views of the EMB and support its requests if and when we can, as Patricia Ferguson mentioned. I understand that the committee is of the view that effective planning will result in fewer directions being given, and I hope that that is the case.

I believe that greater and more effective management of local elections will provide for the smoother running of elections. That will ultimately benefit all political parties and, it is hoped, lead to greater turnout at those elections, which would be welcomed across the political spectrum.

I heard David McLetchie and Alex Johnstone valiantly trying to defend their party's decision to go ahead with an AV referendum, even though they probably do not believe in what it is about in the first place. Mr Johnstone gave us the opportunity to ponder that.

John Wilson, Patricia Ferguson and Bob Doris made very strong arguments. I was reminded of the time when I was on the Local Government and Communities Committee during its consideration of the changes to the electoral system for local government elections. I was quite struck by the fact that when we looked at America, we saw that they were able to hold elections to elect the local dog warden, the local sheriff and the President on the same day without much difficulty. Having seen the evidence from Northern Ireland, where European elections, Westminster elections and local elections were all held on the same day with different voting systems, I felt confident that the people of Scotland would be able to manage two elections on the same day with different systems.

However, as Bob Doris pointed out, something went badly wrong. The problem was due not necessarily to the voting systems, but to the fact that the electorate was not put at the centre of the considerations for the arrangements on the day. That is the fundamental problem that we have to address.

The bill is not contentious. Other non-contentious bills have failed in the Parliament because their financial memorandums have not been robust enough, but on this occasion we cannot even look to that issue for a dispute that will divide us, because the committee has made it clear that it considers the information on the resource implications of the bill to be robust. It is useful to know that, and we can take confidence from it.

In outlining all the issues on behalf of the committee, Duncan McNeil made it clear that there are some caveats in the committee's report and that it will look at those issues further. That is reassuring. Any matters that are outstanding after stage 2 can be looked at again at a later stage. I look forward to the stage 3 debate, even though what we say then might reflect very much what we have already heard this afternoon.

16:25

**Jim Mather:** At this late stage in the session of Parliament, and at a time when there is disagreement about a number of electoral issues across the UK, I am pleased to note that today's debate on the Local Electoral Administration (Scotland) Bill has been based on consensus. That is significant when we consider the significant

expertise that is present in the chamber and which has been engaged through the committee.

We all know that, since the events of May 2007 and the subsequent analysis and recommendations of Ron Gould, there has been widespread agreement among those who are involved in managing and administering elections in Scotland about the need for improvement. There has been agreement about the action to be taken to secure that improvement, and there has also been agreement that the bill forms part of that action. The Local Government and Communities Committee's stage 1 report states that the Government has consulted on the bill and that we have been responsive to the views of the key stakeholders, and I believe that that will continue.

**Mike Rumbles:** Does the minister agree that, when we are debating this issue, it is important to get the facts correct and that David McLetchie was quite wrong in what he said? The fact of the matter is that there were more problems with the Scottish Parliament ballot paper than with the local government one.

**Jim Mather:** I feel as though I am being asked to adjudicate in "Just a Minute" fashion, so I am going to move on.

It is clear that there is consensus on the work that is in progress. For the record, the committee has welcomed the proposal to establish the electoral management board on a statutory basis and considers that to be a positive step in improving the administration of local government elections in Scotland. The committee has also welcomed the extension of the Electoral Commission's remit and considers that that will benefit electoral administration in Scotland by promoting consistency and good practice.

However, there are issues that we have to address. I note the points that Patricia Ferguson made about the need for us to be consensual and also to continue to consult and focus on the residual issues so that they are dealt with at stages 2 and 3. An important issue that registered with me today is extending the board's remit, which was called for by several members, including Alex Johnstone, Patricia Ferguson and notably Duncan McNeil. I take on board the concerns that have been expressed about what has come from the Electoral Commission and how that has been handled to date. Officials and the *Official Report* will capture the points that have been made and those points will feed in rather well to what happens at stage 2 and beyond.

Some specific issues have been mentioned that require a response here and now. In particular, Jim Tolson mentioned the testing of the equipment. I will be there on Monday and we will see how that goes but, in essence, once the trials

are over, we will still have a year in which to work with the contractor and the local authorities before the next local government elections. Having a deliberately lengthy period of testing and going down among the people who are developing the equipment is the right approach, as that will give us a basis to avoid the problems that were encountered in 2007.

Mr Tolson also made a point about the idea of having a chief returning officer rather than a board. Although it is time to move on, and although there is wisdom in teams, in wider experience and in joint and several responsibility, we also consulted on the chief returning officer proposal. There was just no support for that. There was a preference instead for the strengthened board proposition. As for Mr Tolson's point about the ministerial appointment, the convener of the board will continue to be a returning officer. By definition, that means that the applicants will be 32 of, and the Electoral Commission will be represented in the appointment via an advisory panel. That will be done in the most open way.

David McLetchie made an interesting point regarding administrative transfer and the need for a subsequent budgetary transfer. A respectful dialogue is under way on that matter, as he would no doubt accept.

Equally, Bob Doris made the important point that the voter should be an afterthought no more in this respect. We need to move on to a much stronger basis to give us what we require.

We can look forward to a very workmanlike process through stages 2 and 3, where we will be looking at issues such as sanctions and closer Scottish Government monitoring of the power of direction. We can bring those things out more fully.

The point about the need for sanctions as a backstop to cover unforeseen eventualities and Michael McMahon's practical point about ensuring that directions are followed both tie in well. We now have a basis on which to move forward and ensure that we have a bill of which we can be proud.

## Business Motions

16:31

**The Deputy Presiding Officer (Alasdair Morgan):** The next item of business is consideration of business motion S3M-7847, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a business programme.

*Motion moved,*

That the Parliament agrees the following programme of business—

Wednesday 9 February 2011

2.30 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Stage 3 Proceedings: Budget (Scotland) (No.5) Bill

*followed by* Business Motion

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 10 February 2011

9.00 am Parliamentary Bureau Motions

*followed by* SPCB Motion: Reappointment of the Scottish Public Services Ombudsman

*followed by* SPCB Motion: Reappointment of the Scottish Parliamentary Standards Commissioner

*followed by* SPCB Motion: Reappointment of Scotland's Commissioner for Children and Young People

*followed by* Scottish Conservative and Unionist Party Business

11.40 am General Question Time

12.00 pm First Minister's Question Time

2.15 pm Themed Question Time  
Health and Wellbeing

2.55 pm Stage 1 Debate: Public Records (Scotland) Bill

*followed by* Scottish Government Debate: Local Government Finance (Scotland) Order 2011

*followed by* SPCB Motion: Technical Changes to the Scottish Parliamentary Pensions Act 2009

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Wednesday 23 February 2011

2.00 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

2.05 pm SPCB Question Time

2.20 pm Scottish Government Business

*followed by* Business Motion

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 24 February 2011

9.15 am Parliamentary Bureau Motions

*followed by* Scottish Government Business

11.40 am General Question Time

12.00 pm First Minister's Question Time

2.15 pm Themed Question Time  
Justice and Law Officers;  
Rural Affairs and the Environment

*followed by* Stage 3 Proceedings: Patient Rights (Scotland) Bill

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business—[Bruce Crawford.]

