



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Wednesday 16 March 2011

Session 3

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Scottish Parliament

Meeting of the Parliament

Wednesday 16 March 2011

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

Time for Reflection

The Presiding Officer (Alex Fergusson): Good morning. Our first item of business is time for reflection, and our time for reflection leader is the Rev Tom Nelson from Netherlee parish church in Glasgow.

The Rev Tom Nelson (Netherlee Parish Church, Glasgow): Presiding Officer, members of Parliament and ladies and gentlemen, at this early hour it is my great privilege to lead you in this time for reflection. It is very appropriate indeed, on this day when our thoughts are with other friends around the world, that we have this quiet moment together.

On the first Friday of March each year, Christians around the world hold a day of prayer, and this year the people of Chile produced the materials for the reflection. Chile is a country that has suffered greatly in recent years, as you will know. On 27 February just last year, a massive earthquake occurred off the coast, causing widespread destruction and triggering a tsunami that devastated several coastal towns.

Many years before that, in 1997, more than 1,000 Chilean workers were laid off with the closure of coal mines. Miners' wives took to the arduous task of raising their families by doing what they knew how to do best: making loaves of bread. They cooked miners' bread, as it was called, in community ovens, each one sharing what they had with the others. The people of Chile were inspired to choose the theme for the world day of prayer from Jesus's feeding of the 5,000, and they faced us with the challenging question:

"How many loaves have you?"

Jesus and his followers found themselves surrounded by a massive crowd in the countryside. The disciples were rightly concerned for the welfare of the people. The problem of providing food for them was overwhelming, and their answer was to send them away. Jesus, however, put the responsibility back on the disciples:

"You give them something to eat."

It seemed an impossible task, for they had very few resources, or so they thought.

"How many loaves do you have? Go and see."

Fives loaves and two little fish was a meagre amount, and certainly not enough to satisfy the crowd, yet in God's hand it was enough. They were instructed to sit down together in groups; Jesus gave thanks, presented the limited resources to them and all were satisfied.

In dark days of desolation and sadness, the people of Chile found the resources to meet their many challenges. They found within themselves great courage and wonderful resources of human endeavour, sharing whatever gifts and talents they had. The problems that they faced seemed beyond them and they may have been tempted to look elsewhere for help, but together they have worked miracles.

My dear friends, since I first penned these words, the people of Japan, like the people of Chile, have been faced with overwhelming problems and are battling through their grief and are seeking to rebuild after the devastation of their country. Our hearts go out to them in prayer. May God grant them courage and hope in their circumstances.

Today, in Scotland, we are faced with our own seemingly overwhelming challenges to provide the people of our own country with resources, which are stretched to the limit. You and I rightly feel responsibility and compassion for the people whom we serve. The challenge for the Chilean people surely still rings true for us today:

"How many loaves do you have?"

Sitting down together, we offer what we have in God's name, and miracles of grace can occur.

May God in his magnificent grace grant you wisdom as you conduct the business of Parliament sitting together on behalf of the resourceful people of Scotland.

Business Motions

The Presiding Officer (Alex Fergusson): The next item of business is consideration of business motion S3M-8161, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a revision to the business programme for this week.

09:20

The Minister for Parliamentary Business (Bruce Crawford): The proposed change is to allow more stage 3 debates to take place this morning, because there are not the number of amendments that we had originally thought there might be.

I move,

That the Parliament agrees—

(a) the following revision to the programme of business for Wednesday 16 March 2011—

delete

9.15 am Time for Reflection

followed by Parliamentary Bureau Motions

followed by Stage 3 Proceedings: Certification of Death (Scotland) Bill

followed by Stage 3 Proceedings: Public Records (Scotland) Bill

followed by Members' Business

2.35 pm Ministerial Statement: Higher Education Funding

followed by Stage 3 Proceedings: Domestic Abuse (Scotland) Bill

followed by Stage 3 Proceedings: Local Electoral Administration (Scotland) Bill

followed by Ministerial Statement: Report on Proposals and Policies on Climate Change Targets

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

followed by Business Motion

followed by Parliamentary Bureau Motions

6.45 pm Decision Time

and insert

9.15 am Time for Reflection

followed by Parliamentary Bureau Motions

followed by Stage 3 Proceedings: Local Electoral Administration (Scotland) Bill

followed by Stage 3 Proceedings: Certification of Death (Scotland) Bill

followed by Stage 3 Proceedings: Public Records (Scotland) Bill

followed by Members' Business

2.35 pm Ministerial Statement: Higher Education Funding

followed by Stage 3 Proceedings: Domestic Abuse (Scotland) Bill

followed by Ministerial Statement: Report on Proposals and Policies on Climate Change Targets

followed by Scottish Government Debate: Local Government Finance (Scotland) Amendment Order 2011 and Local Government Finance (Scotland) Amendment (No 2) Order 2011

followed by SPCB Motion: Reimbursement of Members' Expenses Scheme

followed by Business Motion

followed by Parliamentary Bureau Motions

5.25 pm Decision Time

and (b) the following revision to the programme of business for Thursday 17 March 2011—

delete

followed by Legislative Consent Motion: Public Bodies Bill - UK Legislation

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

and insert

followed by Legislative Consent Motion: Education Bill – UK Legislation

followed by Legislative Consent Motion: Public Bodies Bill - UK Legislation

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Motion agreed to.

The Presiding Officer: The next item is consideration of another business motion—S3M-8162—also in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, on the referral of an order to the Parliament.

Motion moved,

That the Parliament agrees that the Local Government Finance (Scotland) Amendment (No 2) Order 2011 be considered by the Parliament.—[*Bruce Crawford.*]

Motion agreed to.

The Presiding Officer: We have a third business motion—S3M-8176—in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Domestic Abuse (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during Stage 3 of the Domestic Abuse (Scotland) Bill, debate on groups of

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

Groups 1 and 2: 20 minutes.—[*Bruce Crawford.*]

Motion agreed to.

Local Electoral Administration (Scotland) Bill: Stage 3

09:21

The Presiding Officer (Alex Fergusson): We come to stage 3 proceedings on the Local Electoral Administration (Scotland) Bill. Members should have before them the bill as amended at stage 2 and the marshalled list. If the division bell sounds, proceedings will be suspended for five minutes, and the period of voting thereafter will be 30 seconds.

Section 10—Reports on elections

The Presiding Officer: Amendment 1 is in the name of the Minister for Enterprise, Energy and Tourism.

The Minister for Enterprise, Energy and Tourism (Jim Mather): Amendment 1 is a technical amendment, which will alter the way in which the bill will amend section 5 of the Political Parties, Elections and Referendums Act 2000, to extend the Electoral Commission's function in relation to reporting on the administration of ordinary local government elections. That is necessary because of the interaction of section 5 with other sections in the 2000 act. Amendment 1 will substitute section 10 of the bill with a new provision, which will still extend the commission's functions to ordinary local government elections, but in a way that will avoid the unintended application of other sections of the 2000 act to those elections. The amendment also avoids the duplication and confusion that might have resulted from the interaction of section 5 of the 2000 act with the amendments that the bill makes to other sections of that act.

I move amendment 1.

Alex Johnstone (North East Scotland) (Con): I welcome the amendment and the way in which it will simplify the requirement that is placed on the Electoral Commission. It is welcome that the bill contains a requirement for the commission to consider each election for local government and to report on it. I am glad that the amendment uses the phrase

"in such manner as the Commission may determine",

because that will reduce the burden on the commission. It will be able to ensure that it analyses and reports, but without overanalysing or overreporting in circumstances in which that would be unnecessary.

As I have said, I welcome amendment 1.

Amendment 1 agreed to.

The Presiding Officer: There being only one amendment to the bill, that ends consideration of amendments.

Local Electoral Administration (Scotland) Bill

The Presiding Officer (Alex Fergusson): The next item of business is the stage 3 debate on the Local Electoral Administration (Scotland) Bill.

09:24

The Minister for Enterprise, Energy and Tourism (Jim Mather): I am pleased to be here for the debate. The parliamentary process has been fairly smooth and has reflected the consensus across all parties on the need to continue to improve the administration of elections. I am grateful for members' support and, in particular, for the work of the Local Government and Communities Committee. I also thank the people who gave evidence and helped to develop the bill.

This is the second bill in this session of the Parliament that has been designed to improve the administration of elections. It follows the Scottish Local Government (Elections) Act 2009, which decoupled local government and Scottish Parliament elections. As members are aware, the bill has two key purposes: first, to establish the electoral management board for Scotland on a statutory basis for its work in relation to Scottish local government elections; and secondly, to extend the Electoral Commission's statutory remit to include local government elections in Scotland.

As I said during the stage 1 debate, the electoral management board will have the general function of co-ordinating the administration of local government elections in Scotland. For now, the board's statutory remit relates only to local government elections. I hope that by the time of the next elections to the Scottish Parliament, which are likely to take place in 2016, the board's remit will have been extended to cover Scottish Parliament elections.

It has been suggested that the board's remit could be extended to include elections to other bodies, such as health boards or the Crofters Commission. Such bodies cover specific geographical areas or functions, and expertise and advice is available from local returning officers. As a consequence, I do not see the need for national co-ordination, although the matter can be kept under review as the board beds in.

The bill will establish the post of convener, who will have the power to give directions to returning officers, and a more limited power to give directions to electoral registration officers. There was debate during the earlier stages on whether the convener should be able to be named in court cases that arise as a result of such a direction.

Section 128(2) of the Representation of the People Act 1983 provides that

“A person whose election is questioned by the petition, and any returning officer of whose conduct the petition complains, may be made a respondent to the petition.”

Given that the board's convener must be a returning officer, we are of the opinion that section 128(2) would apply. We do not intend that the procedure would have to be used, given that directions are intended to provide administrative consistency and will be given only where other options for agreement have been considered and exhausted. Overall, the board will play a valuable role in the elections process and in ensuring the smooth administration of elections.

On the implications for the Electoral Commission, the extension of the commission's remit to cover local government elections in Scotland will help to address Gould's concern about fragmentation of responsibilities. The provisions will ensure that there is consistent oversight and reporting on the administration of all general elections in Scotland.

The commission has already exercised some of those functions on an ad hoc basis; the bill will formalise that activity. For example, the commission conducted public awareness campaigns to support previous local government elections. The function of awareness raising will become more important in the lead-up to the 2012 elections. As members of the Local Government and Communities Committee are aware, the Scottish Government recently conducted testing on the design of the ballot paper that will be used next year. The results of the testing will be published shortly and are likely to reinforce the need for an information and awareness campaign on the single transferable vote system.

During consideration of the bill, the Electoral Commission expressed concern that the bill would not allow it to provide advice to candidates in local government elections. I undertook that my officials would discuss the issue further with the commission. I am pleased that as a result of those discussions the commission confirmed that it is content with the bill, and that no amendment was required at stage 2.

The bill represents a further step towards improving electoral administration and ensuring that the electoral system that is in place has, at its core, the clear objective of meeting the needs of the electorate.

I move,

That the Parliament agrees that the Local Electoral Administration (Scotland) Bill be passed.

09:28

Michael McMahon (Hamilton North and Bellshill) (Lab): When we debated the bill at stage 1, I waited until my closing speech before I thanked everyone who had taken part in the deliberations on the bill, because I was worried that there would be nothing left for me to say if at the outset I gave those people due recognition for their contributions. However worth while a bill is, there is little that can be said when everyone agrees on every aspect of it.

On this occasion, therefore, I have decided to thank the clerks, members of the Finance Committee and, in particular, Duncan McNeil and other members of the Local Government and Communities Committee in my opening speech, for fear that if I thanked them at the end of the debate everyone might be asleep and miss it.

In my closing speech at stage 1, I noted that during the debate committee members had raised some caveats that had been included in the committee's report and I welcomed the fact that those issues would be considered during stage 2. I did not think that there would be much controversy, but I lived in hope that any discussion would give us new material to debate at stage 3.

How disappointed I was, therefore, to learn that the three amendments that the minister moved at stage 2 passed without discussion and that the entire process lasted less than three minutes. In the time that it takes to boil an egg, the committee agreed to two amendments to address the Electoral Commission's education function in relation to local government systems, and one that enabled the Scottish Public Services Ombudsman, rather than the United Kingdom ombudsman, to consider any issues that might arise as a result of the Electoral Commission's work in relation to Scottish local government elections. Not even giving more powers to the ombudsman drew Alex Neil into the debate to liven it up. There was not a cheep from the ombudsman's arch-enemy, let alone one of his dog-whistle rants.

Here we are at stage 3 with consensus not so much achieved as maintained throughout. All political parties recognise the need for the bill and agree with it. We will see whether managing local government elections in the way that the bill envisages maintains that consensus, but I hope that the good will that surrounds the bill will enable that to happen.

I am happy to reiterate my belief that greater and more effective management of local elections will provide for their smoother running. The proposed greater powers for the EMB should be reviewed at some time in the future to see how they are working. I am sure that that will happen and I am glad that the minister has indicated that

he has a similar view. That approach should not only benefit all political parties but reassure the electorate that the system is run for their benefit, first and foremost.

By passing the bill, we will show that the Parliament can learn from past mistakes. It is with some regret that I express a wish that the current Westminster Tory coalition had not ignored the lessons that we have learned and decided to press ahead with its ill-advised referendum on the same day as the forthcoming Scottish Parliament election. Let us hope that the arrogance of our UK Government does not cause us to have to address the aftermath of another electoral shambles in May. The lack of interest in the referendum may be the main reason why that will not happen.

However, today is about the bill, which is to be welcomed.

09:32

Alex Johnstone (North East Scotland) (Con):

The bill is worthy legislation but will not take up much time in the chamber, I suspect. I hope that, at this moment, the clerks are vigorously phoning offices in other parts of the Parliament to ensure that those who are responsible for the next item of business are aware that it may arrive early.

Yesterday, I had the good fortune to find myself speaking at a conference along with Mr Willie Rennie. I travelled back to Edinburgh on the train last night in his company, during which time we took the opportunity to discuss and compare parliamentary procedure. He told me that, if such a piece of business as this debate were scheduled at Westminster and if a specific time were allocated, each member would ensure that they filled every second of the available time—I see Stewart Stevenson's chest sticking out and rising to that opportunity.

It is one of the virtues of this Parliament that, when we have the opportunity to do things that are consensual and hold common interest across the parties, we can do so efficiently. The way that business has been truncated today and extra stage 3 debates have been timetabled because of the limited number of amendments is an indication of one of the things that we do better.

The bill covers part of the problems that we experienced in 2007. The electoral shambles that happened then crept up on many of us. Although there were concerns about there being three ballot papers and three different electoral systems in use on the same day, many people applied a great deal of thought in advance of that and believed that the system would work. The fact that it did not work demonstrated that we cannot cover every eventuality. That is why the bill may not achieve the objectives that we have set out for it. However,

we have gone into the matter with open minds and with our eyes open and we have been determined to achieve the objectives that we set out at the start.

The bill has the function of implementing a significant part of the recommendations of the Gould report. For that reason, I welcome it and will be happy to vote for it later in the day.

There is a concern, which the previous speaker expressed, that we are about to do something similar again; that the alternative vote referendum, in conjunction with a Scottish Parliament election, might cause as yet unforeseen complications. I do not believe that that will be a problem. I believe that having three ballot papers on which electors are asked to mark a single X is not the same as the problem that we had whereby the differing electoral systems required an X on one paper and numbering of candidates on the other. I have faith in the Scottish electorate and I believe that they will not experience difficulties in the election that is about to happen.

However, having put that on the parliamentary record, it is now a hostage to fortune. I look forward to being hoist by my own petard at some time in the future. I support the bill.

09:35

Jim Tolson (Dunfermline West) (LD): I welcome the opportunity to open the debate 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 a former councillor of 15 years' experience, I have experienced quite a few elections myself.

This bill forms part of a response to the events of 2007, to which other members have alluded this morning. I share the sentiments of Alex Johnstone: the Scottish Parliament and Scottish local Government elections were, at the end of the day, quite shambolic. With such significant problems to overcome between the previous election and the next, I pay tribute to the significant work that has been done by committee clerks, fellow members of the committee—including David McLetchie, who is no longer on the committee, but sat through many of the deliberations—as well as the minister and his team. With only one minor amendment in today's stage 3 proceedings, we must be doing something right. Who would have believed that political consensus would break out just a week before Parliament is dissolved?

Prior to the previous local government elections in 2007, I took the opportunity to attend a trial of the new counting and 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. That caused some unease to the officials of the company giving the demonstration but, as they were determined to show how robust the system was, I was determined to test it. Despite their passing my test, we all know that the operation of their equipment and software was nothing short of shambolic on the night.

Recently, with other members of the Local Government and Communities Committee, I had the opportunity to see a demonstration of the new counting equipment and software. Although I am glad that a new system and software will be used for next year's election, it could hardly be worse than the last. The demonstration that we recently attended did not give me any real confidence that the system is robust enough. We are being asked now to back a company that has not yet done any significant volume testing of its software and hardware. We are being asked to accept that all will be okay when volume testing is conducted in the autumn and we are being asked to accept that it will be alright on the night. I for one remain very sceptical.

One of the recommendations of the Gould report was to establish a chief returning officer for Scotland. However, the responses to the consultation in 2008 indicated that there was little support for that role. As a result, the Scottish Government is setting up an electoral management board for Scotland. I am grateful to the minister for the answer that he gave me on this matter when we last discussed the bill on 2 February. 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 administration of elections.

In summary, the bill is a welcome step in making the electoral arrangements for Scottish local authorities more robust. It presents a much improved system for us. For that reason, the Liberal Democrats will be happy to give it our support at decision time.

09:39

Stewart Stevenson (Banff and Buchan) (SNP): The debate is perhaps an opportunity to look at the changing nature of how we run elections. If we go back to the UK election that took place in 1832, which is the earliest one for which I have been able to find records, 658 members of the House of Commons were elected and 827,776 people cast votes, so the number of votes per member of Parliament was just a wee bit over 1,000. That was a very different environment

from the one in which we live now. Indeed, fewer votes were cast for each MP than we would now expect to be cast for each member of a local authority.

If we fast-forward to the Westminster election of 1945, we had multimember seats and seats for which the alternative vote or the STV system was used. We are looking at changing the electoral system for Westminster elections, but the Conservatives, in particular, will not be in favour of the multimember first-past-the-post system that Brian Donohoe proposed yesterday in a House of Commons debate as a replacement for the list system for Scottish Parliament elections because, of course, in 1922, when Churchill stood for re-election in Dundee, he came third in a two-member seat. He was defeated by a Scottish prohibitionist, Edwin Scrymgeour and by the Labour candidate. The results are not always what we expect.

In 1945, when three members were elected to the Combined Scottish Universities seat by STV, a form of alternative voting, the third person who was elected on the second ballot obtained only 4.15 per cent of the first preference votes and was elected despite losing their deposit. Therefore, the systems that we have had over the years can lead to various differences.

Moving forward to the general election of October 1974, the turnout in Scotland was 74.81 per cent. That was a highly memorable election. After it, Westminster had more nationalist members than it had Liberal members.

Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): Shame!

Stewart Stevenson: There were 13 Liberal members and 14 nationalist members, including three Plaid Cymru members and others. It is clear that, over the piece, there were changes in the way things were done. In 1945, it was a fortnight after the election before the results were known because, in days before the advent of the internet, the service vote took some logistical organisation.

I add to the commendation that there will be for Duncan McNeil's contribution on the subject in October 2008, when he reported to Parliament on his committee's deliberations. The committee's work was vital in underpinning what we are discussing. Its report highlighted a general point that I and my colleagues and, I think, some others would make, which is that having different bodies and different parliamentarians responsible for the rules for different elections is a potential source of difficulty. It is certainly the case that in 2007 the Scotland Office did not cover itself in glory.

Even though a vote on the use of AV for Westminster elections is coming up shortly, it has not led to a single question from an elector to me

so far. The Scottish National Party has just completed two days in Glasgow at our party conference. In my hearing, the subject never arose, although it may have arisen in other people's hearing.

We have heard about some of the difficulties in 2007. It is certainly important that the Electoral Commission should report on how elections have gone. An illustration of when a report by the Electoral Commission might have been useful is the referendum that was held on 1 March 1979. I was at the count in Lothian. Members who are old enough to remember the campaign may remember that the "no" campaign bought lots of poster space. The posters had a picture of the ballot paper with the words "yes" and "no" on it. Opposite the word "no", instead of an X, the word "no" was written. More than 2,000 electors in Lothian chose to write the word "no" opposite the "no" option.

We might think that that was fair enough. Most of us here might think that the electors' intentions were relatively clear, and that is the normal test. However, on that occasion, the returning officer decided that, because the electors had written "no" opposite the word "no", those votes should count as a "yes". Being a campaigner for the "yes" campaign, I was not greatly upset by that decision, although I was astonished by it. On appeal, the returning officer of that count agreed that those votes would be counted as spoilt papers. That is an example to show that it was not just in 2007 that we have had difficulties; there have been previous occasions on which it would have been right and proper to examine what went on.

When we have complex elections, it is important that the electors know what is going on. One of the rules in the forthcoming election, as in all previous elections, prohibits election communications from referring to other elections, which might help people to understand the nature of other, simultaneous elections. That prohibition might be thought to be unhelpful and the Electoral Commission might have to look at that.