*Motion agreed to.*

**The Deputy Presiding Officer:** The next item of business is consideration of four business motions. I invite Bruce Crawford, on behalf of the Parliamentary Bureau, to move motions S3M-7848 and S3M-7850 to S3M-7852 inclusive, setting out stage 2 timetables for bills.

*Motions moved,*

That the Parliament agrees that consideration of the Private Rented Housing (Scotland) Bill at Stage 2 be completed by 25 February 2011.

That the Parliament agrees that consideration of the Damages (Scotland) Bill at Stage 2 be completed by 4 February 2011.

That the Parliament agrees that consideration of the Domestic Abuse (Scotland) Bill at Stage 2 be completed by 11 February 2011.

That the Parliament agrees that consideration of the Reservoirs (Scotland) Bill at Stage 2 be completed by 25 February 2011.—[Bruce Crawford.]

*Motions agreed to.*

## Non-Domestic Rates (Levying) (Scotland) (No 3) Regulations 2010

**The Deputy Presiding Officer (Alasdair Morgan):** The next item of business is a debate on Parliamentary Bureau motion S3M-7841, in the name of Mike Rumbles, on the Non-Domestic Rates (Levying) (Scotland) (No 3) Regulations 2010.

*Motion moved,*

That the Parliament agrees that nothing further be done under the Non-Domestic Rates (Levying) (Scotland) (No.3) Regulations 2010 (SSI 2010/441).—[*Mike Rumbles.*]

**The Deputy Presiding Officer:** Before I call members to speak, I point out that time is limited, so we had better stick to the speaking time limits. I call Jeremy Purvis, who has seven minutes.

16:33

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** This is the third time that we have brought to Parliament concerns about the rates that businesses in Scotland pay. In advance of today, we have consistently raised concerns about the lack of transitional relief for businesses that saw a massive increase in their rates bills as a result of the revaluation last year. Some hotels and by no means large businesses in my constituency and throughout Scotland saw increases in their bills of up to 200 per cent and received no transitional relief, but their English counterparts did. In some instances, that has led to businesses that have had difficulty over the past year not recruiting and not investing in their businesses. It has also led to nearly 80 per cent of all businesses that pay rates appealing their rates bills, which is unprecedented. That is the context in which we bring this debate.

On previous occasions, we were unable to secure Conservative party support for our campaign for fairness for those businesses, but I am hopeful that today the Conservatives and Labour will back our moves to strike down an arbitrary tax on one particular sector in the Scottish economy—a sector that is vital to the economy, as Jim Mather indicated today in his press release on behalf of the Government.

The tax on jobs was not consulted on, nor was it considered as part of a wider policy objective. It was arbitrary and it became apparent very fast that, although it was spun that it would impact only on out-of-town centres, it would hit Princes Street, Union Street and Sauchiehall Street—streets in cities across Scotland. The Scottish National Party changed tack quite quickly to take an anti-supermarket stance in particular.

When it comes to criticising others, it is hard to beat SNP member after SNP member laying into what they considered to be their newly established enemy—the large retailers in Scotland—in last week's budget debate. The largest of those retailers is, of course, Tesco. We were told that Tesco is so huge, its turnover is so colossal and its profits are so large that it should pay more in Scotland. Joe FitzPatrick said:

“That needs to be considered in the context of the £3.4 billion pre-tax profits declared by the company last year; it does not seem unreasonable that Tesco should contribute a little bit more.”—[*Official Report*, 26 January 2011; c 32602.]

Why cut the business rates that Tesco Bank pays and increase the rates that Tesco stores pay? Why tax the Tesco in Galashiels more but cut the tax that Tesco Metro stores in Edinburgh pay? How does that help small retailers and how does it mean that Tesco will pay more?

If the shoulders of such companies are so broad, I am surprised by how much the SNP has given Tesco in regional selective assistance grants in the past three years. In October 2010, it was given £1.7 million for Tesco Bank.

**Members:** Jobs.

**Jeremy Purvis:** I hear SNP members shouting “Jobs, jobs.” I will come back to jobs in a moment. Perhaps those members are referring to the 8,000 jobs that the Scottish Retail Consortium has said could be under threat from the measure.

Alex Salmond opened the headquarters of Tesco Bank—I am talking about a company with profits of £3.4 billion—and it received a £5 million RSA grant. I could also mention Asda or Sainsbury's, which Linda Fabiani mentioned last week. I am curious as to why the SNP's policy is to cut the corporation tax that all those companies would pay. Why reduce that tax from 28 per cent to 20 per cent for companies with the broadest shoulders? The SNP has said that those companies have the broadest shoulders.

SNP members said that the large retail levy would rebalance employment between large and small businesses, but John Swinney said in the Local Government and Communities Committee meeting last week that it would not. He said that it would make no impact on investment choices, but SNP MSPs said that it would. Who is right? SNP members said that the levy would stem the growth of supermarkets, but John Swinney said that it would not; he said that there would be continued growth. Who is right? SNP members said that it would fund the council tax freeze and social workers. Alex Salmond said that it would fund 1,000 nurses, the small business bonus scheme and town centre measures, but John Swinney

clearly said that it could not and would not. Is he right, or is the SNP website right? Both cannot be.

Let me say this about large-scale developments to all the SNP MSPs who have said that the large retailers should pay more:

"It could be argued that these will be significant developments which can contribute to economic growth and there may be a case for not imposing a financial burden on these developments, particularly at a time of economic downturn."

Those are not my words; they were in the SNP Government's consultation on planning fees, which John Swinney introduced in July 2010. When the SNP came to office, the maximum planning fee for the largest-scale commercial developments in Scotland, including large retail and out-of-town developments, was £14,500. In England, the maximum fee was £50,000. That increased to £250,000 in England in 2008 to reflect the costs borne by councils in dealing with planning approvals for the largest developments. The SNP Government made no changes, other than to increase by 10 per cent the fee maximum for the companies with the broadest shoulders.

That means that, in Scotland, the maximum fee for the largest-scale development—the type of development that the SNP Government is now saying puts town centres at risk—is now £15,950. In England, it is £250,000. Even now, the SNP Government believes that the fees should not be increased to be near the English levels. If those companies have the broadest of broad shoulders, why can they be charged up to £250,000 by English councils for very large planning applications, but the maximum that has been set by the SNP in Scotland is £15,950? I thought that those businesses had the broadest shoulders. Can they not spare the pennies, as Linda Fabiani might put it? Of course they cannot, because, as John Swinney might put it, that might affect the financial burden for those developments. That is simply a further inconsistency that is born of a lack of discussion and the arrogance of a Government that has not listened to concerns since it announced in November that it would introduce the measure.

That is not the last inconsistency, because we know from a recent e-mail from the First Minister that the SNP is considering reducing the poundage by 10 per cent compared to that in England and Wales. The very companies that the SNP wishes to tax would get a tax cut as a result. How would that £200 million black hole be filled?

The Parliament should make no further movement on the proposal because it would be an arbitrary tax on growth and would set back Scottish businesses. It should go no further in the Parliament.

I move,

That the Parliament agrees that nothing further be done under the Non-Domestic Rates (Levying) (Scotland) (No.3) Regulations 2010 (SSI 2010/441).

16:40

**Gavin Brown (Lothians) (Con):** The Scottish Government's proposals are nothing more than an ill-judged raid on retail at a time when it least needs it. At the beginning of the process, back at the end of November, I was at a loss to understand why retail had been selected and picked out for special treatment by the Scottish Government. I therefore submitted this question to the Government in December:

"To ask the Scottish Executive for what reasons it has chosen the retail sector for its proposed increase in business rates."

That was lodged as a written question on 23 December. I got a response on 31 January from Mr Swinney, which goes as follows:

"I shall reply to the member as soon as possible."

That is the reason why retail was selected for this tax by the Scottish Government.

We know that poor Mr Mather, who has been dragooned into sitting down at the front of the chamber next to Mr Swinney, thinks that the idea is a dog with fleas and that he does not believe in it whatever. He was desperate to sit at the back.

The SNP's arguments have been riddled with holes. First, the impression was given that the tax would apply only to out-of-town retail parks and the largest of supermarkets, but that turned out not to be correct. It is a tax on any retail premises above a certain threshold and would hit some of our town centres badly. As a member for the Lothians, I have a particular concern for Princes Street, where at least a dozen flagship stores would be hit by the tax.

On 23 December, I asked how many of the stores that would be hit would be out of town and how many would be in town, and I got the same response on 31 January:

"I shall reply to the member as soon as possible."

The Government clearly did not know how many would be in town and how many would be out of town.

**Margo MacDonald (Lothians) (Ind):** As another Lothians member, I am intrigued as to how much it is estimated the 12 stores in Princes Street will lose. Does the member have those figures to hand?

**Gavin Brown:** From the most accurate figures that I have seen, which involved adding up the stores that we knew about—in which we were

assisted by the Edinburgh Chamber of Commerce—it appeared that just those 12 stores in Princes Street would pay more than £1 million.

**Margo MacDonald:** Each?

**Gavin Brown:** That is the total for Princes Street. It might be slightly more or less, but that is the ballpark figure. That is additional taxation, on top of the rates that those stores already pay, to the tune of more than £1 million.

The tax would create a competitive disadvantage for Scottish retailers compared to the rest of the UK. The SNP narrative used to be that it wanted to make Scotland more competitive. It argued that, if only it had more powers, it would do everything that it could to make Scotland more competitive than the rest of the UK. Well, its credibility on that narrative is shot to pieces by the proposed measure. One supermarket said, candidly:

“We will continue with our immediate plans in the usual way, but will review all future projects to which we are not yet committed”.

I wonder how many other retailers take exactly the same view.

One of the bigger criticisms from the business community is that there was no dialogue whatever in advance of the measure. Even though business groups were meeting with the Scottish Government days before the announcement, there was no mention of the issue to any of them. If Mr Mather wants to contradict that, I am happy to take an intervention from him at any point to tell me when the issue was raised with the business community in advance of the announcement.

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** To what extent does the UK Government consult on rises in VAT and other changes that it makes?

**Gavin Brown:** I took that intervention for a specific reason and the minister was unable to tell us what dialogue took place. There was nothing—not even a bit of brainstorming or a mind map. That sends out a confusing signal to the business community and investors. It shows that the Scottish Government is unpredictable and content to single out one sector for a clumsy raid.

To add pain, we did not even have a business and regulatory impact assessment. Despite there being a £30 million hit on the sector, there was no assessment at all. We have heard concerns that thousands of jobs would be lost under the measure. It could be more than has been predicted.

**Gil Paterson (West of Scotland) (SNP):** Nonsense.

**Gavin Brown:** We hear the loyal SNP back benchers, but the point is that, because the Government could not be bothered to do a business and regulatory impact assessment, we do not know the accurate figures.

The Government said that it was not proportionate to do a business and regulatory impact assessment and that a £30 million tax on one sector did not merit one. That is interesting, because it is worth looking at when it is proportionate to do a BRIA and what regulations merit one.

Sitting at the front of the Scottish Parliament information centre last week were the National Health Service (Pharmaceutical Services) (Scotland) Amendment Regulations 2011. Those regulations have minimal impact on business but were deemed worthy of a full BRIA. However, it was deemed not proportionate to have an impact assessment for something that would cost the business community £30 million.

If that is the case, what is the point in having any regulatory impact assessment? Mr Swinney set up the regulatory review group in the first place. It has done sterling work. Why on earth were the regulations not subject to a business and regulatory impact assessment?

The regulations deserve to fail because they fail the SNP's own test: they will not ensure

“that Scotland is the most attractive place for doing business in Europe”.

They hit town centres, penalise investment and job creation and put Scotland at a competitive disadvantage. For all those reasons, they deserve to fail.

16:47

**Andy Kerr (East Kilbride) (Lab):** In last week's debate on the budget, I said that rising unemployment was the signal failure of nearly four years of SNP Government. When John Swinney delivered his first budget, Scotland had the lowest rate of unemployment; now it has the highest.

It is worth reflecting on the fact that, in only the past few days, we have heard that the closure of coastguard stations on the Clyde and the Forth could lead to 250 job losses. Staff at James Watt College in Greenock have been told that up to 75 full-time teaching posts could go, as well as 24 support workers. The Scottish Refugee Council has announced that 44 of its 59 staff could lose their jobs. Nearly 70 jobs are under threat at Robert Wiseman Dairies. The list goes on.

Nearly 225,000 people in Scotland are unemployed. Families are struggling to cope on benefits and wondering how they will make ends meet. That is why the budget should have been

about jobs, jobs and jobs. However, the proposed tax is anti-jobs—8,000 jobs.

The debate epitomises the conduct of the SNP Government. As ever, it starts with the traditional broken manifesto promise. The SNP manifesto said that the party would

“deliver a more competitive tax environment for Scottish business.”

SNP ministers even told us:

“the poundage in Scotland will not rise above the equivalent English rate”.

Like the first-time home buyers who are still waiting for their grants, the students who are waiting for their debt to be cancelled and the children who are waiting for their class sizes to fall, the business community now understands the lesson that the SNP cannot be trusted.

The broken promise is compounded by the shoddy treatment of our business community, to which other members have referred. Again, many of us should not be surprised by those actions. Whether in the shambles of revaluation and the lack of transitional relief, the cancellation of the Glasgow airport rail link or any other measure that the Government has taken, the SNP's disregard for the economy and jobs is clear to see.