As someone who spent 30 years in computers, I will make a wee reference to the nature of some of the difficulties that might arise with computer systems. We computery people always used to apply a rule of thumb when we were given numbers relating to the throughput of a computer system. The rule of thumb was that marketing people always get estimates wrong by a factor of 10. It was the computer people's job to work out whether to divide or multiply. In some ways, that is exactly what part of the problem was in 2007. We did not anticipate that more than 20 people would be standing on some of the lists, and there was a limitation in the software. In Lothian, the number standing on the list exceeded that limit so there

was a last-minute ad hoc redesign of the ballot form that caused the computer systems great difficulties. I hope that the stress testing that will take place in the autumn will focus on some of the more unlikely boundary conditions that might occur, because that is where computer systems almost invariably fail.

I am pleased to see the legislation coming through Parliament. I sniff not a whiff of dissent and I hope that the motion will be carried unanimously at decision time.

09:47

Duncan McNeil (Greenock and Inverclyde (Lab)): I am pleased to be taking part in the stage 3 debate on the Local Electoral Administration (Scotland) Bill. This is the latest piece of legislation and action by the Parliament and others in response to the difficulties and failures in the 2007 local government and Scottish Parliament elections.

Today's debate is in complete contrast to the type of debate that we had after the 2007 election. In my constituency, 1,100 people were denied the vote and, in some polling stations, the proportion of spoilt papers was in excess of 10 per cent.

It might be useful to remind ourselves about some of that debate and the recommendations and actions that flowed from that time. The Gould report has been mentioned, and the Local Government and Communities Committee's report of 2008 made recommendations and comments about a range of areas around the Scottish Parliament and local government elections. Many of the issues that gave us concern at that time have been mentioned this morning, such as e-counting, adjudication of ballot papers, the administration and co-ordination of elections in Scotland, and the absence of a parliamentary committee with clear responsibility or a scrutiny role. Many of those issues have been addressed and committees of Parliament will have a scrutiny role in the future. I hope that that role will be used to the full in the evaluation of the 2011 elections and the referendum that we face in a few weeks.

We addressed the issue of wider engagement in elections. In a good example of the Government of the day working with a committee of the Parliament, we held a major seminar in the chamber to address the challenges of voter turnout and registration.

Of course, we passed legislation to decouple the local government and Scottish Parliament elections. Also, deadlines for nominations for all elections were brought forward and are now set out in election law. Further changes—I hope that they are for the good—are expected in the Scotland Bill.

Like other members, I believe that the bill is another step in the right direction. It seeks to put in statute much of the good work that the electoral management board has under way on a non-statutory basis. In a recent evidence session, the Local Government and Communities Committee was given a flavour of that. We heard about the introduction of an annual publication of standards for returning officers, which is now in place. That will ensure good standards across Scotland. One consequence of the bill that will be passed today is that that will be extended to local government.

In its regular planning meetings, the electoral management board has agreed specific preparations and planning arrangements for the May elections. Counting officers and returning officers have submitted risk registers to the chief counting officer. Members will be pleased to know that none of that work indicates a level of risk that should worry us. Working together, parties such as the Electoral Commission and the Government have overseen the serious addressing and testing of the design guidance for voter material and the production of verification and count protocols for people to follow. All that should give help and advice irrespective of where it is needed in Scotland. We also have adjudication booklets and codes of practice on postal voting. Overall, the detailed level of planning and action in the bill gives hope for the future. It should address any lack of confidence in the general population about the election process in Scotland.

Before we get carried away with all that, I should mention the significant planning challenges that still remain. The UK referendum and the Scottish Parliament elections have different franchises and different rules on what should be counted, and how. That will impact on where the ballot can be counted. There is also the issue of postal voters receiving not one ballot paper on which to mark yes or no or to tick a box, but various coloured ballot papers and a whole range of information. We can only do our best to try to reassure people that they will be guided and supported through the process. I hope that we will be able to achieve that.

As I mentioned, the nature of the count will be affected. In recent evidence, the Local Government and Communities Committee was told that some declarations could be made between five and six o'clock in the morning. That made me wonder what the chamber wants by way of an overnight count. When declarations may not be made until five or six o'clock in the morning, is an overnight count still worth it? We may not be able to do anything about that now, having got to this stage. The various ballot papers have to be sorted out before the count on the Scottish Parliament elections can start. That is a significant challenge.

We may have an increased number of postal votes. That is not necessarily a bad thing. However, as the Local Government and Communities Committee heard in evidence, personal identifiers are an issue that impacts on the elderly in particular. At the last UK elections, more than 8,000 mainly elderly people in Scotland did not even have their ballot papers opened, perhaps because they got the day that they signed the form mixed up with their date of birth and put their date of birth in the wrong box.

There are other significant challenges, such as the impact of the Easter holidays and the royal wedding. However, I look forward to voting for the bill as yet another step in ensuring that we address the mistakes of the past, restore confidence in our elections and give voters, candidates and agents as good an election as possible.

09:55

Jim Tolson: Members will be aware that there are two key themes to this important bill, the first of which is the creation of the electoral management board. In deliberations in committee and in the chamber, we have heard that that is absolutely necessary to provide a much more cohesive and well-rounded view on how the election should be conducted to ensure that it is freer, fairer and more open in the future. The statutory function of the electoral management board is essential in ensuring that a free, fair and open election takes place and that it has, as the minister said, a smooth administration.

The smooth passage of the bill seems to concern Michael McMahon, but I do not share his concerns. Although it might not be the most exciting debate that we will ever have in the Scottish Parliament, it is necessary that we work together with co-operation across the parties. Alex Johnstone had a good discussion yesterday with my good friend Willie Rennie, who said that MPs would seek to fill every second of the debate. I have had a number of discussions with Willie Rennie about the differences between how Westminster operates and how the Scottish Parliament operates, and I have always told him how debates here are much better because they are much more concise and focused than those of our colleagues at Westminster.

As we all know, the election in 2007 did not go smoothly. It is to the great credit of many that the work that has been done in putting together the bill gives not just me but many others greater confidence that the forthcoming elections—especially the Scottish local authority elections next year, which we are focusing on in this debate—will be much more efficient than has hitherto been the case.

The second key theme of the bill is changes to the Electoral Commission. Although those changes are not as significant as the creation of the electoral management board, they are an important part of ensuring that the whole system works more efficiently. Having gone through the issues that were raised in the Gould report—the need to decouple the elections and many others—I feel that we have clearer information to give to the electorate on all the forthcoming elections. Sometimes, cluttering the picture with too many elections can lead to confusion and concern among voters—indeed, among many members—that we will end up with more spoilt ballot papers even than the number of votes that certain members have in their majorities. I welcome the testing of the ballot paper design that is to be undertaken by the Electoral Commission—that is good to see.

It was also good to see Stewart Stevenson giving us a history lesson. He told us that he was going back to 1892—what a memory that man has. However, very quickly—through his digital processes, no doubt—he fast-forwarded to 1945 and talked about multimember seats. The world did not fall apart in 1945 following the introduction of multimember seats, nor did it do so in 2007 following our local authority elections. In giving us the new history lesson that we seem to be getting from the SNP, Stewart Stevenson has a big task in trying to fill the boots of Christopher Harvie, who often gives us very good history lessons in the chamber. I do not know whether he will manage to do that—time will tell. I cannot conjure up the thought of Stewart Stevenson in plus fours, but let us leave that aside.

Stewart Stevenson: I have plus fours.

Jim Tolson: That worries me, Presiding Officer.

Ross Finnie (West of Scotland) (LD): Too much information.

Jim Tolson: I agree with my colleague that that is too much information.

The autumn stress testing of the new system will be absolutely crucial. I hope that I am proved wrong in thinking that the system will not be as robust as before, as it must be more robust than the system that we had before. I am grateful to Duncan McNeil for highlighting many of the issues that we went through at the committee stages of the bill.

I am certain that the bill will take us forward by many great steps, and I am pleased to support it on behalf of the Liberal Democrats.

09:59

Alex Johnstone: In my opening speech, I mentioned procedure, and I welcome the fact that

the procedures that we use in the chamber have allowed me to upstage Michael McMahon by taking the opportunity before he can do so to thank the clerks and all who have been involved in the bill process. Legislation can sometimes be exciting. Sometimes, of course, it can be less exciting, but equally purposeful. This bill is an example of the latter category. I welcome all the hard work that has been done by the committee, the clerks and the bill team during the process.

I did not expect the debate to provide many revelations, but we heard one or two. Jim Tolson confessed that, in practice sessions at least, he has been interfering with the ballot. I accept that his objective was to find out whether it would be detected, but I hope that the practice does not become more widespread—another function that the Electoral Commission will have to keep an eye on, I suspect.

As Jim Tolson mentioned, Stewart Stevenson gave us a history lesson. The part that impressed me the most was the fact that, in 1945, a candidate standing for the Combined Scottish Universities seat—which had the responsibility of electing three members—got less than 5 per cent of the vote and lost his deposit but was elected in any case. I asked myself whether that person could have been a prototypical Liberal Democrat.

Stewart Stevenson: For the record, in those days, candidates required to get 12.5 per cent of the vote to keep their deposit. However, because the constituency elected three members, only a third of that figure was required, which is 4.17 per cent. The candidate who received 4.15 per cent of the vote failed that test but he—a Conservative—was elected anyway.

The Presiding Officer: You asked for it, Mr Johnstone.

Alex Johnstone: I stand corrected. However, I would say that, given the intervening time and what has happened in the past 12 months, it probably does not make a great deal of difference.

I thank Duncan McNeil for his contribution. In his role as convener of the Local Government and Communities Committee, he has had his finger on the pulse of this issue to a greater extent than many others. During this debate, he brought us back down to earth and explained how vital the objectives of the bill are. He rehearsed the situation that led to the bill being brought forward and pointed out how hundreds of thousands of Scottish people's votes were probably not included in the electoral process, probably without their knowledge. Although the result is acceptable, because no pattern connected to political support was involved in the failure to register votes, the problem of the lack of inclusion remains. That, in itself, undermines the efforts that are going on to

increase engagement in the electoral process. We have to thank Duncan McNeil for bringing us back down to earth and reminding us why it is important that we make progress on the issues that the bill deals with.

I welcome the bill and look forward to voting for it at 5 o'clock.

10:03

Michael McMahon: I am quite pleased that the debate took the course that it did and was not as uninteresting as some might have feared. The opening speakers stuck to what was essentially a dry subject. Following that, Stewart Stevenson gave us a six-minute analysis of obscure election results from British history and then spent a couple of minutes telling us how his computer knowledge would fix the technicalities of any future election process.

I agreed with one thing in Stewart Stevenson's speech, which was that the establishment of an electoral management board on a statutory basis to supervise Scottish local government elections should assist local authorities to perform their functions by promoting best practice. We should all welcome that. Along with the extension of the Electoral Commission's remit to cover local government elections in Scotland, that is a welcome step.

I join Alex Johnstone and other members in noting the great degree of consensus on the bill's provisions, although—as was evident from Duncan McNeil's speech—many contentious issues were involved. Duncan McNeil is entitled to be given credit, given the range of concerns that existed, for establishing cross-party agreement and helping to sustain it throughout the deliberations on the bill.

The EMB will greatly benefit many people by promoting best practice and providing information, advice and training for local government elections. The Gould report made a series of recommendations to improve electoral administration, and rightly recognised as an omission the fact that local government elections are the only elections in Scotland for which the Electoral Commission has no formal remit to provide support. The extension of the commission's remit to include local government elections in Scotland is the correct move.

The Electoral Commission indicated that the extension to its statutory remit would provide greater accountability and transparency in its role, and would cover performance standards for returning officers in local elections. The implementation of a system of international and other observers for local government elections would be another potential step.

The bill is a progressive move, which I wholeheartedly endorse. There will always be issues on which one or more of the parties cannot find common ground with the rest, but we have fortunately reached a consensus on this one, and it is good that the Parliament can come together on it. The next few weeks will bring few other opportunities for agreement, so we should make the most of this opportunity while we can and unite around the provisions in the bill at decision time, just as we have throughout its passage.

10:06

Jim Mather: We have less than a week left of the current parliamentary session. We have debated many issues, and there has been some agreement and some disagreement, but all with the intention of improving the lives of people in Scotland.

Although the Local Electoral Administration (Scotland) Bill may not be the most newsworthy piece of legislation that we have considered, it will make changes to give the people of Scotland the electoral system that they deserve: a system that is properly administered to ensure that votes can be properly cast and accurately counted. There is consensus on the bill's content, and I am grateful to stakeholders and members for their support before and during the bill proceedings. I am sure that members in the next session of Parliament will want to continue those good relationships and continue the process of improving electoral administration in Scotland.

I was struck by Michael McMahon's opening remarks regarding consensus, and the risk that it may reduce the content of speeches and limit what can be said. Perhaps that shows that we are reaching the new politics, where discussion, conversation and the involvement of stakeholders and real people can reduce the disagreement when we get to stage 3 debates such as this one. That is exactly what we tried to do with the Arbitration (Scotland) Bill, and we took the Census (Scotland) Order 2010 through by getting people involved at an earlier stage.

There is scope for maintaining that approach and for the EMB to keep it going. I anticipate that the board will have an annual meeting that will be open to all returning officers and electoral registration officers and will enable issues to be discussed more widely with stakeholders. That will ensure that we have a crucial feedback loop, which will also allow feedback to flow from the EMB when it reports to Parliament.

As members know, the board will report to Parliament on the performance of its statutory functions, and it will then be for Parliament to decide whether it wishes to have a detailed

discussion on the report's content, which would provide the opportunity to raise particular issues with the convener. However, it is important to stress that the board is independent and must be seen to be separate from political influence.

It seems that we have made considerable strides forward. I was interested to hear about the chance conversation between Alex Johnstone and Willie Rennie; it appears that we have perhaps evolved to handle consensus a bit more effectively here than they have in Westminster. That might be because we are fewer in number, we represent a small country and we can get everyone in the room to debate the issues, or because we increasingly have open minds and a willingness to address unintended consequences by taking a more structured and thoughtful approach to the process.

I was taken by Jim Tolson's one-man stress testing of the new system. He is building a bit of a track record there and maintaining his scepticism. To be fair, that scepticism is a useful catalyst. It is a prompt for further motivation to all concerned to ensure that the system is as resilient as we want it to be and that it passes the test of fewer spoiled ballot papers.

I was taken by Stewart Stevenson, who will ably pick up the baton that is about to be passed to him by Chris Harvie, and who gave us a thoughtful speech. The numbers were a wee bit dodgy, mind you. He said that in the 1832 election, 658 members garnered 827,000 votes, which was about 1,000 a head. However, that calculates as closer to 1,200 a head. Nevertheless, the bill would pass the Thomas Muir of Huntershill test. It will make the system much more representative and much more able, so he would approve of what we are doing.

I was also taken by Stewart Stevenson's comment about marketing people who sell computer systems to the public and private sectors sometimes being wrong by a factor of 10. I thought long and hard about that, because having been a marketing man who was involved with IBM and ComputerLand in selling to Mr Stevenson in his persona at the Bank of Scotland, I would have to be the exception to that. I will talk to him about that later.

I am grateful for Duncan McNeil's contribution, as I have been throughout the process. He gave a thoughtful and useful overview of what the bill is all about. I welcome the enhancement and development of the committee's scrutiny role and the part that it has played with Government in the wider engagement, such as the seminar in the Parliament to discuss highly relevant issues such as voter turnout and voter registration. He recorded the fact that the bill is another step in the right direction and will consolidate and put on a

statutory basis much of the good ad hoc work that has been done. He highlighted the issues of risk management, which is being addressed, design guides and adjudication booklets. He set out the essential overall purpose of addressing any residual lack of confidence out there while being prepared to face the planning and logistical challenges. He pointed out the need for feedback to ensure that we improve all the aspects and at least leave a clean pass to our successors to do exactly that when they re-engage with the issue in future.

We are in an interesting place. We still have the AV referendum, which is a reminder of the benefit of increased electoral autonomy and other levels of autonomy. I noted Stewart Stevenson's comment that he has heard not a single question raised by the public on the matter, which has been my experience, too.

We have put together a very tidy piece of work. It might not be the most exciting bill, but it is significant, as Duncan McNeil set out. It is a function of excellent work by the committee. We are grateful for the way in which the committee worked together on the issue and to the witnesses, who gave us the inputs that allowed us to refine the bill and keep it on track. We are grateful to the committee clerks. I am particularly grateful to the bill team, who were absolutely impeccable in guiding me through the process and helping me make my contribution.

With that, I commend the motion: that the Local Electoral Administration (Scotland) Bill be passed by the Parliament.

Certification of Death (Scotland) Bill: Stage 3

10:13

The Deputy Presiding Officer (Alasdair Morgan): The next item of business is stage 3 proceedings on the Certification of Death (Scotland) Bill. By this point in the session, members should know which documents they need in front of them, so I will not tell them again.

Section 2—Referral of certain medical certificates of cause of death for review

The Deputy Presiding Officer: Group 1 is on the procedure for revoking orders that suspend the referral and review of medical certificates of cause of death. Amendment 1, in the name of the minister, is grouped with amendments 2 and 4 to 6.

The Minister for Public Health and Sport (Shona Robison): Amendments 1, 2, 4 and 5 relate to the procedure that surrounds orders for the suspension of the review system during periods of epidemics or other similar emergencies. As the bill stands, to revoke such orders when the period of emergency is over, it would be necessary to use the same emergency affirmative procedure as applies to the making of such orders. The amendments will enable negative procedure to be used to revoke such orders, which we consider is more appropriate.

Amendment 6 is consequential on amendments that were made to section 28 at stage 2. It will simply remove a reference to “regulations” that is no longer relevant to that section.

I move amendment 1.

Amendment 1 agreed to.

Amendment 2 moved—[Shona Robison]—and agreed to.

Section 8—Review of medical certificates of cause of death

10:15

The Deputy Presiding Officer: Group 2 is on conduct of review of medical certificates of cause of death. Amendment 3, in the name of Ian McKee, is the only amendment in the group.

Ian McKee (Lothians) (SNP): I realise that section 8(2)(c) is rather a catch-all provision, but it is important that it be a little bit more specific. Accordingly, I have lodged amendment 3, because I think that interrogating relatives, carers or anyone who was involved in looking after the deceased in the final days of their terminal illness

is important in ensuring the death certificate’s accuracy. Of course, in the vast majority of such instances, their evidence will corroborate the information on the certificate; nevertheless, even then, that confirmatory evidence will be welcome.

However, in a proportion of cases, remarks by such witnesses on, for example, the mode of death or the symptoms exhibited before death, or even just casual comments about medication that was taken or treatment given could prompt a medical reviewer to follow a new line of investigation that might result in a more accurate certificate at the end of the process. Such contact would also serve to reassure the relatives or carers that such matters are not treated lightly and might even allow them to come forward with concerns that would otherwise never be mentioned.

I move amendment 3.

Ross Finnie (West of Scotland) (LD): I have much enjoyed working with Ian McKee and wholly support the substance of his amendment 3. However, it is a pity that it is ungrammatical. Given that the subject of the sentence in section 8(2) is “the medical reviewer”, the use of the subjective pronoun “who” instead of the objective pronoun “whom” in the amendment is, I think, much to be regretted.

The Deputy Presiding Officer: I call Dr Richard Simpson.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): My point has been made, Presiding Officer.

Shona Robison: I have to say that I did not know that we had such grammar boffins in the chamber. One learns something new every day.

As amendment 3 might assist the reader of the legislation in understanding what can occur during the review process, I welcome it.

The Deputy Presiding Officer: Do you wish to add anything, Mr McKee?

Ian McKee: I just want to confirm Ross Finnie’s admirable point. I had a little help in drafting the amendment, but obviously one needs to look a little bit harder at any help that one receives.

Amendment 3 agreed to.

After section 23

The Deputy Presiding Officer: Group 3 is on creation and content of medical certificates of cause of death and any pilot scheme under the act. Amendment 7, in the name of Richard Simpson, is the only amendment in the group.

Dr Simpson: Amendment 7, which follows on from the Health and Sport Committee’s stage 1 report and observations that I have made at each

stage of the bill's progress, has two interconnected purposes. First, I wish to test whether the minister has taken on board the need for urgency in moving from a 19th century paper-based system to a 21st century electronic system, and I hope that she will indicate either now or in the following debate progress in and the potential timelines for developing an electronic system. I believe that any hasty move to a set of paper pilots that would have to be followed by an electronic certification system pilot would be a duplication that we can ill afford and might indeed be counterproductive. That would be true in times of plenty, but these are times of austerity and the waste involved could be significant.

The second purpose of amendment 7 is to point out that this is an opportunity to modernise the certification process not only by making it electronic but by ensuring that the data can truly inform our health planning. Despite certain doubts about the potential to analyse certification in electronic form, I believe that individual doctors could be shown to be outliers on the basis of the cumulative analysis of their certificates.

At present, the ability to link data from such sources to 2001 census data is inadequate, and I hope that the minister will take note of the difficulties in that respect for future reference. Cumbersome bureaucratic elements make that linking difficult to deal with. That is important, because the 2001 census is one of the main sources of ethnicity data, and we know that we will be able to plan our services better if we have good recorded ethnicity data.

I will give an example that was given in a debate that the minister, Ross Finnie and I were involved in last night. According to research, there is a much higher level of diabetes in the south Asian community, but we do not know whether that finding is valid in a Scottish context. If we had good electronic data in which ethnicity was always recorded, we would have the opportunity to examine that matter.

Another issue is health care acquired infection. Having notes on death certificates that say whether health care acquired infection was present and whether it contributed directly or indirectly to the death is important in ensuring that the excellent progress that has been made in dealing with MRSA and *Clostridium difficile* is maintained in dealing with VRE, NDM-1 and all the other new challenges that are now coming along and rearing their ugly heads. Things can be done much more easily on electronic forms. It would simply be a matter of saying whether there was or was not infection; if there was, there would be further drop-down boxes for answers. That is difficult to do with paper.