In proposing the levy, the Scottish Government is also guilty of misleading Scottish business. The tax has been and continues to be called an out-of-town tax—the First Minister was at it just last week. It is not an out-of-town tax, as members have said: it will tax businesses in many vulnerable high streets and town centres in our country, as the business community on Glasgow's style mile and Edinburgh's Princes Street has made clear. In my constituency, East Kilbride, which is heavily reliant on retail, jobs will be put at risk. The supermarket tax is an example of town centre regeneration in reverse.

**Stuart McMillan (West of Scotland) (SNP):** The member mentioned Princes Street. Has he seen Princes Street in Port Glasgow, which has been decimated by the huge Tesco at the bottom of the street?

**Andy Kerr:** I am not sure about that part of the country, but I know that the new Sainsbury's in Strathaven has enhanced the retail offer and the shops are surviving and doing well. Is the member suggesting that we use a tax measure to change completely the planning structure and our approach to business in Scotland? The argument does not stack up.

The Government's proposal came completely out of the blue. The Government did not have the courage to discuss the measure with the business community or to carry out the impact assessment that was required if the Parliament and business

were to understand the proposal. The Government should and will pay the price of its incompetence. It has dug a £30 million black hole in its budget and it is responsible for filling it. If we are to believe leaked memos from the First Minister's office, the Government is digging further and creating a £200 million black hole in our budget.

The proposal shows complete ignorance of an important sector of Scottish business. One employee in nine works in the retail sector, which accounts for a quarter of the business rates that are paid in Scotland. The retail sector is a property-intensive and property-dependent business, which is creating jobs in Scotland, despite the Government's best efforts.

The retail sector will drive our economy forward and create thousands of new jobs, but it will not do so under the conditions that are being set by the Government. The levy, as set, is too high and will affect retailers' decisions on whether to open new stores or to expand floor space in or refurbish existing stores. That will create difficulties for job creation opportunities in Scotland.

The Government's ignorance of business is plain to see. It talks about mass profits but fails to understand the industry's profit margins and how they operate. Perhaps Mr Mather can tell us which business school would advocate the measures that the Government is proposing. Stores operate on high turnover and low margins. Individual stores are separate cost centres within the business, and investment decisions are taken at global, European and UK levels.

If the SNP thinks that sending such a signal will not inhibit investment in Scotland, it is plainly wrong. Our businesses in Scotland will suffer. Decisions on opening, expanding and refurbishing stores will be affected by the proposal. The average number of jobs that a large supermarket creates is more than 600. In East Kilbride, applications are outstanding and we stand to lose thousands of job opportunities as a result of the proposal.

SNP members should look in the mirror and ask themselves some questions. Does the measure address the primary purpose of the so-called Government? Will it build our economy? Will it create jobs in Scotland? The answer to all those questions is a resounding no.

**Joe FitzPatrick (Dundee West) (SNP) rose—**

**Andy Kerr:** Labour is not in a position to support this unacceptable policy, which was created by an SNP Government in crisis. As we have seen from leaked documents from the First Minister's office, people were given 24 hours to come up with business ideas, because the SNP has an election to fight. The Government is running out of energy and ideas and it shows little



or no understanding of the interests of Scottish business or Scottish workers.

I quote John Hannett, the general secretary of the Union of Shop, Distributive and Allied Workers. I agree with every word he said—[*Interruption.*]

**The Deputy Presiding Officer:** Order.

**Andy Kerr:** John Hannett is the leader of the workers on whom the SNP's tax will have the greatest impact. He said:

"The proposed levy is at such a high rate that it is likely to impact retailers' decisions on whether to open new stores or expand existing ones, both of which could mean Scotland losing out on major job creation and regeneration opportunities."

This is one fine mess, which has been created by the SNP Government, not by Labour or any of the other parties in the Parliament. Labour members will vote against the tax. We will vote in favour of our economy and in favour of jobs and opportunities for our young people. We need investment and we need it desperately. John Swinney's message to retailers and business is, "We don't want you here." That is not our message.

16:55

**Patrick Harvie (Glasgow) (Green):** Greens can support two policy objectives that might be addressed in small part: revenue raising to offset the worst of the Tory cuts in Scotland, of which I have spoken before; and the need to rebalance the retail sector away from a situation in which four massive companies dominate the food chain. The proposed measure might be a baby step towards each of those objectives, but baby steps should be encouraged instead of knocked back. Could we do better than the proposal? Yes, probably. However, none of the three political parties that oppose the measure has offered a solution.

I have a concern about transparency and accountability. We have just heard speeches from members of the three political parties that oppose the measure, which will have a direct financial bearing on large retailers. Each of those three political parties has benefited from the largesse of those same large retailers. Since 2003, the Labour Party has received more than £10 million from Lord Sainsbury, £99,000 from Tesco, £28,000 from Asda and £10,000 from Selfridges. In the same period, the Liberal Democrats have received £35,000 from Tesco and the Conservatives have received £30,000 from Selfridges and £6,000 from Asda.

When a member has a financial interest that must be declared with the Parliament's authorities, they are required to make an oral declaration when they speak on a matter that relates to that interest. Presiding Officer, will you begin a

discussion with the Standards, Procedures and Public Appointments Committee on whether a similar oral declaration should be required of financial interests that must be declared with the Electoral Commission rather than simply our parliamentary authorities?

16:57

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** As I explained to Parliament when I set out the rationale for the draft budget for 2011-12, we have had to face tough decisions. The United Kingdom Government cut the Scottish budget for 2011-12 by an unprecedented £1.3 billion. It has also increased VAT to its highest ever level, which will cost Scotland an estimated additional £1 billion in 2011-12.

Mr Gavin Brown said that unpredictability underlies the Scottish Government's decision. I will read him a quote:

"We have absolutely no plans to raise VAT."

David Cameron said that before the election, but after the election VAT was set at its highest ever level, so the Conservative party should not give me lessons about unpredictability.

While we are at it, Nick Clegg said in April 2010:

"We will not have to raise VAT to deliver our promises."

What a lot of absolute rubbish.

We have had to face acutely difficult issues in the budget. I have made choices to support family and household budgets as far as possible, despite the reduced resources that are available to me. For example, freezing the council tax for the fourth year in a row—which is unpopular with Labour members—was a key priority that will help families across Scotland.

Small and medium-sized enterprises are Scotland's life-blood and will help to deliver sustainable economic growth. They account for more than 99 per cent of all enterprises in Scotland and for 53 per cent of all employment. That is why, when economic recovery remains fragile, I considered it a priority to continue to provide a lifeline to our small and medium-sized businesses by maintaining reliefs such as the small business bonus scheme and rural rates relief.

**Duncan McNeil (Greenock and Inverclyde) (Lab):** Will the cabinet secretary take an intervention?

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Will the cabinet secretary take an intervention?

**John Swinney:** I give way to Mr McNeil first.

**Duncan McNeil:** How much of the £30 million tax take will go to small businesses?

**John Swinney:** Mr McNeil fails to understand the nature of the budget process. *[Interruption.]*

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

**John Swinney:** If we want to provide a balanced budget to the Parliament, we must be able to afford all the priorities in it. The budget contains support for the small business bonus scheme and £30 million from the proposed tax, so the two issues are directly related in funding the Government's priorities.

At a time when demand is being suppressed and access to finance remains reduced, we have reaffirmed a package of business rates relief that is worth £2.4 billion over five years. We must work within the spending limits that are available to us and produce a balanced budget. The option that I settled on was the business rates that are paid by some of our largest retail stores. Much has been made of the impact that that may have on employment in Scotland. What has not been said is this: although large retailers do create jobs, there is often a displacement effect on other parts of the economy.

**Gavin Brown:** Why was a business and regulatory impact assessment not undertaken? Did the cabinet secretary intervene personally to block that?

**John Swinney:** I made it clear that there was no need for such an impact assessment because the proposal will affect 0.1 per cent of the business property base in Scotland, or some 225 properties out of 220,000.

There has been a great deal of scaremongering about this being a town centre tax. I accept that a small number of city centre properties will be included, but more than 90 per cent of the £30 million will come from the largest supermarket stores and out-of-town retail parks, with £23 million coming from the largest supermarket chains.

**Margo MacDonald:** The cabinet secretary has just given a great deal of information on the impact of the proposal. Is that why he did not have an impact assessment? Would it have cost more than it cost to put together those figures?

**John Swinney:** The point in my response to Mr Brown was that the proposal will have an effect on 0.1 per cent of the business property base. My judgment was that it was disproportionate to carry out a business and regulatory impact assessment.

**Jeremy Purvis:** Will the cabinet secretary give way?

**John Swinney:** I have to make progress.

A lot has been made about the competitive position of Scotland, in particular by the Liberal Democrats and the Labour Party. I remind Parliament that from 2000-01 until 2007-08, Scotland paid a higher business rate poundage than was paid in England. It was higher in each of those years and only levelled when this Government came into office. Mr Kerr is shaking his head, but the numbers speak for themselves. People in Scotland paid a higher business rate poundage than did people in England. They were at a competitive disadvantage.

**Andy Kerr:** Would the cabinet secretary care to inform the chamber that the valuation systems north and south of the border were out of kilter? Valuations down south were different from those in Scotland.

**John Swinney:** Oh well, they were certainly different. The poundage rate was different as well. People paid more in Scotland for their business rates under the Administration of which Mr Kerr was a part.

Mr Purvis utilised quotes in his speech. I, too, will put a quote on the record:

"More support for local retailers struggling against the big supermarkets".

Members may think that I said that or perhaps that one of my back benchers whom Mr Purvis addressed in his speech said it, but it was not us. The quote is, in fact, one of Mr Purvis's priorities on his constituency website. Here we have him levelling the charge—*[Interruption.]*

**The Presiding Officer:** Order.

**Jeremy Purvis:** When the cabinet secretary said in his consultation paper in July—*[Interruption.]*

**The Presiding Officer:** Order.

**Jeremy Purvis:** What did he mean when he said:

"It could be argued that these will be significant developments which can contribute to economic growth and there may be a case for not imposing a financial burden on these developments, particularly at a time of economic downturn"?

**John Swinney:** There is a simpler question. What did Mr Purvis mean when he said:

"More support for local retailers struggling against the big supermarkets"?

He cannot answer that in Parliament today. *[Applause.]*

**The Presiding Officer:** Order.

**John Swinney:** Let me say something while we are on the subject of attitudes towards supermarkets. I have been accused of being the person who wants to discourage supermarkets. I

am nothing of the sort. Members of Mr Purvis's party, however, were out with their placards in Stockbridge trying to keep Sainsbury's out of Stockbridge. Not only was Kevin Lang—their unsuccessful parliamentary candidate for Edinburgh North and Leith—there, but Mr Scott was there, too. He was wheeled out to say, "No to Sainsbury's in Stockbridge." The *pièce de résistance*, however, was when Vince Cable was wheeled up from London to stand in the way of Sainsbury's. The Liberal Democrats actually referred to him as the ever-popular Vince Cable. They do not do that any more.

This debate has been riddled with hypocrisy from start to finish. When I stand for election in a few weeks' time, I look forward to telling the people of north Perthshire that the Conservative party turned its back on the small shopkeepers and backed the supermarkets.

## Decision Time

17:05

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

There are three questions to be put as a result of today's business. The first question is, that motion S3M-7820, 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 to the general principles of the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Bill.

**The Presiding Officer:** The second question is, that motion S3M-7818, in the name of Jim Mather, on the Local Electoral Administration (Scotland) Bill, be agreed to.

#### *Motion agreed to,*

That the Parliament agrees to the general principles of the Local Electoral Administration (Scotland) Bill.

**The Presiding Officer:** The next question is, that motion S3M-7841, in the name of Mike Rumbles, on the Non-Domestic Rates (Levying) (Scotland) (No 3) Regulations 2010, be agreed to. Are we agreed?

**Members:** No.

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

### **For**

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Robert (Glasgow) (LD)  
 Brownlee, Derek (South of Scotland) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Carlaw, Jackson (West of Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Annabel (West of Scotland) (Con)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Hume, Jim (South of Scotland) (LD)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Kerr, Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)

Martin, Paul (Glasgow Springburn) (Lab)  
 McArthur, Liam (Orkney) (LD)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Tom (Hamilton South) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mulligan, Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Elaine (Dumfries) (Lab)  
 O'Donnell, Hugh (Central Scotland) (LD)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tolson, Jim (Dunfermline West) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)

#### Against

Adam, Brian (Aberdeen North) (SNP)  
 Allan, Alasdair (Western Isles) (SNP)  
 Brown, Keith (Ochil) (SNP)  
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)  
 Constance, Angela (Livingston) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Don, Nigel (North East Scotland) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 FitzPatrick, Joe (Dundee West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Christopher (Mid Scotland and Fife) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Central Scotland) (SNP)  
 Ingram, Adam (South of Scotland) (SNP)  
 Kidd, Bill (Glasgow) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)  
 MacDonald, Margo (Lothians) (Ind)  
 Marwick, Tricia (Central Fife) (SNP)  
 Mather, Jim (Argyll and Bute) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McKee, Ian (Lothians) (SNP)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McLaughlin, Anne (Glasgow) (SNP)  
 McMillan, Stuart (West of Scotland) (SNP)  
 Morgan, Alasdair (South of Scotland) (SNP)

Neil, Alex (Central Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Salmond, Alex (Gordon) (SNP)  
 Somerville, Shirley-Anne (Lothians) (SNP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Swinney, John (North Tayside) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)  
 Watt, Maureen (North East Scotland) (SNP)  
 Welsh, Andrew (Angus) (SNP)  
 White, Sandra (Glasgow) (SNP)  
 Wilson, Bill (West of Scotland) (SNP)  
 Wilson, John (Central Scotland) (SNP)

**The Presiding Officer:** The result of the division is: For 68, Against 46, Abstentions 0.

#### *Motion agreed to,*

That the Parliament agrees that nothing further be done under the Non-Domestic Rates (Levying) (Scotland) (No.3) Regulations 2010 (SSI 2010/441).