The consent of next of kin suggestion is to ensure that, in the reduced review climate, which remains one of the committee's concerns, the next of kin acknowledge that they are content with the death certificate. Such an approach would be welcome. I realise that there is the opportunity in the bill for kin to require or request a review, but the proposal would go further than that—it would trigger the next of kin to think and to indicate whether they were content. They might not have thought of the matter, but if they were asked to think of it they could say, "Well, now you come to mention it, actually we're really not that happy because something has been omitted from the death certificate."

The final proposal would allow ministers to add any information that they thought was useful. Familial screening is mentioned. If there was electronic linkage, there would be the ability to ensure, for example, that familial hypercholesterolaemia, which is currently poorly screened for, was screened for. We could have a system that automatically sent a trigger to the general practitioner when a person with a condition for which familial screening was appropriate had died, to suggest that family members be contacted and screened.

I would make it an absolute requirement that the community health index number be entered. That is fundamental to the data linkage system that we must have in Scotland. Without a CHI number, a big piece of the jigsaw is missing. Requiring it is of great importance. I recognise that there is a difficulty with that, as the hospital side is not yet 100 per cent using CHI numbers and junior doctors are filling in things. Nevertheless, having access to the emergency care record that every doctor should have access to, that should be available for every patient, and that should have the CHI number recorded on it will allow us to have a modern, 21st century system.

As I will say in the final debate, I remain disappointed by the bill. It was introduced as a result of Shipman, for many good reasons, but by moving so quickly to a paper-based system we have failed to take the opportunities that we need to take.

I move amendment 7.

Shona Robison: I do not support amending the bill to introduce discretionary powers to create electronic medical certificate of cause of death forms for use during the test site phase. That would be unnecessary, and would be likely to delay the start of the test sites in the new system. I have already made a commitment to exploring the feasibility of electronic MCCDs. Such a feasibility study would examine various options, including the different information technology solutions that

are available and the different methods of verifying the identity of the certifying doctor.

As we all know, devising IT systems can be complex, costly and time consuming, with long lead-in periods. We are talking about a new IT system for which the business case has not yet been made and the costs, practical considerations and timescales have not yet been fully explored. I do not wish to jeopardise the implementation of the new death certification system. It is fair to say that the new processes that the bill will introduce mark a significant departure from current practice. There is a risk that trying to test the operation of a completely new process at the same time as introducing a new electronic system would be overly complex and that the operational difficulties of one might have a negative impact on the other. For that reason, we think that it is sensible to test the operation of the system outlined in the bill first. Only then will we be able to judge whether it is necessary to introduce electronic completion of MCCDs. However, as I have said, I see the potential benefits of electronic completion of MCCDs and I undertake to consider the feasibility of introducing such a system.

Amendment 7 would require additional information to be added to the MCCD for use during the piloting of the test sites. I cannot support that. Again, there is a risk that making the inclusion of that information mandatory would result in complications and cause delays during the testing of the new system. For example, in cases in which the deceased was to be cremated, the amendment would require the recording of the next of kin's acceptance that the information on the MCCD form was correct. Delays could quite easily result if there were difficulties locating the next of kin or it was not known at the point of completion of the MCCD whether the deceased wished to be cremated.

Further, it would potentially be insensitive to pressure the next of kin to make a decision about the adequacy of the MCCD so close to the death. That is why we have provided an opportunity in the bill for certain family members to apply within three years of the death to have the MCCD reviewed by an independent medical reviewer.

Also, we do not think that it is appropriate to require the other additional information to be included in every MCCD used during the piloting of the test sites. That would make completion of the forms more complex and time consuming, which might have a negative impact on the main objective of testing the system that is set out in the bill. The bill makes provision to allow additional medical information to be included in MCCDs. The General Register Office for Scotland has recently consulted on that issue. There is therefore no need for that information to be added to MCCDs

for the purposes of the test sites. The results from the test sites may lead to some of the changes that Richard Simpson is arguing for today.

For those reasons, I oppose amendment 7.

Mary Scanlon (Highlands and Islands) (Con):

I understand the minister's response and appreciate what she said at stage 2. None of us would wish to delay funerals, which would be difficult for families. I also appreciate what the minister said about the proposals being costly and complex and having a long run-in period. However, we had 100 years prior to the bill to change practice. This is the first change in 100 years. We have had 12 years of a Scottish Parliament. Perhaps Richard Simpson has a good point.

I also have a more general point, on an issue that the Health and Sport Committee has considered over the years. Generally speaking, the national health service is extremely slow to adapt to e-health, telehealth, clinical portals and any other electronic system. I still have to write a letter to my doctor or turn up in person at the surgery in order to get a prescription—something that for many years could have been done electronically. Even the electronic bed management system is operated differently in different health boards.

While I have sympathy for Richard Simpson's point, I understand the minister's response. When we are faced with legislation in future, surely it is incumbent on the bill team, ministers and all of those who prepare bills to ask themselves, "Can we introduce technology at this point that would make things better now and in future, and that could be utilised to the benefit of all?"

My final point is one that I will also mention in my summing up. I am not yet sure that we have secured the provision of full and accurate information on the death certificate, although that is a proposition of the bill. It would be helpful if an electronic system managed to integrate information on hospital-acquired infections, as well as any other information that is useful to future public health planning.

10:30

Dr Simpson: I am slightly disappointed by the minister's response, but I will seek to withdraw amendment 7. Subsection (1) of the amendment states:

"the Scottish Ministers may provide for medical certificates of cause of death to be created in an electronic form."

We already have an electronic form—we are not starting from scratch. ISD Scotland enters the data in an electronic form. The Health and Sport

Committee received evidence from Colin Fischbacher that he must make 2,000 inquiries a year about deaths, although he does not get information back, because there is no compulsion to change the current paper reporting, which is bizarre. Nevertheless, a system exists that ends up with an electronic form.

Given that we start from that point and given—I assume—that all deaths will have to be coded, it does not seem that we should not make progress. That is why I am disappointed. In rejecting my amendment, the minister used words like “will” and “can in the future look at”. The committee said clearly in its report, which was published on 21 January, that technology was important for the future. I believe that the minister should have said, “We have already commenced the process of examining the issue.” However, I will seek to withdraw amendment 7.

Amendment 7, by agreement, withdrawn.

Section 28—Orders and regulations

Amendments 4 to 6 moved—[Shona Robison]—and agreed to.

The Deputy Presiding Officer: That ends consideration of amendments.

Certification of Death (Scotland) Bill

The Deputy Presiding Officer (Alasdair Morgan): The next item of business is a debate on motion S3M-8126, in the name of Shona Robison, on the Certification of Death (Scotland) Bill.

10:32

The Minister for Public Health and Sport (Shona Robison): We are debating a bill that will provide us with a proportionate and robust approach to the scrutiny of death certification. The proposals will lead to a modern Scottish death certification system that is sensitive to bereaved families’ needs.

The bill will introduce a single system of independent scrutiny of medical death certificates that will apply to deaths that do not require a procurator fiscal investigation. The system is based on one of the models that the independent expert burial and cremation review group proposed. The review group was established in 2005 and reported in 2007. Last year, I consulted on all its recommendations. The bill relates to the certification of death aspects.

Most consultation respondents supported our preferred model, which forms the basis of the bill. They included all the respondents who represented patients and consumers, as well as the majority of local authorities and of public bodies and half the medical respondents, including the Royal College of Physicians of Edinburgh, the Royal College of Physicians and Surgeons of Glasgow and the General Medical Council.

The new system will replace the current crematoria medical referee system and the associated forms and will therefore abolish all the cremation fees that families pay to doctors. The bill will remove the historical differences between cremation and burial, which were introduced when medicine was less advanced and when it was believed that more stringent measures were needed for cremations, because the evidence of the body would be destroyed.

In fact, as the independent expert review group concluded, after a body has been embalmed and buried, often little forensic information is available even when the body is exhumed, particularly if it is exhumed after a significant time. This is why we came to the view that the additional checks in cremation cases led to expenses and delays without providing benefits for families or value for money.

No death certification system can guarantee to prevent criminal activity such as that which Harold

Shipman carried out, but our proposals are robust and have been designed to deter malpractice and provide public reassurance. It is important that the new death certification system will benefit bereaved families, to whom we owe a duty to ensure that any new system will minimise distress, avoid undue delay to funerals and be affordable.

Nowadays, the majority of families opt for cremation. Once the new system commences, they will no longer have to pay cremation fees, which are currently £147 plus an additional fee for the medical referee. Instead, a universal fee of about £30 will be charged. In addition, individuals will for the first time be empowered to request a review of the information in the certificate if they have concerns.

I stress that, at the heart of the future Scottish system, the emphasis will be on improving the quality of death certification. To that purpose, the independent medical reviewers will undertake 1,000 random comprehensive reviews, as well as additional targeted reviews. Actions following those reviews will be part of a quality improvement programme, and will include direct feedback to the certifying doctors, further investigations of the case, links with clinical governance, and training and educational activities.

The role of the new national statistician will be important. Regular statistical tests will be run on all death data and any unusual results will be identified and reported to the medical reviewers. Furthermore, following concerns expressed in the committee about deterrence and public reassurance, medical reviewers will also randomly scrutinise 25 per cent of all deaths—around 13,500 in all—by way of shorter level 1 reviews. That means that, when those deaths are combined with the number of cases that are reported to the procurator fiscal each year, around 50 per cent of deaths in Scotland will be subject to scrutiny. In other words, a doctor will have a 1 in 2 chance of their certificate being scrutinised.

At stage 2, we introduced amendments in response to concerns raised by the Health and Sport Committee and by stakeholders about where responsibility for checking foreign certificates associated with deaths overseas should lie. I reflected on that matter and listened to stakeholder concerns about the proposals in the bill to give that function to superintendents at local burial grounds and crematoria. The bill was then amended at stage 2 to require the medical reviewers office to carry out that function instead.

The bill's fee provisions have been amended to allow for fees to be set below cost recovery. That follows a commitment that I made earlier, when I outlined additional reviews that will give rise to increased costs but which are to be paid for by the Scottish Government rather than through fees.

The fee therefore will remain at around £30 per case, including costs for collecting the charge. We also amended the bill to clarify that we do not intend to charge a fee for the checking of foreign certificates.

If the bill is approved today, we will consult further on operational matters and the secondary legislation that will be required to implement the system. We acknowledge the need to continue to work with stakeholders, including the general public, on the test sites—which are scheduled for the following year—before the implementation of the new system, which is scheduled to take place during 2013-14. Of course, it is not just a matter of legislation and guidance; good communication and awareness raising will also be key activities in the next phases. I believe that we have a solid base on which to build and I look forward to the work coming to fruition.

I thank the Health and Sport Committee for its sterling work on this bill. As ever, the process has been very constructive. I also thank the committee's clerks, who worked very hard, and I put on record my thanks to the bill team, who took on a significant piece of work with this bill.

I move,

That the Parliament agrees that the Certification of Death (Scotland) Bill be passed.

10:38

Dr Richard Simpson (Mid Scotland and Fife) (Lab): I would like to add to the minister's thanks by thanking the witnesses who appeared before the committee. They were extremely helpful. In the Scottish Parliament, we go through a particular process with bills. First, there is a review by an expert group—in this case, there was a United Kingdom review of death certification, which led to changes being made in England. The review is followed by a consultation document, and then by a committee's taking of evidence. It is often during those face-to-face evidence sessions that significant problems become apparent in the bill proposal. We probably need to examine carefully how often that has happened, and to consider what might have been done during the consultation process.

The major flaw with this bill was the level of scrutiny. Originally, the bill arose as a result of the Shipman case. Although the committee and the Government agreed that no system could ever have prevented someone as devious and psychopathic as Shipman from operating, public confidence must be retained. As the bill has gone through its stages, we have reached a point at which 50 per cent of death certificates will be scrutinised. That is a satisfactory move, but we will have to review and examine it in future. In

England, a 100 per cent review rate has been adopted, but the costs of that are very much greater. We have a lower-cost system, but it has yet to be demonstrated that it will fully retain the confidence of the public.

The procurator fiscal review—half of cases are to be so reviewed—can be quite cursory, I remember, and I will be interested to hear the views of my colleague Dr McKee on that, if he speaks in the debate. I found that there were occasions on which a death occurred somewhat more suddenly than had been expected, although there were no suspicious circumstances. Nevertheless, because the death had occurred more suddenly, or because we did not have adequate information, since the person was a visitor to our committee—I mean a visitor to our practice area—

Stewart Stevenson (Banff and Buchan) (SNP): Committees have that effect.

Dr Simpson: Yes. Thank you, Stewart—I have lost my train of thought now.

In the case of a sudden death where we did not know a lot about the patient and we did not have a huge amount of information, our phone call to the procurator fiscal would prompt the question whether we had any real concerns. My response would typically be, “No, I have no real concerns,” so we would then be told, “Thank you very much—go ahead and do the certificate.” That is not a review.

We will need to consider the provisions carefully. We will need to consider the training of procurators fiscal and of doctors so as to ensure that, if we are to rely on half of all reviews being undertaken by the procurator fiscal, an adequate process is followed.

I do not wish to reiterate all the arguments that I advanced in earlier debates on the electronic aspect, but I remain disappointed that, in her opening speech at this final stage of the bill, the Minister for Public Health and Sport yet again did not mention electronic certification. I urge the Government and the minister, even at this very last, dying stage of the present Government—I had to get that in—to commit civil servants to commence consideration of the electronic aspect during the forthcoming interregnum period. We have had two months already; let us have some urgency on the matter. Let us consider what currently exists in the Information Services Division and let us begin now to examine the possibilities for developing a modern system. Although the minister said in her speech that we have a modern system, it is not—it is a revised system, based on an old paper system, with all that system’s flaws.

I still have concerns about the signature on the certificates. Previously, two thirds of them would be reviewed by a second and third doctor. Now, a junior hospital doctor will be able to sign the certificates, and no further review will occur in 50 per cent of cases—although it will vary from individual to individual.

I would like the guidance or the regulations to provide for a system that specifies that no foundation year 1 or foundation year 2 doctor should be able to sign the certificates; only those with specialist training in the hospital—what used to be called registrars—should be able to do that. Alternatively, there should be a counter-signature from the responsible consultant, to make sure. Furthermore, doctors should go through a specific training module.

All of that underlies my concern about retaining public confidence, which is fundamental to the revised system. Two thirds of individuals will welcome the fact that costs will go down from £160 to £30. On the subject of costs, I ask the minister to clarify something that she said earlier when she sums up: that there will not be a charge in relation to overseas deaths. I assume that there will still be a £30 charge—or will there be no charge whatever for people who die abroad? If that is the case, we will perhaps, as with the Eskimos, start to ask our elderly relatives to go to another country, albeit briefly, so as to save some money. That will not happen, of course, but I ask about the possibility of there being no charge. The system for overseas deaths that is now being put in place is a good one, with the central review, which I think will work well.

We have dealt reasonably well with expedited certification for faith burials, particularly for Jewish and Muslim groups. As we come to scrutinise the regulations and guidance, we will have to invite the Subordinate Legislation Committee to examine the matter carefully, with our colleagues in the Jewish and Muslim faith groups, so that the regulations ensure that the post hoc review system will be appropriate.

The bill has been amended appropriately, and I am glad that the Government responded entirely appropriately to the committee’s initial serious concerns. We will now have a modern, proportionate system—except for the fact that it should have been an electronic system from the outset.

10:45

Mary Scanlon (Highlands and Islands) (Con): I thank the witnesses, in particular Professor Stewart Fleming and Ishbel Gall, who scrutinised the bill effectively at all stages.

I am pleased that we have reached stage 3, at the tail end of the parliamentary session, but I remain uncertain whether the bill will lead to a system that is more robust than the current arrangements and more likely to identify a potential Harold Shipman or even provide us with more information on cause of death, as Professor Fleming said when he gave evidence and as Richard Simpson said in the debate. Although I remain unconvinced by the bill, I am a non-clinical member of the Health and Sport Committee. I am concerned, however, that the two highly experienced doctors on the committee also have reservations about it.

The bill has changed radically since it was introduced, as a result of the evidence that the committee heard and the minister's evidence at the end of stage 1. That demonstrates how poorly the measures on certification of death in the bill as introduced reflected 21st century life, and it calls into question the extent to which the minister and the bill team took on board the written evidence that was submitted during the consultation. The committee heard the same concerns expressed in oral evidence at stage 1.

Although up to 1,000 level 2 reviews will be more detailed than is currently the case, level 1 review and certification, which it is alleged will cover up to 25 per cent of deaths, will be significantly less detailed than is currently required. The minister has assured us that the number of level 1 and level 2 reviews can be adjusted up or down and that the matter will be covered in guidance.

However, the bill will be passed in the final days of this session of the Parliament. In May we will have new committees with responsibility for health and subordinate legislation, and, perhaps, a new health minister. The members who agree to the statutory instruments that provide for the guidance will likely be unaware of the serious critical written and oral evidence that has been provided and there is the potential for the number of reviews to be adjusted downwards to the unacceptable levels that were provided for in the bill as introduced.

We have been given assurances on the two pilots that will take place prior to full implementation. However, given discomfort at a review rate of 4 per cent of death certificates—that is up from the 2 per cent in the bill as introduced—will the minister consider having one of the pilots review 4 per cent and the other review a much higher number, for example 10, 20 or perhaps 30 per cent of certificates? Such an approach would enable the new system to be evaluated and might be better than having two pilots—one in an urban area and one in a rural area—in which the rate would be exactly 4 per cent.

Currently, 62 per cent of deaths in Scotland result in cremation. Three doctors check the death certificate in cremation cases, two of whom are not part of the professional practice of the first doctor. After the bill is passed, not three doctors but one doctor will check the death certificate—yet we are told that that is an improvement.

How many of the 25 per cent of deaths that are currently referred to the procurator fiscal are subject to medical examination and review? I understand that the number is likely to be low, and clarity on the issue would be helpful. Will the minister respond in writing on that?

The Scottish Conservatives will support the bill, given that further changes will be made through guidance. We trust that the reservations that have been expressed throughout the bill's passage will be taken on board by the Government and whatever Administration is tasked with issuing guidance after the election in May.

10:49

Ross Finnie (West of Scotland) (LD): The bill was interesting. When it first came before the Health and Sport Committee, there was a sense that it was a relatively simple matter and that it would be disposed of relatively quickly. However, it proved to be rather different once we got into the detail.

As the minister pointed out, the proposal was based on extensive work by a review group and the model that the Government chose was one of those that the group put forward. I am bound to repeat the comment that I made at stage 2, which supports Richard Simpson's comment, that the review group itself pointed in the direction of using electronic recording. I can see that there are difficulties when, at a rather late stage in the proceedings, members make clever suggestions that are difficult to encapsulate, but electronic recording was part of the review group's recommendations, so I share the disappointment that attention was not given at an earlier stage to the possibility of, and the benefits that might accrue from, adopting such a system.

The second issue that quickly arose was the level of scrutiny. I do not necessarily share the view that it is possible to find a Shipman. None of the reviews says that it is and nobody seriously suggests that an individual who is determined wilfully to avoid any form of checking will be subjected to such a test under any system. However, as Richard Simpson made clear, there is a need for public confidence. The comparison was between the level of scrutiny that was applied to cremation cases and the level that was applied to burial cases. The evidence was clear and we were left uncomfortable about the level of review.

I am grateful to the Government for increasing its level of scrutiny. I am also grateful to the minister for writing to the convener of the committee setting out a matter that caused me some concern, which was the statistical basis for the ramblings—sorry, I mean the random sampling approach; it is quite difficult to say. The statistical basis for that random sampling, which was conducted by the Information Services Division at NHS National Services Scotland, is set out clearly in the letter and the accompanying one-page note.

Having considered that information, I am greatly encouraged by the combination of preparation for, and review of, the system. However, the minister must be clear that, because of the very different way in which the system will operate, it is imperative that there be clear, open and transparent review and that the results of any such review be published.

I am not sure about the level of doctors' competence. I do not know whether they have the competence to fill in a death certificate when they qualify or whether they need many years' experience before they can fill one in. That is a matter about which only medical people can tell me. However, death certification is important and I share Richard Simpson's view that it is a question of establishing public confidence.

The minister dealt with other matters satisfactorily in her response to the committee's recommendations. Those concerned not only the medical review, but bringing medical reviewers into the ambit of the check on overseas deaths. She also responded to the evidence about the necessity to expedite procedures to meet the requirements of faith groups. Those responses made substantial improvements to the bill.

The changes that have been introduced radically change the bill, which is much stronger as a result of the committee process. We need to monitor progress carefully in certain areas, but I am satisfied that the bill is worthy of support at decision time.

10:54

Ian McKee (Lothians) (SNP): There is some belief that the bill is a dull affair and that it is just rather technical. However, information from death certification can have a major effect on future health expenditure. If a series of recordings showed that one condition or another was on the increase, but the recordings were inaccurate and the information incorrect, huge sums of money might be spent on the wrong priority.

It is important that we get things as right as we can, although, short of allowing for 100 per cent post-mortem examinations—and even then—there will always be inaccurate certificates whatever we

do. From that perspective, I welcome the bill, as it aims to improve the accuracy of death certification by education and supervision and includes disposal by burial in its remit. There are some points of concern, however, which I raise in the light of my years of experience of the issue.