## Community Care (Local Forums)

**The Deputy Presiding Officer (Trish Godman):** The final item of business is a members' business debate on motion S3M-7667, in the name of Rhoda Grant, on supporting local forums' involvement in delivering community care. The debate will be concluded without any question being put.

### *Motion debated,*

That the Parliament recognises the value of supporting local forums' involvement in delivering community care; notes the research undertaken by the Inverness and Highland community care forums that highlights the vital role that lunch and social clubs play in supporting older people in the Inverness area; believes that these forums provide a vital service in creating and maintaining social networks and alleviating the effects of social isolation; considers that, when funding for the Highland Community Care Forum ceases in June, local forums will be left without any independent support and will not survive, and would therefore welcome an extension to Highland Community Care Forum's present contract to cover the gap between the old contract and the new and a continuation of support for local forums through the new contract so that they continue to have a part to play in the delivery of future localised community care services and are able to undertake consultations on service provision independent of funders.

17:08

**Rhoda Grant (Highlands and Islands) (Lab):** Highland Community Care Forum has supported service users and carers throughout the Highlands for more than 19 years. It receives much of its core funding from Highland Council and NHS Highland. Its role is to offer advice to carers and service users and to build capacity in communities. It operates through a headquarters and 11 local area forums that are based throughout the Highlands. The forums are directly supported by seven workers.

Carers in every area of Scotland talk about the isolation that they feel when they first become full-time carers and the difficulty that they have in accessing services. The geography of the Highlands only adds to that isolation, so Highland Community Care Forum is a lifeline for carers in the area.

The forum's current contract is for a number of services. The mental health aspect of collective advocacy is delivered through Highland users group—HUG—while the learning disability aspect is delivered through people first. The forum also tackles the stigma that is attached to mental health; provides an individual advocacy service for carers; supports service user and carer involvement, engagement and consultation; and supports young carer involvement, engagement and consultation. Part of the contract is being renegotiated, part is being retendered, and the

part that deals with service user and carer involvement, engagement and consultation is being ended, with the consultation aspect being brought in-house. The combined impact of the changes threatens the core of the organisation, as it will lose the employed support that helps local forums to exist.

Care forums support the wider voluntary sector and organisations providing services for their client groups, as well as providing vital and close links to carers and service users. The forums also help voluntary groups to source and secure funding from various charities and other organisations. Anyone who works in the voluntary sector knows that that job is complex and can be hugely frustrating. Removing the organisation that supports that work will mean a loss of expertise and community groups no longer being able to access funds. That will eventually lead to greater dependence on the public sector.

A lot of the Highland Community Care Forum's work relates to adults, although it also provides support for young carers. It has worked with young people in promoting disability awareness, too. The forum also has local awareness and problem-solving roles. It recently identified a problem in an area that had been targeted for loft and cavity wall insulation for older people. The scheme was likely to be undersubscribed, as the older people concerned were not fit to empty their lofts. That perhaps says something about how we develop policy for older people. However, the local forum identified the problem and found a solution, and older people benefited from the much-needed insulation.

The forum supports voluntary bodies that organise lunch clubs and social activities for the elderly. I was recently contacted by constituents who were concerned that Highland Council had increased costs to people using day centres. The council's argument was that day centres were for people who needed intensive intervention, and that lunch clubs would be more appropriate for those who were more independent. We now face the prospect of losing the very organisation that supports volunteers in running such clubs. I hope that other groups are developed to meet those real needs. Older people are being forced out of day centres, and no other services are provided to help them to deal with their needs. Many of them will lose their social contacts and, with that, their confidence and independence, and they will face even greater isolation.

It could be argued that the consultation aspect of the Highland Community Care Forum's work is the most important one. How can services be tailored to the needs of users if they are not involved in the decisions? I understand that consultation is to be taken in-house, but I question

whether a consultation that is undertaken in-house by the body with a vested interest in the outcome can be fully accountable and transparent.

Highland Council and NHS Highland are currently consulting about taking all elderly care into NHS control. Although I believe that there is merit to that policy if it is implemented correctly, and I am sure that it will benefit older people, there are already concerns that the exercise is a consultation in name only and that those two organisations have made up their minds as to the outcome. Now more than ever, an independent body is needed as an honest broker in that process. It is doubly disappointing that the change in service provision is being used as a reason to take the service in-house.

Although it is funded by the public sector, Highland Community Care Forum is an independent organisation that can act as an advocate for carers and service users. The forum's close relationship with those groups of people means that it is ideally placed to reach out to them for the purposes of the very consultations that I have just spoken about.

Care is moving from acute institutions to become more community based. We must ensure that that does not place a bigger burden on carers. If they are unable to cope, they need support and information, and that support is often not joined up. My parents recently needed additional help because of illness, so I have first-hand knowledge of how challenging it can be to organise such support. We had a fair idea of what was possible and who we should speak to, but it took us weeks to get the care organised. The process was complex, and complexity leads to communication failures. We spoke to people in hospital, but the relevant information was not passed on to those concerned in the community. We needed to start again with them, and then to liaise between social workers, home carers and care managers until we had a care package in place. It was more like a negotiation about what was needed, what was allowed and what was possible.

Had my parents not had our support, I am sure that they would not have received the care that they needed. When people face such problems they need an independent advocate who will work on their behalf. I do not believe that people will be willing to pursue that advocacy from very same organisation that let them down. It is Highland Community Care Forum and other organisations like it that take on that sort of role and, at times of diminishing budgets, they are needed more than ever.

It is really sad that when cuts to services are faced, it is often the most vulnerable in our communities who lose most. Because of their responsibilities, carers do not have a load of spare

time to volunteer and support others. We know that they suffer financially, so any time that they have needs to be spent working to earn an income. Without the support of paid employees, local forums would cease to exist.

Carers and service users need our support, especially now, when they are at the bottom of the pile and tend to lose out more. They need a voice and a strong advocate. Highland Council and NHS Highland may not always like what Highland Community Care Forum says, but it voices the thoughts and concerns of the people it seeks to represent. It is the first point of contact for many carers, who cannot afford to lose it.

17:15

**Stewart Stevenson (Banff and Buchan) (SNP):** I congratulate Rhoda Grant on giving us the opportunity to debate what is a very important subject for an increasing number of people across Scotland.

I represent a constituency in Aberdeenshire, which is less remote than the Highlands but where a higher proportion of the population live in a rural setting than is the case in the Highlands. Therefore, many of the issues that Rhoda Grant has delineated are familiar to people who live in Aberdeenshire.

It is important that we have in place mechanisms and structures that allow people to make a contribution to those in need. Voluntary arrangements whereby voluntary bodies deliver community care and are involved in its planning are an important part of ensuring that we have a focus on the needs of people in local communities. It is important that people in those communities are involved in the process.

I am not sure that I share some of Rhoda Grant's concerns about how the council may choose to restructure things. I am not speaking about a council that is a political ally of mine, so I am entirely neutral from that point of view. It is certainly the case that we must ensure that we have arrangements in place that deliver the best value for the money that is available.