The bill provides for the appointment of medical reviewers and the minister has informed us that those might be part-time appointments. I think it vital that they are part-time appointments. That will mean that more individuals can be medical reviewers for the same financial outlay, so the geographical spread can be greater, meaning that the reviewer will have more local knowledge. It is important that a medical reviewer keeps up to date with clinical practice, which will be much more difficult, if not impossible, for someone who spends the entire time following up death certificates.

I have a major concern about the number and type of reviews that are implied by the financial memorandum and about which we have been informed by the minister. First, 25 per cent of deaths will be covered by a level 1 review, which seems to be little more than a telephone conversation with the certifying doctor. Although careful questioning might reveal one or two important background factors that can then be included in a certificate, we must bear it in mind that a doctor who has been rather casual in filling in a certificate—let alone one who has been negligent or worse—will have a vested interest in giving answers that back up the original certificate.

The same criticism applies to placing undue reliance on the fact that a procurator fiscal has been informed. Here, I agree entirely with Richard Simpson—I think that we are the only two people in the chamber who have practical experience of these matters—because most interchanges with a procurator fiscal are cursory telephone exchanges, with permission to go ahead with the certificate without much interviewing. There is a risk of a *folie à deux* in such situations, with neither professional wishing to go too deeply into the issue.

The level 2 investigations are much more comprehensive, but my concern here is about the small proportion intended—about 4 per cent, we are told. I know that the minister has reassured us that the statistics show that that figure is enough to give an accurate estimate of the total number of identifiably inaccurate certificates overall. As Ross Finnie said, that is true, but the present system for cremation, where in effect all disposals are subject to something very similar to a level 2-type procedure, identifies not only inaccurate certificates, but the deaths to which they relate. That allows the inaccuracies to be corrected, which will not be the case for at least the 50 per cent or more of certificates that are to be allowed

through totally unchecked under present plans—and probably not for many of the rest.

Store is set by the two proposed pilots, but in a small pilot the number of level 2 investigations will be very small and I doubt that the evidence will be robust enough to draw accurate inferences about the reliability of the results. I agree to an extent with Mary Scanlon that it would be more informative to have two pilots, one of which reviewed 4 per cent of death certificates at level 2 while the other reviewed an increased proportion—for a small pilot, that could be 100 per cent—so that we could see the differences in results, if there were any.

We have been told that the reforms have their origin in the Shipman scandal but that no system could guarantee to prevent another such scandal. That is undoubtedly true, but that is no reason to replace the existing system of death certification with one that is less effective, simply to be able to charge smaller fees. I support the bill and will vote for it, as none of what I perceive to be defects are in the bill. If we truly wish death certificates to be more, rather than less, accurate in future, however, I am convinced that the proportion of level 2 assessments will have to be considerably increased.

10:59

Rhoda Grant (Highlands and Islands) (Lab): I am very pleased that we have reached stage 3 of the bill and that its consideration is coming to an end. I tend to disagree with Ian McKee, in that I think that the bill is very technical, but I agree that it is incredibly important.

As was said at stage 2 and again today, the Shipman inquiry led to the bill and our work on it to see how it would affect the issues raised. It was acknowledged early in the process that it would be impossible to stop another Shipman, but the bill might act as a deterrent. I hope that it will also lead to better recording of the reasons for death.

I have a number of points on the pilots and implementation, and I make no apology for repeating much of what I said in the stage 1 debate. When I raised issues to do with the collection of fees by registrars and asked what would happen if a death were registered by a police officer or a neighbour, the minister said that she hoped that she could send out a reassuring message on that but, rather than reassurance, we need a clear solution. I ask her to bring forward such a solution, which should be available not only to people such as police officers, who might be asked to register a death, but to the likes of neighbours and friends of the deceased, who might wish to help a bereaved family in that way.

I welcomed the minister's assurance in the stage 1 debate that non-payment of the fee would not delay certification, but clear guidance must be provided so that registrars know what to do in the process.

Another issue that I raised in the stage 1 debate was that of the delay that might be caused by a death being reviewed, which could be extremely distressing for cultural and religious reasons. The minister said that she would look at having test sites to see how the policy would work, and she suggested Glasgow as a possible test site for dealing with issues regarding faith groups. I welcome that commitment, but I ask that another of the test sites be in one of our island authority areas, where the local culture is that the body would normally remain at home prior to the funeral. That would enable us to look into how the operational issues could be dealt with in those areas.

Given the timing of the bill and of the setting up of the pilots, it might not be possible to test the proposed system in the winter months, so I ask the minister to ensure that the people who work in the test site areas look at the implications of poor weather and possible transport disruption. Last weekend, I had an interesting experience travelling to Shetland, which took quite a while longer than I expected and included an overnight stay in Kirkwall in Orkney, as well as a visit to Aberdeen. That is frustrating enough for people who have plans, but it could be extremely distressing for a bereaved family that was waiting for a medical examiner to pitch up, as it could delay the making of funeral arrangements.

The possibility of such delays might lead to a requirement for refrigerated mortuaries on our islands and in our remote communities, and that would come with an additional cost. Winter conditions are challenging for obvious reasons, but ferries and planes can also be affected during the summer months, when it can be difficult to get on and off islands because of tourist travel. In that period, it is often difficult to book a ferry or a plane ticket.

We must ensure that the policy works in practice, otherwise it will lead to distress and possibly to additional costs for authorities that attempt to implement the bill. We must also ensure that our remote, rural and island communities receive a service and safeguards that are equivalent to those that more urban areas receive. A process needs to be put in place that will deal with all those issues and deliver the same protection for all our communities.

The bill is technical, but it is important nonetheless, and we need to ensure that the system that it puts in place is right so that we can protect the people whom we seek to serve.

11:03

Stewart Stevenson (Banff and Buchan) (SNP): I have a few observations to make, some of which pick up points that others have made and some of which are new. Dr Ian McKee talked about the importance of death certification feeding into health care planning. That is correct, but we must not fail to take account of the need for death certification to feed into immediate response to possible epidemics. Professor Stewart Fleming did not make reference to that in his definition of the three aims of the certification process.

Ian McKee also talked—absolutely correctly—about *folie à deux*. It is worth saying that in aviation some 20 years ago we had precisely that situation in the cockpit, when a very senior captain would often not be told by a very junior but recently trained and high-quality first officer that they were getting it wrong. In designing the relationship between different players in the system, we must be aware of the influence that respect for experience and seniority has and must ensure that a junior person can point out freely and frankly to a more senior person that they are not up to the standard that is required. *Folie à deux* was killing people in aviation 20 years ago, but training has changed and it is not killing people now.

Last week, I had the very great pleasure to be in Giffnock synagogue to launch a Jewish education project on the internet. On that occasion, I received representations on the particular issues surrounding Jewish burial practice, which are equally applicable to people of the Muslim faith. It is important that we take account of the fact that those faiths use burial rather than cremation and make sure that we acknowledge that and preserve those traditions.

Rhoda Grant talked about testing. It is worth observing that testing has more limitations than one might imagine. About 30 years ago, IBM produced a computer that turned out to incorrectly multiply 10 by 10,000,008. Every other calculation appeared to be correct, but it was established that to use testing to see whether they were correct would require every model of that computer that had ever been produced to run through exhaustive tests for more than 1,000 years. It is important to get the design of the system correct.

We have heard some discussions about computers and I want to make some observations, of which members might or might not be aware, that indicate the need for some caution. For the registration of births, Registers of Scotland provides 200 characters for forenames and 50 characters for surnames. Approximately 19 per cent of current registrations are for people who have three or more forenames, so that issue is not insignificant because people have more complex

names than they once had. Until a few months ago, I was refusing to take my parliamentary payslip—I was still taking the pay, of course—because my name was not right on the payslip. I am James Alexander Stewart Stevenson and the system provided for only two initials, thus omitting the initial that I use.

Joining computer systems together is often complex when we look at the metadata, to use the technical term, that are associated with information. I say that in the context of my genealogical researches on my great-grandfather who was a coal miner in Bannockburn. He first appears in the record in the 1841 census. The difficulty is that he is one of 328 Stevensons who were working in coal mining in Bannockburn in that year. Having the ability to distinguish names is very important indeed.

Equally, even if we impose rigorous standards for data collection and entry, there might be difficulties. When I worked in the Bank of Scotland, financial services legislation was introduced that required that we collect people's dates of birth. Our tellers found themselves inhibited in asking ladies of a certain age what their date of birth was, but they had to put in a date so they just chose a random date. We ended up with something like 9 per cent of dates being 1 January. A further 2 per cent turned out to be the teller's own birthday and, for a further small proportion, the teller simply entered that day's date and discounted the number of years. Computer systems are not just mechanical systems; they have to interact with the human effects that often surround the collection of data.

If time permits, Presiding Officer—no; I see that you are signalling to me to wind up.

The Deputy Presiding Officer: That would be a sensible idea.

Stewart Stevenson: In that case, I will close. Clive James's autobiography contains the wonderful phrase,

"Don't take life seriously; you won't get out of it alive anyway."

Today, we take death seriously and we are entirely correct to do so.

11:09

Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): As I am not a member of the Health and Sport Committee, I come to the bill and the debate as a comparative layman. However, I am struck by a central theme that we have heard a lot about this morning, which is what Dr Simpson referred to as whether the next of kin are content with the death certificate. Public confidence

depends on whether people are content with the stated reason for death.

I go back a few years to a case that exemplifies the question of doubt. It started on the day in 1997 when the body of Kevin McLeod was pulled out of Wick harbour. Despite meetings with the police and other authorities, including the procurator fiscal, the doubt about and lack of confidence in the death certificate remains. Kevin McLeod's death predated by two years my election as an MSP. However, like every other Highland member, I was aware of the case. Questions were raised on the matter in the chamber, but we still do not know whether Kevin McLeod accidentally fell to his death or whether he was murdered. That lack of confidence is exactly what this debate is about. I am aware that I have used an extreme example, but the failure to ascertain the facts means that Kevin McLeod's family and friends and many people in the north of Scotland remain unhappy with the system. What we see in the bill goes a long way towards addressing the issue.

Dr Simpson mentioned training for medical professionals and procurators fiscal. I argue that such training should be extended slightly more widely than that, perhaps to include our police services. I do not wish to denigrate anyone, but doubt will remain until we can demonstrate to the public that things are being done to the highest possible standards and that our systems are watertight. We must get rid of that doubt. That is what the bill is mostly about.

Stewart Stevenson: Does the member accept that it is not possible to eliminate all doubt from death? I say that having been close to a suicide. To this day, more than a decade later, we do not know the cause. The medical record shows the correct reason for death, but the underlying cause is still not known. There will always be a small percentage of cases in which certainty simply cannot be given.

Jamie Stone: I accept that, but the point of raising Kevin McLeod's death was to highlight a case in which the element of doubt is unacceptably high. In a proper democracy, that should be totally unacceptable.

I turn to the policy memorandum and two issues in particular to which my attention has been drawn. First, people rightly welcome the reduction in the cost of cremation but, as the policy memorandum points out, we must remember that in island, Highland and other remote areas the prevalence of burial is statistically higher than is the case in the rest of Scotland. We must guard against any possible increase in the cost of burial. I am not saying that that will necessarily happen, but we must be careful. Secondly, people have concerns about delay between death and the funeral and burial or cremation. Other members

touched on that. As is the case in many other countries, the feeling in Scotland is that the dead being unburied is completely and utterly unacceptable. As other members rightly said, we must minimise distress to families. This is an important issue. I do not for one instance want to suggest that the bill may lead to delay, but we must guard against that.

Once we have agreed the bill at decision time—which I am sure that we shall—it will be for a future Government and the civil service to ensure that the driving principles behind the bill are met. Those principles are making things more efficient and increasing public confidence. We also want to avoid another Harold Shipman, although I accept that we can never rule that out entirely. We must increase public confidence at all times. That is the great goal that is to be attained.

I cannot wave a magic wand to find out the truth about Kevin McLeod's death, but as long as such doubts remain, they should act as a spur to members. We must minimise doubt. It may or may not be up to my successor to take up the issue in a future session of the Parliament. I support the bill.

11:13

Mary Scanlon: Despite Stewart Stevenson's incredible experience in business, innovation and enterprise throughout Scotland, he seems to think that modern technology is incapable of overcoming all the obstacles and difficulties that he raised. That is the challenge for technology. Someone having more than two or three Christian names—indeed, someone having 11 Christian names, having been named after a football team—should not be used as a reason not to utilise and embrace technology.

We need only consider telehealth and e-health, including the advent of clinical portals and electronic bed management, to see the advantages to the NHS of having such instant information and communication. Long-term self-management of many conditions also brings benefit to the NHS and the taxpayer, particularly in these difficult times. There is also the benefit to patients. We have to overcome these difficulties; obstacles cannot be put in the way.

Stewart Stevenson: I agree with every word that Mary Scanlon has said; I merely sound a note of caution that it is sometimes more difficult than people imagine to achieve that desired outcome. In particular, we must have systems that allow unstructured data to be entered in a way that enables them subsequently to be analysed, as we are unlikely to identify every bit of data that we want to collect at the outset. That is difficult to do, but it needs to be done.

Mary Scanlon: I appreciate that, but I am sure that people around Scotland like Stewart Stevenson, working in an advisory capacity, can keep everyone right.

My second point relates to the phone call to the doctor that is referred to on the first page of the supplementary financial memorandum to the bill, which states:

"The MR will discuss any concerns with the certifying doctor (or another doctor in the team) by phone and any disagreements will be covered by the same procedure as currently set out in the Bill."

Had a medical reviewer phoned Harold Shipman, he might have said, "Well, she was getting old. She was over 80 and had been failing for a wee while," and the medical reviewer might just have said, "That's fine. Cheerio." Is a phone call to the doctor who writes the certificate, with no further checks, enough? Having heard two doctors speak in the debate today, I still feel uncomfortable about that.

As a list MSP for the Highlands and Islands, I listened with interest to what Jamie Stone said about Kevin McLeod and the devastating impact of his death on his family. I have tried to help in that case and I appreciate what Jamie Stone said. We should all be aware of specific examples that lead to problems with death certification.

That takes me on to my next point, which I raised earlier. Sixty-two per cent of people in Scotland are cremated after their death; yet, in the future, only one doctor rather than three will check the death certificates and the evidence will be gone forever. In recent times, bodies have been exhumed and DNA samples have been taken for use in murder cases, et cetera. That is why I still have a level of discomfort about the proposal. I hope that the minister will raise the issue, as I am looking for assurances on the matter. I have been an MSP for 11 years, in which time many people have told me that their mother died of a hospital infection—that she did not die of whatever the certificate said. I welcome the fact that, under the bill, individuals and families will be able to request a review of their mother's death or whatever. That is a step forward, as that is not possible at the moment. My concern is to ensure that hospital-acquired infections and things that contribute to someone's death, although they may not be the actual cause of death, are taken into account.

I thank Ian McKee for his point about increasing the number of reviews. I also support Rhoda Grant's proposal that there should be piloting on the islands, where the culture around death is very different.

11:18

Dr Simpson: The bill began rather like the Patient Rights (Scotland) Bill, looking rather flawed and weary, but it has been resurrected through the useful process that we have gone through. Nevertheless, doubts are still being expressed about whether the bill will introduce a fully robust system that will retain public confidence. The debate has been useful in suggesting that the pilot should be conducted almost as a research exercise, with not only 25 per cent of deaths being reviewed by medical reviewers, as is required by the act, and approximately 25 per cent of deaths being reviewed by procurators fiscal—accounting for 50 per cent of deaths—but 100 per cent of deaths being reviewed on a post hoc basis to determine whether the system that we are putting in place is error strewn.

If we are concerned about errors, we need look no further than two quotes from Professor Stewart Fleming. He told the committee that,

"in cases in which a post mortem was performed after a death certificate had been completed, the inaccuracy rate was about 20 to 30 per cent."

He also said that, every year, around 30

"unnatural causes of death are picked up only at the confirmatory medical certificate on the cremation form."—[*Official Report, Health and Sport Committee*, 1 December 2010; c 3756 and 3746.]

Some of those deaths might be due to road traffic accidents rather than something more serious but, nevertheless, they are missed.

Those are a few of the issues that we need to examine, apart from the general issues raised by the Harold Shipman case, which are almost a distraction. However, I should say that the care home deaths in England gave rise to considerable public concern. Therefore, an analysis on a geographic basis, which the bill provides for, is important. If there is a higher than normal proportion of deaths in one care home, that might lead to much more detailed scrutiny, which would be welcome.

I suggest to the minister that the details of the pilot should be brought before Parliament so that we have the opportunity to see precisely what is proposed. The Subordinate Legislation Committee or the committee that is responsible for health should have the opportunity to scrutinise them and make helpful comments to the minister and the team that is running the system.

Rhoda Grant raised the situation in remote and island communities. Clearly, those concerns are important. In her evidence to the committee, Ishbel Gall, from Aberdeen, gave us some classic illustrations of the practical difficulties that will need to be explored in the new system. A pilot, perhaps involving Aberdeen, that might address

the issues around the island communities would be useful because a lot of people from the island communities die in hospitals on the mainland. The majority of such certifications take place in hospitals—hopefully we can change that, but it is not happening so far.

Rhoda Grant also referred to the problem of fee collection, and I will be interested to hear the minister's comment on that when she sums up.

Ian McKee stressed the importance of accurate data. In that regard, I conclude by repeating what I said at the start of stage 1, which is that—Stewart Stevenson's concerns notwithstanding—electronic data are the way forward, because drop-down menus allow people to be interrogated in a much more detailed way when completing the certificate and, far from adding time, can save time.

With regard to the ISD checks, which I presume will still occur, will the minister ensure that the regulations make it compulsory for there to be a response to an inquiry? In other words, if Colin Fishbacher or his successor has a query about the certificate, the doctor should be required to respond; it should not be voluntary. With regard to public confidence, it will be interesting to see whether the number of queries drops from the current level of 2,000 to a much lower level. If, under the new system of ISD checks, the number of those queries drops as a result of the accuracy of the data, it is possible that the system will have the public confidence that we all desire.

The Deputy Presiding Officer: Wind up, please.

Dr Simpson: We have a better bill now, although it still needs to be reviewed and we will examine the pilots as they go through. I support the passing of the bill.

11:23

Shona Robison: The debate has shown that, although there are still differences of opinion on some matters, the Parliament has engaged positively with the bill and has raised some important issues, which is encouraging. I have listened with great interest to the many and varied points that have been made about the proposals and I will try to respond to as many of them as possible.

Richard Simpson has, with some justification, doggedly pursued the issue of electronic medical certificates of cause of death. I envisage that work will start very soon on scoping the feasibility study on electronic MCCDs, and in the spirit of consensus I say to Richard Simpson that some of his pointers on where the starting point should be—instead of starting from scratch—are very helpful. He also asked a specific question about

the charge for overseas deaths, and I can confirm that the £30 fee will apply in those circumstances.

It is worth putting on record my response to Richard Simpson's point about the CHI number, which he raised in debating the amendments. I confirm that the General Register Office for Scotland already plans to add that to the MCCD, which I hope the member will welcome.

Mary Scanlon made a number of points in her opening and closing remarks, and I will pick up on one in particular: health care associated infection. We should bear in mind that the MCCD is a record of the cause of death and as such should not list all the conditions that the patient had at the time of death.

Mary Scanlon will be aware that an inquiry is currently examining the outbreak of *Clostridium difficile* in the Vale of Leven hospital. The inquiry's terms of reference require an investigation into the recording of deaths associated with C diff in the NHS for the purposes of death certification. It might be premature to pre-empt the outcome, but I am sure that Mary Scanlon and many others will consider the specific issue and any recommendations that emerge.

Mary Scanlon: I am trying to clarify two things. We all know that the cause of death is listed, but I have seen death certificates on which the major contributory factor is noted. That was the point that I was trying to make.

Shona Robison: There is a difference between that and a list of every condition, as I am sure we agree.

Ross Finnie made a number of points and I am pleased that he found the letter on the statistical basis of the findings helpful. He raised the need for scrutiny to be open and transparent. I point out to him that the senior medical reviewer must provide an annual review of medical reviewers' activities, which, I hope, will aid the transparency of the process.

I acknowledge Ian McKee's interest in these issues, which he has pursued rigorously through the bill's various stages. I know that he is yet to be persuaded on some matters, and I hope that the test site process will offer him and the other members who have raised concerns some reassurance on those issues. Rhoda Grant suggested that one of the test sites should be in an island authority, and we can certainly consider that, although as yet no decisions have been made about definite locations. We will take on board and reflect on her point about the implications of poor weather and transport disruption.

Stewart Stevenson highlighted the importance of being responsive to faith group issues. I think

that that has been the case throughout the bill process, and our reassurances have been well received by the faith communities, which is to be welcomed.

Yet again, the bill process has in many ways demonstrated the work of the Parliament at its best. It has worked very effectively in taking through the bill, hearing the evidence and coming up with a series of recommendations that I have no doubt have improved the bill. I do not see that as a negative at all: it is very positive that the Parliament has had—as in so many cases—a positive impact on a piece of legislation by improving it.

We have an opportunity to reform and modernise death certification, and I invite the Parliament to agree the Certification of Death (Scotland) Bill, which I believe will achieve that.

Public Records (Scotland) Bill: Stage 3

11:29

The Deputy Presiding Officer (Trish Godman): The next item of business is stage 3 proceedings on the Public Records (Scotland) Bill. In dealing with amendments, members should have the bill as amended at stage 2, the marshalled list, which is SP Bill 56A-ML, and the groupings, which the Presiding Officer has agreed. The division bell will sound and proceedings will be suspended for five minutes for the first division in the proceedings. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate and all other divisions will be 30 seconds.