We should remind ourselves that the current budget, on which we will make a decision next week, includes some £70 million for a change fund in health and social care, so everyone who chooses to vote against the budget next week will be voting against the provision of money to ensure the appropriate kind of change.

It is important that there is a voice for older people. I am not the only member whose years are marching on more rapidly than they used to and who has seen parents in the system—albeit that, in my case, that was some distance back. It

is important that we reduce red tape and improve joint working. Today's announcement of £2 million for a system of lead commissioning is part of how we can tackle the issue.

There is no question that the care budget is enormous. Because the pressure on it from the rising proportion of our society who are aged will continue to increase, it is important that we leverage voluntary action into caring for our people, but we should not imagine that that is particularly new. I was involved in voluntary action many decades ago and I know that the same is true of other members. Today, however, we expect a great deal of the voluntary sector, which is why it is important that we support it by ensuring that lunch clubs and social events for older people are supported and that there are links between older people and younger people so that we do not simply create an environment in which people who are already close to those in need provide additional care.

I very much agree that we are debating an extremely important subject and I look forward to hearing what the minister has to say on it.

I see that Richard Simpson is likely to speak in the debate and I encourage him to speak to his colleagues about the proposed national care service, which kind of runs against the proposals that we have heard discussed today. Such a service is essentially centralising, which is one reason why it would not have my support. Nonetheless, considerable discussion is to be had between now and the May election; tonight's debate will be a little part of that.

17:20

**Mary Scanlon (Highlands and Islands) (Con):**

I thank Rhoda Grant for securing a debate on a Highland issue that affects many people. I also take this opportunity to commend Maureen Macmillan, one of our former MSPs, on her role as chairman of Highland Community Care Forum, and Caroline Thomson—who is in the gallery tonight—who is the ex-chairman of NHS Highland and is now the vice-chair of the forum.

There is no doubt that local forums and all voluntary sector organisations need experienced leadership and a thoroughly professional approach. Between 1999 and 2003—the first parliamentary session—several local service users contacted me to ask how Highland Community Care Forum was being used to provide front-line services such as carers and support. I wrote to Highland Community Care Forum to ask for that information and I was sent the annual report. My accounting knowledge was not sufficient to find the information that I sought on behalf of my constituents, so I asked one of my former

colleagues at Inverness College, who lectured in accounting to degree level, whether he could get the information that I needed. He took the glossy annual report and spent a considerable amount of time searching for the information that constituents asked for, such as what was spent on salaries and what was spent on carers and support. His conclusion was that the information was impossible to find; it just was not there.

I remember that experience clearly, and because of it, I welcome the new chairman and vice-chairman, and the approach that is being taken by Highland Council and NHS Highland to tender for services in line with national guidelines, and to focus on outcomes, information and transparency.

The Highland Community Care Forum has been built up over 19 years. When I think about my experience, I find it odd that the organisation's executive director's briefing states that the forum has been closely monitored for only three years. That is not good enough in this day and age. In difficult financial times, all publicly funded organisations should be accountable for spending taxpayers' money, particularly given the total value of the current contract of £1.4 million. How many hours of lifeline respite care could be provided for that money?

I confess that I was not aware that the Highland Community Care Forum offered advocacy services. I regularly refer constituents and carers to Advocacy Highland—I referred two in January—and I cannot speak highly enough of the manager, Sheilis Mackay, or of Linda Renton and the other staff who carry out their duties in the most professional, sensitive and supportive manner. There is nothing but good feedback from local people who need and value that service. I hope that NHS Highland and Highland Council will also look at those organisations, which are delivering excellent services in these difficult times, to see how they can be supported. It is not good practice to continue funding without focus on outcomes and with no accountability.

I am not surprised that the Highland users group, under the excellent stewardship of Graham Morgan, successfully achieves all its obligations within the service delivery contract. As an MSP, I regularly receive updates and reports from HUG, and I recently attended a meeting in the Fishertown day centre for mental health patients in Nairn. The meeting was well attended; we heard from users of the service as well as from staff and council officials. That is support for vulnerable people at its best.

When I read about the lunch clubs that HCCF and Age Concern Scotland run in the most remote and rural areas, I wished that I had known about them before, given the unsuccessful struggle that I

have had to maintain the lunch club for older people in Kilchoan, at which over-80s are serving other over-80s plates of soup. This week, I received a letter from Fergus Ewing about the threat to the lunch club in Caol, and I totally support him on that. Where is HCCF when those services are being withdrawn? How many lunch clubs does HCCF run, how well are they attended, and what funding is used for the purpose?

**Rhoda Grant:** Will the member give way?

**Mary Scanlon:** I am in my last seconds.

Finally, I commend Highland Council and NHS Highland for bringing greater scrutiny and accountability to the funding of local voluntary organisations, and I trust that that will strengthen Highland Community Care Forum to win contracts, provide services and support vulnerable people in an accountable and transparent manner in the future.

17:25

**Dr Richard Simpson (Mid Scotland and Fife) (Lab):** I thank Rhoda Grant for securing the debate on an issue that needs to be looked into. Local community care forums are well utilised and are an integral part of many older people's lives. As Rhoda's motion states, they provide support and help to alleviate isolation—actions that most of us would agree with. The 11 community care forums in the Highlands have effectively built up skills and networks in communities and are reaching out to those who do not necessarily want or need a clinical or statutory solution, but who want independent support in their communities. I welcome the research by the Inverness and Highland community care forums that highlights the vital roles that they play. Highland Community Care Forum is now more than a decade old and has, I gather, achieved some pretty good results.

The independent support that community care forums provide helps to build efficiency in the statutory organisations, including by saving money on hospital admissions. For example, Nairn, with its set-up of a modern community hospital supporting a network of community care and rapid response systems, is a particularly good model. I understand that the Nairn anticipatory care pilot reported that for every £1 spent on home care, £6 was saved in hospital admissions.

We all need to pay attention to the Scottish patients at risk of readmission and admission data that show the numbers increasing, at great cost to individuals and to us as taxpayers. We know that with training, education, support and involvement in service development, the partnership between the community, the carers and the statutory services can have a transformational effect.

I have been lucky enough to have the privilege of visiting HUG, which is one of the delivery organisations, and the Aberdeen mental health project for users and carers. Projects such as those have an important part to play. HUG is certainly a vibrant organisation—questioning that was supposed to last 15 minutes went on for about 45 minutes, and I certainly felt grilled. We need to listen to the voices. I pay tribute to the staff for their energy and dedication, considering the fact that in the voluntary sector they are constantly in a situation in which their jobs are not secure, unlike jobs in the public sector—until recently.

A needs assessment that was carried out in Smithton, Culloden and Ardersier provided some invaluable insights. I was struck particularly by the observation that hearing problems are a barrier to social inclusion.

The general problem is that we have had an astonishing increase in longevity of two and a half months every year since 1997. Now more than ever, we are challenged to meet the needs of older people, not least because the increasing years of longevity are not matched by increasing years of good health.