Section 1—Records management plans

The Deputy Presiding Officer: Group 1 is on the “agreement” of plans, rather than “approval”. Amendment 1, in the name of the minister, is grouped with amendments 2 to 4.

The Minister for Culture and External Affairs (Fiona Hyslop): Amendments 1 to 4 follow on from amendments that were agreed to at stage 2 that replaced references to the keeper of the records of Scotland approving plans with references to him agreeing plans. Amendments 1 to 4 pick up on remaining instances of the terms “approval” and “approved” and change them accordingly.

The amendments address the concerns of the Convention of Scottish Local Authorities that the language of the bill focused too much on failure. They change the emphasis to one of collaboration and improvement. The amendments have no effect on the situation of the keeper, who will still require to be content with plans, otherwise he will return them.

I move amendment 1.

Amendment 1 agreed to.

Amendment 2 moved—[Fiona Hyslop]—and agreed to.

Section 4—Agreement of plans

Amendment 3 moved—[Fiona Hyslop]—and agreed to.

Section 5—Review of plans

Amendment 4 moved—[Fiona Hyslop]—and agreed to.

Schedule—Authorities to which Part 1 applies

The Deputy Presiding Officer: Group 2 is on a minor and technical issue. Amendment 5, in the name of the minister, is the only amendment in the group.

Fiona Hyslop: Amendment 5 is a technical amendment that updates a reference in the schedule. The schedule currently refers to

“Safeguarders Panels (that is to say, panels established under section 30(1) of the Children’s Hearings (Scotland) Act 2011 ...).”

That reflected the Children’s Hearings (Scotland) Bill at the time when the Public Records (Scotland) Bill was introduced. After the introduction of the Public Records (Scotland) Bill in October 2010, the Children’s Hearings (Scotland) Bill was modified at stages 2 and 3 so that the Children’s Hearings (Scotland) Act 2011 now makes provision for a single safeguarders panel, in section 32. Amendment 5 will change the entry in the schedule to reflect that.

I move amendment 5.

Amendment 5 agreed to.

The Deputy Presiding Officer: That ends consideration of amendments. That must be the quickest we have ever got through a bill.

Public Records (Scotland) Bill

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S3M-8129, in the name of Fiona Hyslop, on the Public Records (Scotland) Bill.

11:32

The Minister for Culture and External Affairs

(Fiona Hyslop): It gives me great pleasure to open the stage 3 debate on the Public Records (Scotland) Bill and to invite members to agree to pass the bill. I thank members of the Education, Lifelong Learning and Culture Committee, the Finance Committee and the Subordinate Legislation Committee for their hard work and careful scrutiny of what is in essence a technical bill. I also thank members for their comments on the bill during its passage and the organisations and individuals who provided oral and written evidence to the committee and briefings for members on the provisions.

The bill is about improving the management of public records by named authorities. It amends the Public Records (Scotland) Act 1937 in relation to court records. It is the first bill about Scottish public records in more than 70 years. As I said during the stage 1 debate, the bill has its origins in Tom Shaw’s report on the historical abuse of looked-after children, which was published in 2007 and was accepted by all the parties in the Parliament. Tom Shaw’s powerful and compelling evidence on the bill to the Education, Lifelong Learning and Culture Committee showed the human cost of record-keeping failures. He repeated his recommendation on the need for new legislation to cover all public records. That is why we introduced a comprehensive bill that covers all the functions that are carried out by the public authorities that are listed in it.

The bill will not mean that authorities need to keep everything—far from it. Good records management involves identifying the records that are important and have long-term value and drawing up agreed schedules that say how long particular records should be kept. When authorities engage private or voluntary organisations to carry out functions on their behalf, the records that those organisations create will be covered by the bill. That addresses a key element of the Shaw report.

The bill provides a definition of “public records”, which is necessary to ensure that those responsible for managing records know which records fall within the bill’s scope and know the obligations that will be placed on them. The definition also ensures that the keeper of the records of Scotland, who will produce guidance on

the form and content of plans and who will have powers to scrutinise their implementation, knows which records an authority's plan should cover. Only then can the keeper assess whether the plan makes proper arrangements for the management of those records.

Nowadays records can be kept in a variety of formats, the range of which clearly could not be envisaged by the 1937 legislation. The definition therefore ensures that the bill is future-proofed, as it must cover records in any format.

In its stage 1 report, the Education, Lifelong Learning and Culture Committee agreed to back the bill's general principles, taking the view that there was a strong moral obligation on public authorities to manage personal records effectively. It agreed that Tom Shaw's report and the experiences of former residents of residential schools and care homes in trying to trace records formed a persuasive argument for legislation to address known deficiencies. That view was fully endorsed by Parliament's unanimous support for the bill at stage 1 and I am grateful to members of all parties who spoke in that debate.

Before stage 1, both the Convention of Scottish Local Authorities and the voluntary sector argued that the bill should focus only on high-risk records and that the definition should be removed or narrowed. However, although it makes sense in practice to concentrate on high-risk records, managing only certain records within an organisation is not good records management practice. The keeper would find it difficult to agree a records management plan that took such an approach, as it would create uncertainty about which records were covered and who decided whether they were low or high risk. Instead of excluding types of records, the bill allows authorities to assess levels of risk and to make provision in their own records management plans to manage different records differently.

The Government responded to concerns that were voiced in evidence to the committee and during the stage 1 debate. At stage 2, Elizabeth Smith and Ken Macintosh made important points about the need for the bill not to be disproportionate or to create a heavy burden on public authorities, particularly the voluntary sector. To address those issues, I moved 28 separate amendments, all of which I am pleased to say were accepted. The Government also accepted 25 non-Government amendments lodged by Elizabeth Smith that, along with the amendments that I have moved and the Parliament has agreed this morning, further improve the bill's language and tone. I think that Elizabeth Smith probably holds the record for the number of Opposition amendments that the Parliament has accepted to a bill—she might want to check that—but together

all of the amendments seek to emphasise our aim of encouraging partnership working and continuous self-improvement rather than dictating solutions.

The stage 2 amendments made it clear that the keeper will not seek to impose a one-size-fits-all approach in every case. The Government's intention has always been that the keeper should work closely with authorities to ensure that the records management regime takes account of particular sectors' needs and respects their judgments about risk. Different sectors will have different records management plans based on individual needs and their assessment of the risks that they face. The bill permits professionals in the various sectors—child care, policing, health and the other areas—to make such decisions within an overall management framework. Moreover, named public authorities across Scotland including the Scottish Government, Scottish Parliament, local authorities, the Scottish courts, the national health service and others will be required to produce and implement a records management plan to be approved by the keeper.

The improvements for record keeping enshrined in the bill will, I believe, address the problems identified in the Shaw report and provide a solid framework for improving records management in Scottish public authorities for many years to come.

I move,

That the Parliament agrees that the Public Records (Scotland) Bill be passed.

11:38

Ken Macintosh (Eastwood) (Lab): It might have taken all of four years, but with less than a week to go before dissolution I am pleased to conclude the Education, Lifelong Learning and Culture Committee's work, and its final bill, on a consensual rather than acrimonious note. As members will acknowledge, there is no point in pretending that we have been the most united of committees, but I am genuinely pleased that we have been able to come together and reach broad agreement on the Public Records (Scotland) Bill and that our last debate will not be marked by our spitting unpleasanties at each other across the chamber. Given the imminent election, I suspect that my enjoyment of this moment is unlikely to last long but, in the same spirit of appreciation, I thank the minister and her team; the keeper of the records of Scotland, Mr George MacKenzie; and all those whose work and efforts have brought us to this point.

The purpose of the bill is to improve public record keeping in Scotland. It will place an obligation on certain public authorities to produce a records management plan, which will be

approved by the keeper of the records of Scotland. The keeper will publish a model RMP as part of best practice advice to authorities, and the bill will give the keeper the power to carry out a review of the implementation of RMPs. It is hoped that the duties in the bill will not be particularly onerous or costly, but the keeper will be able to issue warning notices and publicise the names of any authorities that are found to be in breach of the provisions.

In our earlier discussions about the bill, genuine worries were expressed about the impact of the proposals, and perhaps there were concerns about where the discussions and dialogue were heading. The willingness of the Executive and the bill team to meet those concerns and engage with stakeholders has assuaged most, if not all, of those anxieties, and I thank them for that.

I thank the committee clerks and the drafting team. I do not think that the bill has been the most difficult to work on, but I occasionally worry about how difficult we have been as a committee—or how demanding I have been. [*Interruption.*] I hear Margaret Smith saying, “Hear, hear!” I formally note my gratitude for and appreciation of the patience and thoughtfulness that our clerks have shown.

My list of thanks is reaching Oscar proportions, although so far it has been given without the histrionics.

I pay tribute to the contributions of all the witnesses, including those from COSLA and the voluntary sector, particularly the children’s organisations. There is no doubting the alarm with which some in the public sector and the voluntary sector initially viewed the bill. They expressed the fear that additional burdens and unwanted bureaucracy might be added at a time when service levels are under threat. I am not sure that that anxiety has entirely gone away, but the amendments that were agreed to at stage 2 certainly addressed some of the outstanding issues. The bill’s tone and language have changed and it is now recognised that the approach to good record keeping needs partnership rather than diktat from above. The principle of proportionality or balance of risk has also been accepted and written into the bill, although, of course, as with all such measures, we will need to see how that works in practice. Most of us in the Parliament are aware of the hard work and thought that voluntary sector groups and organisations such as COSLA put into legislation, but it is worth putting on the record how much that effort matters and the difference that it makes to the legislative process.

Finally, I thank those whose work lay behind the bill originally, and whose evidence in support of the proposals was ultimately convincing.

The systemic review of historical abuse in residential schools and children’s homes in Scotland, which was led by Tom Shaw, revealed the extent and failings of public record keeping. There is no doubt that the suffering and damage to young lives that former residents experienced have been compounded by their inability to access accurate, factual information about their upbringing. As an experience, that is perhaps not on a par with the trauma that is suffered by survivors of child abuse, but the importance and impact of good record keeping have been captured many times by the “Who Do You Think You Are?” BBC series. Even a character as sure of himself and as confident of his own identity as Jeremy Paxman broke down when he was confronted with documented evidence that his Scottish great-grandmother lost her poor relief because she had an illegitimate child. I could be wrong, but I think that he was already feeling emotionally vulnerable because of the evidence that proved that he is half Scottish. The point that I am making—which our committee witnesses put rather better—is that good record keeping is not just a bureaucratic necessity; it can be invaluable to many individuals’ lives. It is a moral obligation, and it will be a legal obligation on our public authorities.

I recommend that members support the passage of the bill.

11:43

Elizabeth Smith (Mid Scotland and Fife)
(Con): To have taken part in this legislative process has been an interesting and enlightening experience, even if the passing of the Public Records (Scotland) Bill will not—I dare say—go down in history as the Parliament’s most high-profile moment. Notwithstanding that, it is important to ensure that we put in place better records management. It has also been extremely encouraging that there has been almost unanimous cross-party agreement on how best to preserve and enhance the precious fabric of the nation’s heritage.

Having good-quality, accessible public records and archives is an essential part of improving the welfare of society in general, if not democracy itself. It is fair to say that such records can make a life-changing difference to individuals and families. That point was forcibly made in some of our witness sessions—Ken Macintosh has just alluded to that.

Although the main driving force for the bill was the unsatisfactory circumstances that affected many of our most vulnerable people, especially those flagged up by the Shaw review, there are other reasons why it was important to do more to improve things, particularly in order to create

greater efficiency, spread good practice and keep costs to a minimum. We all accepted that all organisations receiving public money have an obligation to ensure that records are properly kept and that they are accessible and transparent.

That said, the debate was really about how to strike the right balance between ensuring that there was greater efficiency, not imposing too much of a regulatory burden on different bodies, and including more organisations under the wider net of officialdom. The latter was—and, I think, remains—a slight concern of several voluntary sector groups and organisations, without which Scotland would be a much poorer place, especially when it comes to looking after vulnerable people.

There were genuine concerns about whether a new legislative framework would be not only unnecessary but burdensome and time consuming for staff who have many other things to do, particularly when budgets in the voluntary sector remain tight. We give credit to the Scottish Government for taking on board all those concerns and for arriving at the bill we have before us today. It is good that the Government has listened carefully.

There was concern about possible overimplementation of the legislation and about increasing workloads and so on. The Scottish Government deserves credit for having responded to those concerns and giving cast-iron assurances about the language in the bill and the need to ensure that the relationship between the keeper and the authorities will be fully consultative and agreed by both parties. I am grateful to the minister for that.

It goes without saying that everyone was sympathetic to the former residents of children's homes and special schools, and their families, who were able to put on record their immense difficulty and sometimes harrowing experiences in accessing the records that they required. Those difficulties presented a strong case for change and for addressing many of the inconsistencies in records management throughout Scotland. We have successfully addressed those issues.

Like other members, I strongly recommend that all members endorse the bill this afternoon.

11:47

Margaret Smith (Edinburgh West) (LD): I add my thanks to those already expressed to the clerks to the Education, Lifelong Learning and Culture Committee for their assistance during the passage of the bill. It is probably fitting that I add my thanks to them for their work over the course of the parliamentary session. Their assistance to me since I joined the committee in 2008 is much

appreciated. My thanks also go to Karen Whitefield, who has convened the committee very ably. The bill may have been one of her easier tasks, given some of the tasks that she has had to endure this session. I am thinking particularly of the Education (Additional Support for Learning) (Scotland) Bill, which was not the committee's finest hour from the point of view of consensus. This might be, however. I thank the minister and her team for their willingness to engage and to address the concerns raised by children's organisations and the voluntary sector about the bill.

The bill has come a long way since it was debated at stage 1. As we have heard, it is part of the legacy of the historical abuse systemic review undertaken by Tom Shaw. His report, which was published in 2007, made three sets of recommendations. The bill considers the third of those, relating to the procedures for the retention of records. We all welcomed the primary intention behind the bill, which was to improve the keeping of records generated by the work of public agencies, voluntary organisations and so on.

I thank all those who gave evidence to the committee and I echo Ken Macintosh's point about the importance of the information and evidence that we get from people who lobby and engage with Parliament. I put on record my particular thanks to Tom Shaw for his work, not only on the review but in relation to the compelling evidence that he gave us about why the bill was necessary. In fact, if legislation had been in place, the heartache that people have suffered might well have been alleviated, although that is by no means the most important part of the consequences of abuse. We kept that at the forefront of our minds throughout our work on the bill, which allowed us to realise that what we were talking about could not simply be boxed up as, potentially, additional bureaucracy. This was about ensuring that we keep the right records for the right reasons and that we keep them properly, because those records matter in people's lives, and in the life of our country, whether they are cultural or historical records or just records that help us to know who we are.

The minister has taken on board many of our concerns and many stakeholders' concerns. A notable shift in the bill's tone has taken place. As a result, the bill is not heavy handed but a good response to the problems that have been identified. The stage 2 amendments were helpful in taking forward the bill's tone.

At stage 2, the concern that the keeper might impose a one-size-fits-all approach was at least alleviated. Such an approach is not the bill's intention. The keeper will work closely with local authorities and others to ensure that the

management system is applied in a way that takes account of their needs and respects their judgments about risk. We have probably got that right, and I thank the minister for her attitude in addressing that issue.

Concern about record keeping in relation to common good land was raised with us. Many of us across the parties have encountered that issue in a variety of ways over the years. We were told that the bill did not directly cover such records, but I hope that local authorities will address the issue, because a number of people across Scotland are concerned about it.

The case is clear for bodies in Scotland to have to keep better records and for the record-keeping process to be reviewed and continuously improved. We are happy and do not hesitate to support the bill as amended.

11:51

Kenneth Gibson (Cunninghame North) (SNP): I am delighted to join this morning's love-in—sorry, debate. I am glad to see so much consensus. The bill shows what can happen when everyone works together towards a common aim.

As has been said, the bill's stimulus was the Shaw report in 2007, which examined child abuse in residential and children's homes from 1950 to 1995. Tom Shaw concluded that difficulties for former residents of such homes in tracing records for identity, family or medical reasons were due to poor record keeping in the public sector. To ensure that future generations are not affected in that way, new legislation is needed to encompass fully all public records. The bill is of course that new legislation.

Mr Shaw told the Education, Lifelong Learning and Culture Committee that the bill would end

“a range of weaknesses, gaps and inconsistencies”.

He also said that record keeping needed to be viewed as

“a proper way of recording the life experience and circumstances of an individual”

rather than “a bureaucratic chore” or “a storage problem.”

Mr Shaw said that his historical abuse systemic review found that record keeping was unsatisfactory in more than half the public authorities that were surveyed. He told us how one of his researchers had visited several archives and stores where records were held and described what she found:

“it sounds Dickensian—dusty storerooms where cardboard boxes that appeared not to have been opened for a long time sat. Whenever people were asked what was in the boxes, the answer was in effect, ‘We don't know—

would you like to have a look?’ ... In that way, existing practice has failed ... My ... concern is that the longer it takes to”

put right,

“the more records will be lost and the more people who never access what is held on them will pass through the system.”—[*Official Report, Education, Lifelong Learning and Culture Committee*, 19 January 2011; c 4543, 4546-7.]

In many cases, records are simply non-existent.

The issue is about identity, as other members have said. Many unfortunate Scots have slipped through the proverbial cracks because of inadequate record keeping for too long and have grown up without knowledge of their youth, family history or who they really are. Scotland has a moral obligation to manage the populace's personal records successfully. Moreover, the bill's primary aim is simply to improve public record keeping. The race to keep records has—unfortunately—lagged behind technological developments and population growth.

The bill covers the management of records once they exist. Decisions on how they should be created will be left to the keeper of the records of Scotland and the authorities. Organisations with largely successful record-keeping practices will not be affected and will be able to continue good practice, whereas those that have obviously poor record keeping will feel the greatest impact of the bill and will be required to make a positive change.

In relation to the allegations about Kerelaw school, the absence of effective record keeping was undoubtedly a key factor. No longer will files be lost or hard to locate because of neglectful minds and careless storage of important documents.

The bill is about better handling of records and not about creating new records. The bill is necessary to ensure consistency across public authorities, whose records management plans will be approved by the keeper.

Children who grow up in care have often been unable to find any record of their childhood—not even a photograph of them or their family. We owe to those who are in care and to future generations the assurance that records will now be properly kept.

11:54

Claire Baker (Mid Scotland and Fife) (Lab): I am pleased to speak in the stage 3 debate on the Public Records (Scotland) Bill. Although there was strong support for the bill and the changes that it set out to achieve, concerns were raised in the stage 1 debate, particularly around the capacity of the third sector to fulfil the bill's requirements and third sector organisations' relationships as

contractors with public authorities. I am pleased that we reached consensus and now have a better understanding of the issues than we had at stage 2. That is down to the constructive way in which the Government and members addressed the issues that were raised during stage 1.

The minister and members lodged a number of successful amendments at stage 2 that shifted the bill's tone so that the relationship between the keeper of the records, public authorities and the third sector became one of agreement rather than instruction and direction. Although the changes do not alter the power of the keeper, who still has the final approval of any RMP, the bill emphasises agreement and focus on best practice, while allowing flexibility for all partners to achieve a working solution that best fits the service that they are focused on delivering.

At stage 2, we also addressed concerns about the relevance of stored information and requests, primarily from the third sector, for the bill to be clearer on the issue of risk. The committee received evidence that the bill could overburden some organisations, which felt that there was not sufficient distinction between relevant information and extraneous or incidental information. Although much of that will come down to judgment, the sector is looking for some direction, so the minister's attempt to address the issue of risk is to be welcomed. The bill makes it clear that an authority's RMP may make different provision for different kinds of public records and that, in doing so, it may take account of the different levels of risk in the management of different kinds of records. Although that will still come down to the authority's own assessment of the level of risk, the bill should provide assurance for contractors that the issue has been recognised and that efforts will be made to keep information relevant and appropriate. Again, the partnership and agreement aspect of the bill is important in that respect, as in many cases the contractors will have a good understanding of the records that are relevant to their service and service users.

The minister acknowledged that there are concerns around the voluntary sector's different contractual arrangements with different public bodies, which could lead to multiple contracts. The bill always proposed common records management plans, but the greater flexibility and responsiveness that were added at stage 2 will, I hope, respond to the voluntary sector's concerns and provide local authorities with the powers that they require.

We will pass the bill today, but the next stage—guidance and practical implementation—will be crucial to the achievement of the outcomes that we all want to see. Issues such as the definition of a public record, what a model records

management plan will look like and how risk is determined and balanced will continue to challenge all partners until they get it right and operate a records management system in which we can have confidence.

Although it is a short piece of legislation, the Public Records (Scotland) Bill is hugely significant. It delivers a framework for transparent, efficient and relevant record keeping and it is intended to ensure confidence in the keeping of information. It establishes a clear expectation of how public records should be managed, recognising their significance in personal situations as well as in public and historical contexts. Although the bill is in many ways a technical piece of legislation that is more about managing information and relationships between organisations, its true intention is to deliver a public records system in which people can have confidence and to ensure that we protect the rights of individuals to access information that is hugely significant to their lives.

The Deputy Presiding Officer: I now move to the winding-up speeches.

11:58

Hugh O'Donnell (Central Scotland) (LD): This will perhaps be an easier task than is often the case with winding-up speeches. Many members who are not in the chamber have missed a trick in relation to the bill. All too often, bills that are allegedly big pieces of legislation get all the headlines, but the small, significant ones slip in below the radar. From my personal perspective, that seems to be the case in relation to the Public Records (Scotland) Bill, because an accurate reflection of how we keep records lies at the heart of, and is key to, many of the things that we do in our own days, whether that involves legislation on additional support for learning or any other area. Record keeping is fundamental to the process.

We know that the bill's genesis lies in the Shaw report. There is great diversity across local authorities, public bodies and the voluntary sector in how and why they keep records.

Some of the concerns that were raised in that regard have been mitigated by the minister's amendments. Based on communications that I have received, I guess that the voluntary sector feels a bit easier about how everything will work. However, as Margaret Smith highlighted, questions remain about the keeping of common good records. That is particularly important as we move into times of economic stress, when we need to know what local authorities are doing with common good land and moneys.

Ken Macintosh referred to Jeremy Paxman's participation in "Who Do You Think You Are?" The keeping of accurate records is a long-term role. I

well remember from work in my previous life how one organisation found itself being increasingly visited by people from Canada whose grandparents or great-grandparents had died. In the course of dealing with their effects and so on, they had come across some reference to the fact that their great-grandparents or grandparents had been looked after and provided for by that charitable organisation. It was the quality of some of the records—not all of them, it must be said—that had been kept by the organisation that allowed those people, two generations away, to identify their family roots.

Ken Macintosh referred to “Who Do You Think You Are?” In a similar context, I occasionally have cause to watch an interesting programme called “Heir Hunters”, always in the forlorn hope that I have inherited some money from some long-distant relative—it has not happened yet.

Kenneth Gibson: It is cheaper than buying a lottery ticket.

Hugh O'Donnell: Thank you, Mr Gibson.

It is apparent from such programmes that there are inconsistencies in how local authorities and other public bodies keep records. The Public Records (Scotland) Bill, which is small but perfectly formed—we hope—and significant, will add to our success in presenting a public record of Scotland and its people. At the heart of many of the documents that we are discussing are the people of Scotland. It is their history, and their present, that we should be interested in.

12:02

Elizabeth Smith: If I have unwittingly hit the record for the Opposition member who got the Government to accept the largest number of amendments to the Public Records (Scotland) Bill, I will also try to set the record for the shortest winding-up speech.

I simply wish to thank all those who provided us with what was very moving and accurate evidence; the lobby groups, which gave us a lot of interesting information; all the clerks; my colleagues on the Education, Lifelong Learning and Culture Committee—I know that we do not always agree on things; and the Scottish Government, for its engagement on the bill.

I definitely encourage all my colleagues to support the bill at decision time.

12:03

Pauline McNeill (Glasgow Kelvin) (Lab): All credit to Elizabeth Smith for breaking all those records—and for getting me to my feet earlier than I had imagined.

The Public Records (Scotland) Bill is a technical but essential bill, as members have already said. It is the third important and technical bill that we are considering today—and we have not even reached lunch time yet. On one of our final days of the session, we have already had a productive meeting of the Parliament.

As we have discovered in the course of scrutinising the bill, record keeping is an important public duty. In particular, the reasons why we are here today lie in the Shaw historical abuse systemic review, which highlights poor record keeping.

Kenny Gibson, referring to child abuse cases, highlighted very well the reason why it is essential to have good public record keeping. In evidence to the Education, Lifelong Learning and Culture Committee, the keeper of the records of Scotland highlighted some examples of the storage of information in e-mail form only, a practice that perhaps needed to be looked at by the authorities that had adopted it. Authorities certainly have to think more about how they store their records, and for what purposes.

There was discussion about whether there should be a voluntary scheme. We have rightly agreed that there should be a statutory framework, because of the implications of failing to keep proper records.

Ken Macintosh entertained us when he talked about the programme “Who Do You Think You Are?” When I learn a bit more about my family history, through informal record keeping, I often think that I am fortunate to have some understanding of my past, because people bothered to keep records. Where would we be without some understanding of our past, our family histories and what our families went through? Record keeping is significant, as Claire Baker said.

Part 2 of the bill deals with Scottish court records. It is right that the High Court of Justiciary and the Court of Session will be required to consult the keeper before making an act of sederunt.

The keeper's role is an essential part of the bill, because someone will need to work with local authorities on the best ways to operate within a flexible framework. The requirement to produce and implement a records management plan is essential in that regard. In evidence, the committee heard about a range of ways in which information should be stored. As Claire Baker said, it is important that thought is given to how information is held.

The principle is that good record keeping underpins lawful access to information and provides a good service to the public. The bill is

intended to provide a light-touch approach. It is for Parliament in a future session to monitor compliance with the new legislation, to ensure that it remains light touch, and to monitor the costs of the new arrangements, to ensure that we have got them right.

I congratulate the Education, Lifelong Learning and Culture Committee on its work and the Government on introducing a good bill. I agree with Margaret Smith—I have had many letters on this—that the Parliament should consider record keeping in relation to common good land and assets, for reasons that are obvious to members.

I welcome the bill and the work that has been done on it, and I support it.

12:07

Fiona Hyslop: I thank members for an informed, interesting and constructive debate. The debate demonstrates the extent to which members agree on the importance of and good intentions behind the bill, and the process has demonstrated how we can work collectively to ensure that we produce good legislation. I hope that future committees of the Parliament will reflect on practice in relation to this bill's progress, in particular.

I am struck, as I was at stage 1, by members' recognition of the importance of the bill, particularly in safeguarding the interests of vulnerable people. Although the bill cannot put right what has gone wrong in the past, it can help us to avoid the same problems in future, as Elizabeth Smith said. We owe it to former residents of care homes and survivors of abuse, and indeed to all future generations in this country, to make the necessary improvements to the way in which public authorities deal with records, to safeguard people's rights and identities as individuals—Pauline McNeill made that important point—and to secure our collective memory.

It is my sincere hope that, in future, people who have been in care will never again experience the grief and frustration of discovering that records about their earlier lives are incomplete, inaccurate or simply not there. Kenny Gibson provided a poignant reminder of the human aspect of record keeping.

Given tight Parliament and committee timetables, I had to prioritise legislation. Although I wanted—and still want—to legislate to improve provision on the National Library of Scotland, for example, the human and moral dimension of the issue meant that the Public Records (Scotland) Bill had to take priority.

It is important to recognise that public records, as part of our collective memory, form the basis for

individual rights and obligations. The bill will strengthen transparency and accountability of public authorities and it will help to secure the records of vulnerable people. It aims to create a common and consistent standard of record keeping, which will protect the rights of all members of the public by ensuring that records and information about them are managed properly.

The opportunity for members of all parties in the Parliament to acknowledge the importance of record keeping has been a plus in the bill process. As Hugh O'Donnell said, record keeping is perhaps not the most high-profile issue, but without records much cannot be done, or done properly.

I agree with some of the concerns about common good asset registers, which local authorities should keep. The bill creates a framework for good and effective record keeping. However, there is an issue about how we help local authorities to ensure that they include public records of their common good assets in their records management plans. Members from all parties raised that issue, but we need further legislation to make it happen. We are creating an agenda for the next parliamentary session in that regard.

I thank members of the Parliament and all the members of the Education, Lifelong Learning and Culture Committee for their constructive comments and invaluable support during the bill's passage. Moreover, I extend my thanks to other organisations—particularly COSLA and, in the voluntary sector, the Scottish Council for Voluntary Organisations, Barnardo's Scotland, Aberlour Child Care Trust, Children 1st and Action for Children—for their input. They all made constructive contributions, and I look forward to including them in continued dialogue.

Dialogue with stakeholders throughout the process resulted in consensus on a number of important issues. The keeper's powers to agree and return an authority's records management plan, and the impact on contractors' records, remained issues of concern throughout the process. I will clarify one matter. The keeper must issue guidance and a model records management plan to authorities. The guidance and the model plan must cover contractors' records where those contractors perform a function of the authority. How contractors' records are managed is likely to be closely based on the contractual terms that the authority and the contractor agree.

Therefore, the bill strikes a delicate balance. Although the guidance and the model plan will cover contractors' records, I do not consider it appropriate for the keeper to go further and seek to dictate how authorities and contractors regulate

their relationships. The bill places the onus on authorities to manage their records. It does not impose duties on contractors; nor does it interfere, or give the keeper power to interfere, in the existing relationships between authorities and contractors. The terms under which a contractor may carry out functions on behalf of an authority are for those two parties to agree separately. I consider that the bill fulfils the Government's stated intention that the legislation should be light touch.

It was clear from responses to the original consultation and discussions with stakeholders that the dissemination of guidance by the keeper will be crucial to the successful implementation of the bill. Claire Baker made that point. Any guidance that is issued will be developed in partnership with stakeholders.

To that end, a new stakeholder forum has been set up in which those issues are being discussed and addressed. The keeper views that forum as integral to the process of formulating and agreeing guidance and the model plan. He and his colleagues have been immensely impressed by the contributions that the voluntary sector and authorities have already made and they look forward to working further with them.

I thank the keeper of the records of Scotland and my bill team in the National Archives of Scotland for their hard work throughout the legislative process. The bill team demonstrated responsiveness and engagement. Not only has that resulted in a better bill, but it will improve the bill's implementation.

As I noted in my opening speech, the bill addresses problems with the management of public records and key findings of Tom Shaw's important report. It will make improvements in existing record keeping and ensure that, where important records are created, there are proper mechanisms and structures in place for accountability for them and for their future preservation. I am confident that the new legislation will provide a framework that will allow sufficient flexibility so that the needs of individual sectors can be addressed well into the future.

In voting for the bill, we reaffirm our commitment to the appropriate care, management and future preservation of our unique public records and recognise their importance to organisations, individuals and the wider Scottish community.

This might be an opportune moment to remind members that Scotland is known not only nationally but internationally for its ability to keep records well. In the previous debate, which was on the Certification of Death (Scotland) Bill, the importance of record keeping was mentioned. The historical record keeping of medical information in

particular is one of the reasons why we are at a competitive advantage in life sciences and other developing industries.

Record keeping reaches beyond the bureaucratic—it can have other impacts. It is important for this generation and future generations of Scots. The bill's approach is attracting attention from other jurisdictions around the world. I ask that members support the motion to pass the Public Records (Scotland) Bill.

The Deputy Presiding Officer: Before we move on to the next item of business, I remind all members in the chamber and those who are watching and listening in their offices that the extraordinary general meeting of the Commonwealth Parliamentary Association will be held at 12.45 pm in committee room 1, where Annie Lennox will report back on her visit to Malawi as a special envoy to the CPA Scotland branch. It would be helpful if as many members as possible could attend.

Denny Town Centre Regeneration

The Deputy Presiding Officer (Trish Godman): The next item of business is a members' business debate on motion S3M-7682, in the name of Michael Matheson, on Denny town centre regeneration. The debate will be concluded without any question being put.

Motion debated,

That the Parliament considers that there is widespread dissatisfaction among residents in the Denny and Dunipace area regarding the planned Denny town centre regeneration; believes that Denny town centre is in desperate need of regeneration, and would welcome regeneration plans that carry widespread support in the local community.

12:15

Michael Matheson (Falkirk West) (SNP): I welcome a number of the local residents of Denny and Dunipace who have come here for this debate because it is on a very important issue in their community.

On the banks of the River Carron in my constituency are the two small towns of Denny and Dunipace. Together they have a population of around 15,000 and are the second-largest population centre in my constituency.

In 1877, the villages of Denny and Dunipace were joined to form a single burgh and have remained that way ever since. However, for many centuries they were quite separate communities that lay on opposite banks of the River Carron. Tradition has it that in the 13th century, the priest in Dunipace was the uncle of William Wallace, and that the great man himself made many visits to Dunipace at that time. Denny was little more than a small village until the middle of the 19th century, but it has a long history that goes back to the medieval period, and it played a role in the wars of independence.

Like many communities in the central belt, both Denny and Dunipace were greatly affected by industrialisation in the 19th century. Linen production and calico painting attracted workers from across the district and the population of the area continued to rise in the 20th century.

New technologies brought decline to and, subsequently, closure of many of those industries. The area then turned to blackband ironstone mining to feed the iron industry in Falkirk. Coal mining, iron founding, brickworks and chemical works all played their part in the industrial make-up of the Denny and Dunipace area.

In more recent years, the soft waters of the River Carron were favoured by paper mills, which

saw the Carrongrove paper mill being established—exporting paper across the world and employing hundreds of men and women locally. However, the paper mill has closed.

The communities of Denny and Dunipace are proud. They have a strong sense of community that is shaped largely by their past and a strong desire to see the area improve in the future. However, it is an area that is blighted by the most neglected town centre that one could possibly imagine.

Town centres often serve as the heart of a community, where people shop, meet, work and socialise in the evening. They serve as the hub that draws the community together and they are often viewed as the window into the wider local community.

Think about when one comes into a town for the first time: first impressions are so important. A clean, pleasant, welcoming town centre gives the impression of a pleasant and welcoming area. However, when visitors come into a town centre that is run down, unpleasant and uninviting, for many of them it is simply a matter of continuing to pass through. The desperate state of Denny town centre has not happened overnight. A legacy of neglect of the town centre over decades has led to the situation in which we now find ourselves.

Six or seven years ago, Falkirk Council finally recognised that the town centre of Denny needed to change. However, despite widespread local consultation and the development of a master plan for redevelopment, for almost five years Falkirk Council has talked the talk of regeneration, but it has certainly not walked the walk. Not a single brick has been removed or laid as part of the so-called regeneration. In fact, Falkirk Council seems to be intent on making the situation even worse, given the £140,000-worth of temporary repair works that it has carried out in recent months, which have defaced buildings that many would have thought could not be defaced any further. I understand the need to carry out essential repairs, but I do not accept that a town centre that is already a carbuncle should be made even worse by such works. That is simply unacceptable.

Because of the way in which Falkirk Council has treated the people of Denny and Dunipace and the lack of progress that it has made on regeneration of Denny town centre, it would be fair to say that the people have lost confidence in the council. They have been told that the economic downturn has prevented the original master plan from being taken forward, so I, along with many others in the town, have asked for the council to produce an alternative plan that can be delivered in the present economic climate and which reflects the desires and aspirations of the community. To this

day, we are waiting for the council to present us with an alternative plan.

The people of Denny and Dunipace have lost confidence in Falkirk Council and rightly so, but they are united in their desire to see the heart of their community restored. Over the past year, several campaigners in the town have organised a number of public meetings and protest marches around the blocks, all of which I have attended. Those events have brought together the old and the young, those who were born and bred in the area and those who have recently moved there. The message that has gone out from all those events is that the people of Denny and Dunipace are fed up waiting for the council to take the action that is needed, and that they will not sit back and allow the neglect of their community to continue.

The campaign to fight Falkirk Council's neglect took a new twist in September last year, when the local campaign group asked for the town to be awarded the carbuncle of the year award because of the state of the town centre. As a result, it is the holder of the "plook on the plinth" trophy.

I do not expect the minister to be able to solve the problem, but I hope that he and other members will recognise that the community of Denny and Dunipace is, frankly, fed up with Falkirk Council's lack of action, and that they will agree that it is now time for the council to deliver on the regeneration of Denny town centre that has been promised for so long.

The very heart of the community is in desperate need of regeneration. Jobs are being lost as businesses pull out of the town and others choose not to locate there because of the condition of the town centre. Having a carbuncle for a town centre eats away at the community's sense of pride.

The community in Denny and Dunipace is strong and has pride in its local area. That sense of community and pride needs to be matched by a town centre that will serve as the new heart of the community. It is time for Falkirk Council to show the people of Denny and Dunipace the respect that they deserve by delivering on the promise of regeneration now.

12:23

Margaret Mitchell (Central Scotland) (Con):

Michael Matheson's motion is in three parts. The first part asserts that

"there is widespread dissatisfaction among residents in the Denny and Dunipace area regarding the planned Denny town centre regeneration".

The second part acknowledges what we all know to have been the case for very many years, namely that

"Denny town centre is in desperate need of regeneration".

The third and final part says that the Parliament

"would welcome regeneration plans that carry widespread support in the local community."

No one could disagree with that—we all want the best possible rejuvenated town centre for the Denny community. It seems that the only point to be debated is whether there is widespread dissatisfaction among Denny residents about the plans for the town centre's regeneration.

The project has been an aspiration for many years under local government administrations of different political persuasions, so it can only be good news that the regeneration is finally in progress—although it is, perhaps not surprisingly, likely to be a long, drawn-out process as various issues, some foreseen and some unforeseen, are resolved.

To put it into perspective, resolving those issues and gaining the necessary consents take time and can be frustrating for the local community and everyone else. Reasonable people only become dissatisfied when they are not kept advised about why there are delays—unforeseen or otherwise. The question is, therefore, whether the local community has been sufficiently consulted and kept advised. Denny residents and local businesses have been included in the regeneration plans for Denny town centre at every stage of the process, and plans have been altered to reflect the concerns of the community.

The original master plan for the regeneration was presented to retailers and the Denny community. Following feedback from the public, the plan was revised to address their concerns, particularly those about disabled access. The revised plan was put on open display to the public, who were also informed about the development via a website, a newsletter and a questionnaire. In February 2007, 93 per cent of the questionnaire respondents considered the plan to be satisfactory or better.

During the following few months, a working group—including members of the community council, retailer associations and council officials—agreed to resolve the traffic-management issues. There was also communication with the archdiocese after an access concern was raised. That issue was resolved.

Because of the economic downturn, the plan had to be revised and further consultations were undertaken. Meetings were held with the Denny community and local retailers, displays were erected in public buildings and plans were published online. The feedback from that consultation was positive, with 76 per cent of those who completed the online survey favouring the proposals. Of those who attended the library display, 100 per cent favoured the plans. In

addition to that, feedback was also presented at a public meeting in January 2008. Further amendments to the revised plan were presented to the community through drop-in centres that were held over two days in August 2010. Of the 160 people who attended those sessions, 90 per cent found that the proposals were a positive step for Denny.

I could go on, but it is self-evident that there has clearly been extensive consultation of the local community every step of the way. The consultation process is on-going, local people are constantly being asked for their opinions, and their feedback has helped and continues to help to inform the regeneration process.

In those circumstances, the Parliament can be assured that there is no cause for widespread dissatisfaction among the residents of Denny and Dunipace, who will have the satisfaction and pleasure of seeing the regeneration completed and Denny town centre transformed.

12:28

Hugh O'Donnell (Central Scotland) (LD): My congratulations go to Michael Matheson on bringing the issue to the chamber, and on his extensive knowledge of the locality. For my sins, or otherwise, I live in yet another carbuncle town: Cumbernauld. We were not desperately keen to get that award back, so I thank the people of Denny and Dunipace for hanging on to it.

Cumbernauld also suffers from the problems that Denny faces and that Michael Matheson has illustrated. I do not know whether it is significant that, in North Lanarkshire, where Cumbernauld is, we have a Labour Administration and—if my memory serves me right—Falkirk is in a similar situation. It is regrettable that no one from the Labour Party has chosen to take part in the debate.

Michael McMahon (Hamilton North and Bellshill) (Lab): Will the member give way?

Hugh O'Donnell: I apologise to the member. I did not see him sitting up there at the back.

Michael McMahon: The Denny area is represented by the constituency MSP who is leading the debate. The other members who are taking part are list MSPs for the area. Labour does not have the constituency or a list member for the area. There is therefore no direct Labour representation in the Parliament for the area.

Hugh O'Donnell: The distinction is an interesting one. It is not relevant, however. I apologise again to Mr McMahon. I did not see him sitting up there at the back. Given the extent to which the Labour Party claims to represent communities and the fact that it is the lead party

on Falkirk Council, a Labour member could have been in the chamber to speak on behalf of their party.

I have been involved in the Falkirk area for a number of years, both as an elected regional list member and when I worked for the previous member. I have watched various programmes come about, including the Falkirk gateway project, and I have seen the changes in Stenhousemuir and in the region. Denny and Dunipace just seem to have missed out; I have not yet figured out why.

Margaret Mitchell set out clearly the history of the extent to which consultations have taken place, are on-going and will take place. As someone from Cumbernauld who has seen the same process, I know how fed up people can become with that. It is possible to overconsult—indeed, at times, overconsulting is simply an excuse for kicking things into the long grass. I say that notwithstanding legitimate observations about planning consents and who owns what building.

At some point, someone has to take responsibility, draw a line under the consultations and say, “We’re going to do something about this.” The situation that we are debating is characteristic of many other examples that members have raised in the chamber in describing consultations and involving communities only for nothing to happen. Those who are responsible—co-incidentally, they are up for election next year—need to be held to account. I refer to the current or any future composition of the local authority—with Falkirk Council one can never tell. Somebody needs to take some action on the matter. I have full sympathy and empathy for the people of Denny and Dunipace. They feel as if nothing is being done and that they are being ignored.

I congratulate Michael Matheson again on bringing the matter to Parliament and I hope that some of the publicity that may result from the debate will prompt somebody in Falkirk Council to address some of the challenges.

12:32

Jamie Hepburn (Central Scotland) (SNP): I, too, congratulate Michael Matheson on securing the debate. I welcome residents from Denny and Dunipace to the public gallery.

I, too, think that it is disappointing that no Labour member is in the chamber to take part in the debate. I had not seen Mr McMahon, either. He seems to have drawn the short straw in having to sit manfully in the chamber so that Labour can say that it was present for the debate.

Michael McMahon: I came to the chamber to pick up papers for this afternoon’s debate on the local government finance orders. There is no

Labour representative in the Parliament for the constituency that Michael Matheson represents. There is therefore no interest, as an elected representative, in me being here.