There is another comment in the report that I referred to that is worth recording. It is that the creation of stronger clubs and increased social networks is all about increasing wellbeing and independence and reducing dependency. Part of the approach is to identify and use the skills of the older people themselves to the full in various organisations. If 80-year-olds are serving other 80-year-olds, that is great if they are willing, able and happy to do it; it is not if they are forced to do it.

The retired and senior volunteer programme of Community Service Volunteers was curtailed by the Government in its clumsy transfer of resources, with no thought for the consequences—half of the development officers were made redundant. We have also seen the number of healthy living centres reduced from 45 to 25, despite the temporary reprieve that was given by the intervention of the Cabinet Secretary for Health and Wellbeing.

**The Minister for Public Health and Sport (Shona Robison):** On that point, it is worth reminding Richard Simpson—as I am sure he has been reminded before—that most of the centres closed under the previous Labour-Liberal Administration. I caution him about saying too much about that.

**Dr Simpson:** I will not take that interruption at face value. When we debated the issue before, five centres had closed under Labour—so we were not totally blameless—but I am told that in the past two years the number of centres has



gone down from 45 to 25. Some of the centres may have been integrated into other care, which is fine, but we are currently investigating exactly what is going on. The centres are an important and integral part of community activity. My point is that all the organisations are vulnerable to the current cuts, which we need to look at carefully.

I will finish by responding to Stewart Stevenson's comment. There is a fundamental difference between what is proposed by the Scottish National Party today and what the Scottish Labour Party proposes. We are not proposing a major organisational change—I cannot repeat that often enough. The community health partnerships, which are statutory bodies that were put in place by the National Health Service Reform (Scotland) Act 2004, exist to provide the sort of community partnership that can lead joint social care locally, not nationally. There is no national structure and, however much he cares to mention it, that is not going to occur. The important thing is that what the SNP is proposing today is the alignment of budgets that was introduced in the Health Act 1999. That has not worked except in a few circumstances and it will not work on a voluntary basis. The time for action in merging these budgets has come, and part of it is about protecting voluntary groups of the sort that we are discussing tonight.

17:30

**The Minister for Public Health and Sport (Shona Robison):** It has been an interesting and helpful debate. I commend Rhoda Grant for bringing the debate to Parliament and I am pleased to have the opportunity to conclude the debate on behalf of the Scottish Government.

I make it clear at the outset that the work of Highland Community Care Forum and local forums is to be commended. They undertake a lot of important work in engaging with local communities and providing much-needed services to service users and carers, such as the advocacy that was referred to earlier. I am sure that all members support community engagement, advocacy and support for carers. The work chimes very well with what we are seeking to achieve at a national level.

Advocacy services are important, especially for people with learning disabilities and mental health problems. We know that advocacy can make a difference and we have various strands of work under way to ensure the appropriate provision of advocacy services throughout Scotland for people who need them. Our carers strategy, which was published last summer, also reinforces the importance of advocacy to the most vulnerable carers.

Community-led action to establish networks of local support groups is immensely important in remote rural areas. The most vulnerable people rely on those groups to help them to come together to support each other, to exchange views, to receive information and advice, and so on. Even when the volunteers are over 80 and serving soup, it is about building community capacity and supporting people who are already doing that work. Community engagement, too, when done properly, is immensely empowering and rightly gives people a say in how their communities are run, what services they value and how those are provided. People then have a stake in the community and are equal partners in all the decision-making processes.

Highland Council must make its own decisions about retendering, negotiating new contracts, extending existing contracts, how it takes forward community engagement and how it supports community groups and builds capacity at a local level. I make it clear, however, that procurement decisions should rarely be based on price alone. The Scottish Government's guidance on the procurement of care and support services underlines the need for greater emphasis on quality than on cost. The procurement of care and support services should involve service users and carers as active partners in defining their needs and the outcomes that they require. That is one of the guiding principles in the guidance. The guidance also recommends that councils be proactive in involving service providers in service design and the development of service specifications. They should aim to maximise service providers' specialist knowledge and experience while ensuring that they do not gain a competitive advantage in the subsequent procurement process.

In all of that, what are important are the outcomes that are achieved for people who live and work in the area, including—or especially—the most vulnerable, such as the older population, those who are ill or frail, children, people who are isolated and carers. I am sure that there will be a role for both the statutory sector—the council and health board—and the voluntary sector in helping to achieve positive outcomes. Effective partnership working is key to better outcomes.

**Dr Simpson:** I wonder whether the minister would like to comment on the point about the service provider taking things in-house and becoming the organisation that operates the advocacy side. In such circumstances, the advocacy is not really independent. Does the minister think that that is a problem on which some guidance is needed?

**Shona Robison:** I suppose that service users will be looking for the best advice. I understand the

concerns that exist, but we must look at this from the same end of the telescope as the service user is looking at it and support the best-quality advice. We should bear those matters in mind, as they are important.

I understand that Highland Council has indicated that the existing level of resources for support to carers will be maintained. If that is indeed the case, that is welcome. The organisation or organisations that deliver support to carers in the future must deliver good outcomes for carers and those they care for.

I am pleased that there is a commitment by the council, health board and the voluntary sector to provide much-needed support to carers and young carers, including those who live in the remotest areas. We want there to be local implementation of our national carers and young carers strategy.

Subject to approval of the draft budget bill, we will have a further £5 million across Scotland in 2011-12, on top of the £9 million over three years to 2011, for carer information strategies. NHS Highland will get its share of that money to further support carers and young carers. We have also awarded £5 million to the voluntary sector for the provision of short breaks across Scotland. Funding for the first round will be given to good voluntary sector projects after bids have been assessed.

My understanding is that the council is seeking to achieve even more support for community groups to support activities ranging from social groups and networks, such as lunch clubs, classes and health-promoting activities, to formal service delivery.

There is a role in Highland, and throughout Scotland, for community capacity building, including expanding volunteering and establishing social enterprises. That ties in with our reshaping care programme. Our community capacity building strand of work will help to support the implementation of the change fund—the £70 million to help to optimise the independence and wellbeing of older people at home or in a homely setting. We envisage that the community capacity building work will mean close working with established third-sector organisations of all types and sizes and with specific geographical and interest-group communities.

I will end on a positive note by observing—in relation to Richard Simpson's point about the integration of health and social care—that there is an emerging political consensus that the end point that we all want to get to is a single system that integrates health and social care. There is a healthy debate to be had about the best model for getting to that point. There are merits in the lead commissioning model, not least because the legislation, going back to the Social Work

(Scotland) Act 1968, is complex and a lot of complex legislation would be needed to change that. However, we can agree on the destination point, because we think that that is best for service users and patients. If we can agree on that, we will have made some progress.

This has been a useful debate. I hope and expect that the local forums that Rhoda Grant has brought to our attention will continue to be supported and that there will continue to be good engagement with local forums and groups.

*Meeting closed at 17:38.*

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