Jamie Hepburn: That was a very useful clarification. There is no interest from the Labour Party in Denny town centre. It is also very useful to know that Mr McMahon is sitting in the chamber only to do some revision and that he is not interested in the debate. If the member is concerned that Labour has no Central Scotland list members, I gently point out to him that that will be rectified after the election. The SNP will pick up a number of those constituencies, which means that Labour will have to seek representation through the list system.

It remains a disappointment that there are no Labour members in the chamber for the debate. With the Tories, Labour forms part of the Falkirk Council administration. At least Margaret Mitchell is in the chamber to try to defend the position of her colleagues on the council, albeit that she did so somewhat unconvincingly. She certainly failed to convince my colleague Michael Matheson. The complacency from both Labour and the Tories at local government level will ensure that my colleague Michael Matheson wins Falkirk West again on 5 May.

Margaret Mitchell: On what basis can the member say that there is complacency from the Conservatives on the council?

Jamie Hepburn: On the basis of Ms Mitchell's contribution, in the main.

Hugh O'Donnell stole my thunder somewhat. Like him, I live in Cumbernauld, which, as he mentioned, won the carbuncle award in 2001 and 2005. I was going to say—only in a jocular fashion, of course—that it might be useful to have another dismal town centre nearby to draw attention away from Cumbernauld town centre. Interestingly, it was the residents of Denny who asked for the carbuncle award to be awarded to the town. Some people might think that that was out of a sense of shame in their town, but I think that they are to be congratulated on being proud enough of their town to recognise that a problem exists in relation to the town centre and on their being willing to take a fairly drastic step to highlight that problem.

In 2001, when Cumbernauld received the carbuncle award, the then editor of the local newspaper said:

"I think the people of Cumbernauld are very proud of their town, but they are very ashamed of their town centre."

It seems pretty clear that there is a similar experience in Denny, where the people are willing to stand up and say that the town centre does not

match their pride in their town and that something must be done. When the carbuncle award was once again awarded to Cumbernauld, in 2005, the then director of planning and environment at North Lanarkshire Council, David Porch, was very defensive and said that, in the council's opinion, it was a "ridiculous" award. It seems to me that Falkirk Council has adopted exactly the same position regarding Denny, saying that it is disappointed by the move to apply for the award. I advise Ms Mitchell that that is where the complacency comes in. It seems that Falkirk Council would rather bury its head in the sand than tackle the problem head on. Michael Matheson set out clearly the lack of support that there has been for redeveloping Denny town centre.

The town centre regeneration fund would have provided an ideal opportunity for Denny town centre; however, having looked into it, I do not believe that there was any real application to it by Falkirk Council. I see that the council is going to improve the traffic lights in Denny town centre using funding from the town centre regeneration fund. That is all well and good, but Denny does not need just new traffic lights; to use a traffic light metaphor, it needs green for go for a proper regeneration of the town centre.

Once again, I congratulate Michael Matheson on his campaign, and I congratulate the residents of Denny and Dunipace on their campaign, too.

12:37

The Minister for Housing and Communities

(Alex Neil): I, too, congratulate Michael Matheson not just on obtaining the debate, but on the tremendous work that he has done, especially for Denny and Dunipace, first as a list member and, over the past four years, as the first-past-the-post constituency member for Falkirk West. It would be remiss of me not to mention also the tremendous work that was done by his predecessor, Dennis Canavan, who also showed tremendous loyalty and commitment both to Falkirk and to the Denny and Dunipace area.

I will make some general remarks about regeneration and then focus a bit more on Denny and Dunipace. However, I must first say, both as a minister and as a member covering Central Scotland, including that area, that it is not right to say that there is no concern among local people about the state of Denny town centre. Indeed, every time that one speaks to someone who lives in or near Denny, they express real concerns about the state of their town centre. That is a concern that any reasonable person must share. Nevertheless, as the minister replying to a members' business debate, I will not get into a

party-political battle about who is to blame for it; I want to address the general issues.

Margaret Mitchell: I take it that the minister is referring to the motion, which talks about dissatisfaction among the residents about the regeneration process and how it is being carried out, not the fact that there is a need for regeneration—which everyone agrees is the case.

Alex Neil: I am referring to both the need for regeneration and the regeneration process—or, as the local people would say, the lack of a regeneration process.

Two or three weeks ago, the Scottish Government published its national regeneration discussion paper, “Building a Sustainable Future”, which sets out the importance of investing in Scotland’s deprived communities to generate growth and employment and to tackle poverty, deprivation and high levels of unemployment, especially youth unemployment. That is why, in our budget strategy, we have put economic recovery and job creation at the core of what we are trying to do throughout Scotland within the limited resources and remit of this Parliament and this Government. We have set out our spending plans, which reaffirm the Government’s social contract with the people of Scotland to protect front-line services and to seek to enhance the resilience of the Scottish economy. That includes support for disadvantaged areas and people, and regeneration is fundamental to the overall purpose of sustainable economic growth. I hope that we share that agenda with everyone in Scotland.

One of the big problems that the Scottish Government faces is the £1.3 billion-worth of cuts that are being imposed on the Scottish Government by the United Kingdom Government next year, which come on top of the £500 million-worth of cuts that were imposed by the UK Government on the Scottish Government this year. Many of those cuts—40 per cent of all the cuts over the next two years—will be capital investment cuts. One of the things that John Swinney has been able to do has been to ensure that, despite those cuts, the councils of Scotland have received an increased share of the overall spending by the Scottish Government and, by making imaginative use of revenue, he has been able to establish, in addition to our mainstream capital investment programme, a further programme of £2.5 billion for investment in transport, health and education.

Hugh O’Donnell: As Michael Matheson pointed out, the problem is long standing. It predates the current economic circumstances, regardless of who is to blame for them. Consequently, I am particularly interested in what steps the minister feels able to take to bring Falkirk Council to the table with the concerned residents of the

communities in order to make some progress on the issue, despite the budget restrictions that the council and the Scottish Government are operating under.

Alex Neil: I have visited Falkirk Council to discuss regeneration in general and the needs of certain areas in particular. Of course, every council faces the challenges that have resulted from the cuts that have been imposed on us by London. However, there are initiatives that can be taken, and many council areas are doing that. For example, in East Ayrshire, which is a much more deprived area than the Falkirk district, as a whole, the council is doing a tremendous amount of work on the regeneration of Cumnock and Kilmarnock. That example could be followed in the case of the Denny and Dunipace area.

A specific suggestion that I would make would be to consider establishing in Denny and Dunipace a community development trust. There are nearly 400 community development trusts in different parts of Scotland, and they are increasingly successful in regenerating the local areas that they represent.

Last week, I announced an additional £250,000 to build up the capacity for the establishment of additional community development trusts, because they are a major way in which the Scottish Government, local authorities, the private sector and the third sector, working together, can mobilise resources for reinvestment in local communities. A good example of that is the community of Neilston, just south of Paisley. That community has established a community development trust, which is situated in an empty property that it bought from the Clydesdale Bank for a nominal fee and put to local use. It is nearing the completion of a community wind farm project that it is sharing with the private sector, which will generate £400,000 a year for investment in Neilston. Following that project, the trust will start work on reinstating a former hydro project, which could generate up to £1 million a year for investment in Neilston.

The council should not just put up its hands and say that because of the depreciation in capital values, there is nothing that it can do about Denny and Dunipace.

Margaret Mitchell: Will the member take an intervention?

Alex Neil: I am afraid that I do not have time.

There is plenty that can be done with a bit of imagination and leadership. If Falkirk Council comes to me as the regeneration minister—as I hope I still am in a few weeks’ time—it will get a positive and helpful response to help it to deal with the challenges in Denny and Dunipace. Of course we do not have a blank cheque to write, but we

have a commitment. There are many sources of funding to tap into apart from Scottish Government sources, and many initiatives can be taken.

For all of us, irrespective of whether we are from the absent Labour Party, the Liberal Democrats, the Tories or the Scottish National Party, it is not party that is important but commitment to the people, and to the regeneration of many towns such as Denny that have never fully recovered from their post-industrial revolution past and which need for the 21st century a level of commitment, investment, leadership and support—from the local authority in this case—to move forward for the future.

We owe it to the people of Denny and Dunipace to do everything that we possibly can to help them to turn their town from being a carbuncle into the attractive place that it can be, not only to live in but to visit and to invest in for the future.

12:46

Meeting suspended until 14:35.

14:35

On resuming—

Higher Education Funding

The Presiding Officer (Alex Fergusson):

Good afternoon. The first item of business this afternoon is a statement by Michael Russell on higher education funding. The cabinet secretary will take questions at the end of his statement; therefore there should be no interruptions or interventions during the 10-minute statement.

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):

In December, I launched the higher education green paper, “Building a Smarter Future”. The debate that followed has attracted interest from almost 2,000 people; however, it was simply a staging post in a longer process. I would like to thank everyone who has taken part since we began our discussions on the sustainable long-term future of higher education at the National Union of Students Scotland conference last March. The input and participation of more than 80 organisations have fully justified our approach. Contributions have been both thoughtful and radical.

By any measure, this has been a comprehensive examination of the issues. Rather than merely reviewing the challenges, we have been working with the sector to tackle them. This is action, not words. So today I set out my intentions for how this Government will respond to those challenges if successfully returned in May.

When I began this process, my aim was to find a uniquely Scottish solution that embraces Scotland’s best traditions as a learning nation. It must also sit with our proud history of the democratic intellect, which has underpinned the global success of this sector for centuries. The foundations for the future must be built on four key principles: excellence, inclusiveness, collaboration and investment—investment for the benefit of society as well as the economy. The overarching philosophy remains that education must be based on ability, not ability to pay.

The tradition of free education in Scotland has, of course, been under threat from successive decisions taken in London over the past 15 years. The Labour Government began the move to shift responsibility for funding universities from the state to the student by introducing fees. The Conservative and Liberal Democrat coalition at Westminster embraced that approach and has taken it further.

This year, we in Scotland will invest a record £1.1 billion in our university and college sector. Over the past few months, we have worked closely with Universities Scotland to establish what level of investment might be required to keep the sector competitive in future. I can confirm today that this Government—if returned—will ensure that

the gap required to maintain our competitive position within the United Kingdom is closed. And I can confirm that we will not introduce tuition fees, upfront or backdoor, or any form of graduate contribution.

I want to turn now to how we will fill the gap. As I have often said, there is no silver bullet, so instead we will fill any gap through a number of initiatives. The first of those is what we charge students from the rest of the UK. In an ideal world, no student attending a Scottish university would pay fees. However, the rest of the UK has fees, and its politicians have the right to make that choice. My main priority is to protect opportunities for Scottish students to study at Scottish institutions. I make no apologies for that.

It has been said by some that increasing fees for students coming from elsewhere in the UK is a move to subsidise Scottish education. It is not. Those students are already required by their home nations to contribute to the costs of their higher education. We are simply putting in place a mechanism in Scotland that allows such policies to be implemented irrespective of where people study. That is the reality of devolution.

The technical working group that I established with Universities Scotland did, however, identify up to £62 million in additional income from students from the rest of the UK. So I can today confirm that we will increase fees paid by students from the rest of the UK. We will announce the detail in due course.

I have long had concerns about the subsidy that we pay for European Union students. The numbers have almost doubled over the past decade—the cost to the Scottish taxpayer stands at £75 million. So I also intend to explore further, within the boundaries of European law, the possibility of reducing that. The respected economists Jim and Margaret Cuthbert have highlighted the system that operates in Ireland, where a student service charge is levelled on all undergraduates—though the Irish Government offers means-tested support to Irish students to cover the costs. I believe that we should investigate that, and any similar schemes elsewhere, in more detail. In doing so, I make it clear that we would support such an arrangement only if we could pay the charge for all Scottish students. If a scheme similar to the one that we understand operates in Ireland were possible, it could generate up to £22 million.

We will be looking to universities to make significant, sustained and measurable progress in a number of areas, including philanthropic giving, increased engagement with business, greater efficiencies and more shared services. Those measures could close the gap further still. Universities have accepted that, by applying the

same efficiency levels as the public sector, they can achieve savings of £26 million next year. It is true that universities elsewhere will also be pursuing efficiencies, but we expect Scottish institutions to pursue theirs aggressively.

My analysis of the technical working group's figures suggests that a net funding gap of about £93 million could emerge with the rest of the UK in 2014-15. If we take into account the additional measures on UK and—if possible—EU students, without factoring in the £26 million efficiencies, the gap could fall to about £70 million.

Let me repeat unequivocally the assurances that the First Minister has given in relation to our commitment on public funding. Any funding gap will be closed. Indeed, to quote the First Minister directly:

"The rocks will melt with the sun before I allow tuition fees to be imposed on Scottish students—upfront or backdoor."

Learning, teaching and access prompted almost the same level of response to the green paper as funding did. I reaffirm my commitment to our four-year degree, although we need greater flexibility in how it is delivered. Learners must have more control over their own learning, choosing whether they want to study over three, four, five or even more years. We must encourage more part-time learning and support better articulation between school, college and university. As part of that, we will continue to develop the Scottish baccalaureate, expanding it into more subject areas and promoting its use to gain advanced entry to university.

More specifically, I have asked the Scottish Further and Higher Education Funding Council to take forward a project on advanced entry and articulation. It will report this summer, with recommendations on how further to reduce the length of time that learners spend achieving a degree. It will also consider increasing the role that colleges play in delivering higher education. The conclusions of the study will underpin a new commitment to flexible access and study, and a firmer adherence to the Scottish credit and qualifications framework—the SCQF. We will legislate where necessary.

I place on record how much I have appreciated the pragmatic way in which university principals have responded to the funding pressures next year and their participation in discussions. We have learned much from each other. I want to support them in their work and to ensure that that work is supported from within their institutions.

The historic success of our sector has been built on such an exemplar of democratic intellect, and it is essential that it is protected. If returned, I intend to explore the issue of accountability, specifically the balance between accounting for public funds

and preserving the benefits of an autonomous sector—and to examine that issue more fully with university principals, chairs of court, staff and students. As part of that, I will seek to remove the functions of the Privy Council in relation to the governance of Scottish institutions where we can, replacing it with a modern and transparent process.

This Government has a strong track record in improving student support. Since 2007, we have reintroduced free education, preserved the education maintenance allowance—the EMA—and increased grants by 25 per cent, but we still have more to do. Therefore, we are working closely with NUS Scotland to develop a simpler, clearer system that moves towards our ambition of a £7,000 minimum income entitlement, starting with the poorest students. We will also seek to establish a binding set of goals for access and drop-out rates.

On developing our international position, we will exploit the newly developed branding messages to promote Scottish universities. We will support collaboration across the sector through a fresh round of projects under our innovative strategic investment fund.

I intend to strengthen our partnerships with China, India and North America—specifically, I intend to sign a new memorandum of understanding with China's ministry of education. This Government, which delivered the year of homecoming, will now promote a year of mobility to forge stronger links between Scottish academics and students across Europe and beyond.

Scotland is not just a world leader in terms of the quality of its university research; it is a world beater. Our research pooling programme is recognised globally and it is time to take it to the next level by introducing an international dimension to the best pools.

The consultation responses supported Scotland maximising the amount of research funding that is won from European sources. We are already engaged with the Commission in influencing the shape of the next framework programme. A priority will be to improve links between business and universities.

The final issue that I want to cover is how the sector is shaped to deliver that. The tripartite relationship between Government, the Scottish funding council and Universities Scotland is strong and has allowed us to deliver much—most notably a deal that will mean that student numbers are held steady next year. I confirm our commitment to the relationship, but it will evolve and I will seek reforms to streamline the SFC's operations in future.

On our plans for colleges, I know that there is an appetite for change. Our work will take account of the thinking of all stakeholders, and learners will be at its heart. We will look at matters such as funding and outcomes, collaboration between colleges and other partners, creativity and the role of business.

The green paper covered many subjects and I have been able to touch on only a few. If we are returned, we will publish a comprehensive and conclusive set of proposals on all areas before the end of the summer and we will legislate before the end of the year. That honours the commitment that I made to the sector when it agreed to find a way to cope with the budget reductions next year.

In his inaugural speech as rector of the University of St Andrews on 19 March 1869, the historian James Anthony Froude said:

“There is no occasion to tell a Scotchman to value education ... It is fair all round to poor and rich alike. You have broken down, or you never permitted to rise, the enormous barrier of expense which makes the highest education in England a privilege of the wealthy.”

That was true in the mid-19th century. It must remain true in the 21st century. There must be—there will be—no barriers to education in Scotland.

The Presiding Officer: The cabinet secretary will take questions on issues raised in his statement. We have just under 20 minutes for questions, after which we must move on to the next item of business. All business is tight this afternoon, so it would be helpful if questions and answers were kept relatively brief.

Des McNulty (Clydebank and Milngavie) (Lab): I am pleased that the cabinet secretary now recognises that there is a funding gap as a result of the actions of the Con-Dem Government at Westminster in raising tuition fees to £9,000 and reducing teaching grant. His earlier stance, which was that there might not be a funding gap, was clearly delusional. I am also pleased that the Scottish National Party is following Labour in making a commitment to fill the gap and ensure the competitiveness of Scottish universities in teaching and research.

During the past four years, why has the cabinet secretary's Government not introduced changes to entry with advanced standing and articulation, modernised student support arrangements or fostered shared services between institutional partners? The Government could and should have done those things but it did not do them, which leaves our universities unprepared and playing catch-up with their rivals. For the Government, colleges are always an afterthought.

We are hearing promises that echo the promises that were made on student debt in 2007 and then dropped within a month. The reality is

that for the cabinet secretary and the SNP Government it is politics first, second and third, and never mind the consequences for students or for universities and colleges.

Can the cabinet secretary tell us how many redundancies in further and higher education will result from the Government cut in funding of 10 per cent for colleges and an equivalent cut for universities? Why did his Government not heed warnings that cuts in university and college funding would cause job losses and threaten courses throughout the sector? How does he intend to remedy the consequences of SNP budget decisions, which are the most immediate and urgent issue that the sector faces?

Michael Russell: It is almost impossible to deal with a question of that nature, which has no basis in fact. The world in which Mr McNulty lives is entirely mythical.

Let me ground Mr McNulty in some facts, which he needs to remember. Why have there been so many difficulties in the sector? There are two reasons. One is the bankruptcy of the national finances, which was supervised—indeed, caused—by Labour. There is also a particular difficulty in the sector. A minister commissioned a study of the sector from someone south of the border, Lord Browne. That is the study that came up with the proposal for fees of £9,000. Who was that minister? I would love to be able to blame the Tories and the Liberals, but on that occasion it was a Labour minister. It was the Labour Party that introduced fees and has gone on doing so.

What we have seen is a wrecking of higher education, on the initiative of the Labour Party—

Des McNulty: Answer the question, cabinet secretary.

Michael Russell: Given those circumstances, it would be better if there was a moment of silence from Mr McNulty, rather than the smokescreen that we have had.

Let me deal with what Mr McNulty said about redundancies. If he is prepared to stand with me to recommend to the college sector that there be no compulsory redundancies, let him do so. Unfortunately, he has been silent on that. If he will stand up for the further education sector and recommend that there be no redundancies, not only would I think better of him but so would the people whom he is already betraying.

Elizabeth Smith (Mid Scotland and Fife) (Con): The cabinet secretary has been at great pains to say that the SNP's policy is based on the ability to learn rather than the ability to pay. In his announcement, he said that the £62 million—which is 40 per cent of the £155 million that he claims must be found for the university sector for

2014-15—must come from non-Scottish students. What will happen if he finds that Universities Scotland and many other expert commentators are correct in saying that the funding gap is much bigger than his estimate? Will that not simply mean that EU students and students from the rest of the UK will end up having to pay even higher fees and, therefore, completely destroy his claims about the policy's being based on the ability to learn as opposed to the ability to pay, or will it mean that the Scottish taxpayer is saddled with increasing student debt?

Michael Russell: It is up to the Conservatives to justify their policy of imposing student fees. If they wish to do so, they must do that.

Last night, on the BBC television programme "The Big Debate: Education", the Tory spokesperson explained it as requiring 15 or 20 per cent more resource for Scottish universities. That figure was plucked out of the air and not based on any of the figures that were jointly drawn up by us and Universities Scotland.

If the Conservatives wish Scottish students to pay large sums of money and believe that that is the right thing, they must go into the election arguing for it. In so doing, they are likely to breach the great traditions of Scottish education and damage universities. What they should do is join the Scottish consensus—even the late consensus to which Mr McNulty's shadow cabinet dragged him kicking and screaming—and argue for the strong traditions of Scottish higher education. They should also base that argument on the figures that were drawn up by Universities Scotland and us, which have been made available to all the parties. Unfortunately, the Tories just do not want to read them.

Margaret Smith (Edinburgh West) (LD): I welcome and share the cabinet secretary's commitment to free education with no fees and no graduate contribution. Our position builds on our record of scrapping Labour's fees in government and the graduate endowment in opposition. We share, too, a commitment to fund the gap.

Therefore, we welcome the announcement on fees for students from the rest of the United Kingdom, which is necessary and sensible. Will the cabinet secretary absolutely guarantee that his proposed service charge for EU students will not be paid by Scottish students in any circumstances?

Does he also agree that there is a need for a review of student support that will tackle the complexity of the student support system and the diversity of need for part-time, poorer or articulating students to give our students the support that they need to concentrate on learning?

Michael Russell: I certainly agree that there is a need for a new system of student support and that we need to simplify the system. We have had many reviews over the past few years. It is important that we get on and take action. The type of policy that I am talking about—moving towards the minimum student income—is the right thing to do.

I welcome Margaret Smith's support for the position of no fees. There is no joy greater than that when a sinner repenteth. It is delightful to see that the Liberal Democrats are on our side on the matter. It is always best to accept good news when it is offered, and I am happy to confirm that there is no intention of charging Scottish students a service charge. The idea that exists on a service charge is interesting. It has potential, but so do the other discussions that are taking place on EU students. I fully understand the concern that exists about EU students. We want them to be here, but we should find the best option not a cheap one and we must ensure that some resource is found.

Alasdair Allan (Western Isles) (SNP): The education secretary's commitment to maintaining free higher education is to be warmly welcomed. Is he able to say what effect free education, compared with other funding models, is likely to have on widening access to social groups that have traditionally not participated in higher education?

Michael Russell: Yes. I notice that the Conservatives south of the border—indeed, Elizabeth Smith mentioned it last night in her contribution to the TV debate—believe that, by raising fees, they will increase access, which is so extraordinary that it defies belief.

Murdo Fraser (Mid Scotland and Fife) (Con): The evidence shows it. Read the evidence.

Michael Russell: The Conservative party has not tackled some interesting research from the other side of the Atlantic, which shows without doubt that part of the fragmentation of society in the United States is caused by the ever-increasing cost of education.

I am absolutely certain that the contribution that we need to make to increasing access is to remove financial barriers. That is axiomatic. However, we need to do other things, too. Members have heard me say before that the issue of access has to be tackled not at the university gate but at the primary school gate and the secondary school gate. A great deal more work needs to take place earlier in young people's educational careers to ensure that access is built and sustained. The idea that by raising fees we would improve access is nonsense.

Elizabeth Smith: It happened in England.

Murdo Fraser: It happened in England.

The Presiding Officer: Order. I call Claire Baker.

Claire Baker (Mid Scotland and Fife) (Lab): Universities agreed to compensate for a 10 per cent cut in funded places in 2011-12 with an increase in fees-only places. What discussions has the cabinet secretary had with university principals about their ability or willingness to continue that arrangement? If it is a one-year-only deal, how will it impact on the funding gap and university places in future years?

Michael Russell: There is an agreement—it is a one-year-only deal. That is the agreement that we reached and which university principals are honouring. That is why we need to bring this issue to a conclusion within the next few months.

Very shortly, this Parliament will be dissolved and Claire Baker and her party will be able to offer a prescription for the future of higher education. I look forward to seeing what that prescription is in the next 12 months. If that prescription does not do what she wishes it to do, she will have to come back here—if she is re-elected—and apologise, from the Opposition benches.

Murdo Fraser: If fees are introduced for EU students studying at Scottish universities, as the cabinet secretary has proposed, what does that mean for Scottish students studying at EU institutions?

Michael Russell: There is no proposal to introduce fees because we are not able to do that—I have made that absolutely clear. However, there is an issue about whether it is possible to institute a service charge, which is what I have explored. That is what my statement said, and that is what we will try to do.

Scottish students going elsewhere have to pay the going rate. We try to support them as much as we can through loans, but that is the reality. My responsibility and the responsibility of members in this chamber is to ensure that Scottish students accessing Scottish institutions are treated in the way that we think will best benefit the short, medium and long-term future of Scotland and those individuals. That is what I have laid out today.

Hugh O'Donnell (Central Scotland) (LD): The cabinet secretary referred to articulation. Does he recognise that departments of adult education are critical to the prospect of articulation? How will decisions made recently at one of our major universities impact on articulation?

On the international role and mobility, what impact will changes to the languages departments at our higher education institutions have on

delivering the promises that the cabinet secretary has made?

Michael Russell: I indicated in my statement that there is a balance between autonomy of organisations and public funding. I discussed these matters with Professor Muscatelli recently. The University of Glasgow has assured me that what it is undertaking is consultation. I am entirely happy to accept that articulation is tied to the issues of wider access and adult education. That must be recognised. It must also be recognised that decisions taken by any university require to be accountable and transparent. The process that the university is going through at the moment—of considering matters—must be entirely open.

We need a major push on languages in Scotland. I hope that in the coming election, we will all debate how languages are provided in Scotland and what more we need to do. Certainly we need to ensure that language learning in Scotland rises to a higher plane.

We need a map of provision in Scotland. Just as we need a map of provision in the college sector, we need one in the university sector, too, because we need to take out duplication where it exists, if it is unhelpful or overexpensive.

We need to balance the debate very carefully. Universities are accountable; they spend public funds and, in those circumstances, must undertake decision making transparently and openly. I know that all those involved, including in Glasgow, will do so.

Jamie Hepburn (Central Scotland) (SNP): I welcome the reaffirmation of the Scottish Government's support for free education, but I want to ask the cabinet secretary a question about governance. One group of people with whom the cabinet secretary said that he wanted to explore further the matters that he has raised are the chairs of the various university courts—a role traditionally filled by the democratically elected rector at our ancient universities. Does the cabinet secretary agree that the right of the rector to chair the court should be restored where it has been removed? Does he also agree that we should consider creating a rector at every single higher education institution in Scotland?

Michael Russell: That is an interesting proposal. Among the many fascinating pieces of material that we received as part of the green paper process were the comprehensive and interesting submissions on the democratic intellect, accountability and governance. I am honour bound to consider those, just as I am honour bound to listen to ideas when they are proposed. If many people are concerned about such matters, we should think about them.

The member's suggestion, which relates to the tradition of the rector of a university taking responsibility for the governing body and being involved in directing that governing body, is an interesting one and should be put into the mix. I hope that we would agree with the principals, the chairs of court, the students and the staff on the strengthening of democratic governance and on universities having the ability to run their own affairs effectively and efficiently in what is a difficult modern world.

Ken Macintosh (Eastwood) (Lab): I was pleased to hear that the minister has had discussions with the principal of the University of Glasgow, but he did not say whether he believes that it is acceptable to lose the whole of the adult and continuing education department.

Michael Russell: If there were a proposal so to do, quite clearly, I would comment on it. As I understand, there is a consultation going on. My concern is that those who, quite rightly, regard the university as their own—the community of the university, the community of the west of Scotland and, to some extent, the wider community in Scotland and beyond—have a voice and can influence that process.

I am not trying to avoid the member's question; I am happy to say to him that continuing education is very valuable indeed. There is a long tradition of continuing education in each university. By definition, that tradition is longer in the ancient universities than it is in others. Ensuring that it continues to flourish is important. How that is done by each university will depend on its resourcing and its decision making. Each university must have a process of decision making that is clear, open, transparent and accountable.

Robin Harper (Lothians) (Green): Given that the level of discontent is such that there are threats of strikes at two Edinburgh universities and there have been sit-ins in Glasgow, does the cabinet secretary consider that his advice to principals to be aggressive in pursuing efficiencies and to be pragmatic has been overenthusiastically interpreted?

Michael Russell: We are dealing with intelligent, skilled and passionate people in every part of the university structure. It is clear that there will be contending ideas and disputes of various types. After all, that is, to an extent, the foundation of our higher education system, which lies in disputation.

I hope that two things will be borne in mind, the first of which is the great financial difficulties that exist right across the public sector. The wrecking of the public finances by Labour and the decision by the Tories and the Liberals to cut too far and too fast are causing huge difficulties in Scotland.

Not having a normal Parliament with the normal financial powers adds to those difficulties. We must live with that situation. In an ideal—or even a normal—world, we would not have to do so.

In addition, there is the issue of autonomous bodies having to make decisions and their being allowed to do so in a responsible way. I hope that there will be discussion, negotiation and consideration, which might lead, in time, to the realisation that this Parliament needs full financial powers to make decisions about the resources of Scotland instead of being told what to do by failed parties elsewhere.

Bill Wilson (West of Scotland) (SNP): What lessons does the Scottish Government draw from the paper by Timothy Noah entitled “The Great Divergence”, in which he attributes 30 per cent of the rise in inequality in the United States to failures in the education system and, citing the Harvard economists Claudia Goldin and Lawrence Katz, explains it as being due, in large measure, to the increasingly prohibitive cost of a college education?

Michael Russell: I have had that paper drawn to my attention this morning—not by Dr Wilson—and I will consider it with great interest. From what I have seen of the synopsis of the paper, it suggests to us that the effect of charging ever-higher sums for education is a considerable problem. Regrettably, that is where the Conservatives want to go, for which they must take responsibility. I suggest that we provide a copy to the Conservative spokesperson so that she might see the error of her ways.

Domestic Abuse (Scotland) Bill: Stage 3

15:04

The Presiding Officer (Alex Fergusson): We move to the next item of business. While members are changing places, I inform them that they should have before them the Domestic Abuse (Scotland) Bill as amended at stage 2; the marshalled list; and the groupings, which I have agreed.

The division bell will sound and proceedings will be suspended for five minutes for the first division on proceedings this afternoon. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate. All other divisions will be 30 seconds.

Section 1—Amendment of the Protection from Harassment Act 1997

The Presiding Officer: Amendment 1, in the name of Rhoda Grant, is in a group on its own.

Rhoda Grant (Highlands and Islands) (Lab): Before I speak to amendment 1, I thank the minister and his civil servants for their help in lodging the amendments. It was very much appreciated and I hope that we have reached consensus on them.

Amendment 1 will make two changes to the bill as a consequence of the Damages (Scotland) Bill, which Parliament has recently approved. Stage 3 took place just the other week.

Section 1 of the Domestic Abuse (Scotland) Bill inserts a new section 8A into the Protection from Harassment Act 1997. Section 1(5) amends the definition of personal injuries in the Damages (Scotland) Act 1976 so that it covers section 8A of the 1997 act, as well as section 8.

However, the Damages (Scotland) Act 1976 will be repealed by Bill Butler’s Damages (Scotland) Bill. Amendment 1 will therefore amend section 1(5) of the bill to delete the reference to section 10(1) of the 1976 act. Harassment leading to personal injury will be covered by the general definition of personal injury.

Section 2 of the Damages (Scotland) Bill refers to section 8 of the 1997 act. That ensures that rights to damages that arise from actions of harassment under section 8 of the 1997 act will continue to transmit to the deceased person’s executor. Amendment 1 will amend section 2 of the Damages (Scotland) Bill so that it also extends to actions under new section 8A of the 1997 act.

Given that stage 3 proceedings on the bills were held so close together, we were in a bit of a quandary about how best to deal with the changes, and the amendments were agreed as the best way forward. I doubt that any other bill has been amended as quickly as the Damages (Scotland) Bill has been following its passage at stage 3.

I move amendment 1.

The Minister for Community Safety (Fergus Ewing): I express my gratitude for the way in which Rhoda Grant has approached the necessary amendments to the bill from stage 2. We appreciate that, and our officials and Rhoda Grant's advisers have worked together closely to bring about the results that I imagine we will see later today.

The Government supports amendment 1, which will make some technical changes to the bill as a consequence of the Damages (Scotland) Bill, which passed stage 3 on 3 March.

Amendment 1 agreed to.

Section 3—Breach of interdict with power of arrest

The Presiding Officer: Amendment 2, in the name of Rhoda Grant, is grouped with amendments 3 and 4.

Rhoda Grant: Amendment 2 will amend section 3(1)(za), so that it refers to the determination being granted under the new section that will be inserted by amendment 4. The effect is that section 3(1)(za) will no longer reflect the category of persons that are being protected by the interdict. Instead, it will refer to the determination made by the court under the new section that will be inserted by amendment 4.

Under section 3(2), a person who breaches an interdict to which section 3 applies is guilty of an offence under section 3(1). The section applies when an interdict has been granted on or after the date on which the sections come into force, a determination has been made that the interdict is a domestic abuse interdict and the determination is in effect, and a power of arrest is attached to the interdict under the Protection from Abuse (Scotland) Act 2001 and is in effect.

Following amendment 1, a determination must also be made by the court that an interdict is a domestic abuse interdict and that that determination is in effect, together with a live power of arrest, for breach of the interdict to be a criminal offence.

Amendment 3 is a consequential amendment, in that it ensures that the reference in section 3 to the term "interdict" including interim interdict

extends to the new section that will be inserted by amendment 4.

Amendment 4 makes a provision in relation to the determination by the court that the interdict is a domestic abuse interdict. Proposed new subsection (1) provides that a person who is applying for or has obtained an interdict may apply to the court

"for a determination that the interdict is a domestic abuse interdict."

Under proposed new subsection (2), the court may make the determination only if

"the interdict is, or is to be, granted for the protection of the applicant against a person who is (or was)—"

(a) the applicant's spouse,

(b) the applicant's civil partner,

(c) living with the applicant as if they were husband and wife or civil partners, or

(d) in an intimate personal relationship with the applicant."

That last point is probably the most difficult in the bill. The Government amended the bill at stage 2 to include spouses, civil partners and cohabitants. However, the amendment removed boyfriends and girlfriends—people in a relationship who have not formalised the relationship and do not live together—from the bill's protection. Approximately 11,000 cases of domestic abuse are reported to the police by people who fall into that category as current partners and almost 19,000 are reported by people in that category who are ex-partners. It is unreasonable not to protect such a large number of people in the bill. The Government agreed and we worked together to find a resolution to the problem.

We were keen that the protection was not extended to family members, flatmates or business partners. The best way to define the category is "an intimate personal relationship". By that phrase, we mean a relationship that spans from dating to one that is fully sexual, and the spectrum in between. It also covers same-sex relationships within that spectrum. It is difficult to determine when domestic abuse will start within a relationship; it depends on each individual offence.

Amendment 4 also provides, in proposed new subsection (3), that

"Before making a determination ... the court must give the person against whom the interdict is, or is to be, granted ... an opportunity to make representations."

Proposed new subsection (4) provides that the determination has

"no effect for the purposes of section 3 until a copy of the interlocutor containing the determination has been served on"

the interdicted person. That means that the breach of the interdict, and extant powers of arrest, is not

a criminal offence until the court's determination that the interdict is a domestic abuse interdict and that it has been served on the interdicted person.

Proposed new subsection (5) provides that where the court varies the relevant interdict, it must review it to establish whether it is still a domestic abuse interdict and, if it is not, the court must recall the determination.

Proposed new subsection (6) provides that if a determination is recalled it

"ceases to have effect for the purposes of section 3".

That means that any breach of the interdict would not be a criminal offence.

I move amendment 2.

Bill Aitken (Glasgow) (Con): There were always going to be definitional difficulties. There is no doubt that when we sat down to establish whether a route forward was ascertainable, it was exceptionally difficult. I am not at all satisfied that there may not have to be some judicial determination of some of the phraseology that we intend to include in the bill. However, having been unable personally to come up with anything better, I concede that what Rhoda Grant proposes seems, on the face of it, to be as near as we will get to what we want, albeit that, as she might well concede herself, it is far from perfect.

Robert Brown (Glasgow) (LD): I agree with much of what Bill Aitken said. It seems to me that proposed new subsection (2)(d) in particular has distinct difficulties. First, despite Rhoda Grant's explanation, the phrase "intimate personal relationship" is not in fact defined in the bill and therefore it is difficult to know what a court might make of it. The situations that it covers could range, if I may put it this way, from a one-night stand to a relationship that, despite Rhoda Grant's explanation, is not necessarily a full sexual relationship, because the phrase "intimate personal relationship" does not necessarily seem to imply that. There are all sorts of definitional issues about what the phrase covers.

The framework is right. I think that we all agreed at an early stage in the process that it is absolutely right that there should be a determination of what a domestic abuse interdict is.

15:15

There is another slight difficulty with amendment 4. Subsection (2) states that the court "may make the determination" that the interdict is a domestic abuse interdict and gives the defender the right to make representations. However, the fact that the court "may" make the determination suggests that there is discretion in the matter, and it is not clear to me on what grounds that discretion would be

exercised. One imagines that the interdict is either a domestic abuse interdict or it is not; it does not seem to be the sort of thing that implies discretion. I wonder why the amendment does not either say "must" or explain the circumstances under which that determination may not be appropriate.

Therefore, I have some qualms about amendment 4. I accept the problem that it seeks to address. I accept that there are issues regarding people who stay together for part of the week or whatever, and I accept that the principle that Rhoda Grant is trying to establish goes a little further than that of people who cohabit in the traditional sense. However, I question whether we have a workable definition that the courts can make sense of, that works in practice and that can deliver the goods in relation to the objective that Rhoda Grant has set.

I will not vote against the amendment. I have the same difficulty as Bill Aitken in that I do not have any alternative suggestions to make. Nevertheless, I have some difficulties with the formulation that has been put forward and I am interested in hearing Rhoda Grant's or the minister's responses to the points that I have made, which I think are important.

Fergus Ewing: These are important amendments. Following stage 2, two main issues were outstanding: the labelling of interdicts and interdicts protecting a girlfriend or boyfriend. Amendments 2 to 4 deal with both of those issues.

Amendment 2 amends the current section 3(1)(za), so that it refers to the determination by the courts being introduced by amendment 4. Amendment 4 then provides that someone who is obtaining an interdict or who has obtained an interdict may apply to the court for a determination that the interdict is a domestic abuse interdict. The court may make such a determination if the interdict protects the applicant against a person who is or was the applicant's spouse, civil partner or cohabitant or who is or was in "an intimate personal relationship" with the applicant. The latter category is designed to protect girlfriends and boyfriends of the interdicted person.

As Rhoda Grant has said—and as we will all remember from stage 2, when she alluded to this—table 10 of the "Statistical Bulletin: Crime and Justice Series: Domestic Abuse Recorded by the Police in Scotland, 2009-10" shows that 11,379 incidents related to violence between partners. Some of those incidents may have occurred between civil partners, but it is likely that the majority of the people involved were not in a formal relationship. Therefore, after considering the matter carefully, the Government concluded that we agreed with Rhoda Grant that interdicts covering boyfriends and girlfriends should be covered by the bill. Scottish Women's Aid

overwhelmingly supports that position and has stated that it is vital that all those who are at risk of domestic abuse from their partner or former partner should be protected.

Amendment 4 attempts to deal with at least one of the issues that were identified by Bill Aitken and Robert Brown. We consider that “intimate” means that there is a close relationship, but it does not necessarily have to be of a sexual nature—it could be a close emotional relationship in much the same way that a relationship between spouses, civil partners or cohabitants does not have to be sexual.

Robert Brown: Would the amendment, therefore, cover relationships between brother and sister or parent and child as well as the other categories that the committee was careful to avoid?

Fergus Ewing: That is not our intention in respect of amendment 4. We have framed the wording carefully to cover boyfriends and girlfriends.

Stewart Maxwell (West of Scotland) (SNP): The committee was concerned about the problem that could be associated with extending the definition to boyfriends and girlfriends, which Robert Brown has just highlighted. It is not entirely clear to me whether the minister has stated that the definition would cover those other categories. The committee would be concerned if there were any possibility of the new definition—I hesitate to call it a definition—covering the definition that we wanted to remove at stage 2.

Fergus Ewing: As I said, that is not our intention. As members will appreciate, the drafting has been framed carefully by the Scottish Government legal department, with advice from officials. It is intended to—and we believe it will—capture appropriate relationships between boyfriends and girlfriends but not brothers and sisters.

Robert Brown: The minister said earlier that the wording covered not necessarily sexual relationships but perhaps emotional relationships. I am at somewhat of a loss to understand where the cut-off point is between a boyfriend/girlfriend situation and a situation in one of those wider categories. I think that that was Stewart Maxwell's point.

I am not trying to be difficult; I think that this is an important definitional point on which we must have clarity. Is the minister saying, in short, that the wording cannot include wider relationships than boyfriend/girlfriend situations?

Fergus Ewing: We believe that it covers boyfriend and girlfriend situations. We accept that the wording that we have come up with covers a

wide variety of relationships. Ultimately, we have accepted the advice of the Scottish Government legal department to use the wording in this way, because we believe that that best covers the need to protect those who are in a relationship that is not a husband-and-wife relationship or a civil-partnership relationship—in other words, one that is a boyfriend-and-girlfriend relationship. Sadly, that non-formalised relationship is a type of relationship in which there are not just hundreds or a few thousand but, perhaps, more than 10,000 instances a year in which there is a need for interdict and protection. I hope that that is clear.

I can confirm that, as I have already said, family members are not covered by the amendment. I hope that that clarification is welcomed by members of the committee, who, I appreciate, put a great deal of time and effort into carefully considering these matters.

When interpreting the provision on boyfriends and girlfriends, I expect that the courts will follow the principle of interpretation, whereby words that have a wide meaning but which are associated in the text with words that have a more limited meaning are taken to be restricted, by implication, to matters of the same character. That formal principle of interpretation will, I believe, help matters when it comes to the task that judges will have with regard to interpreting these provisions.

The reference in amendment 4 to “personal” is designed to exclude business partners, workmates and other relationships that are professional and social, as opposed to personal. Any abuse between, for example, business partners and workmates may well be shocking and disgraceful, but it would not be regarded as domestic abuse.

For the breach of an interdict to be a criminal offence, a number of factors must be in place. The interdict must be granted on or after the point at which section 3 comes into force; there must be a determination that the interdict is a domestic abuse interdict; there must be an extant power of arrest; and the power of arrest and the determination must have been served on the interdicted person. On boyfriends and girlfriends, we consider that the amendment achieves the objective of protecting boyfriends and girlfriends without casting the net too widely. We have had the opportunity in this debate to pin down that matter and, I hope, answer the concerns that were expressed by Mr Brown and Mr Aitken. Therefore, the Government supports the amendments.

Rhoda Grant: I concur with what the minister said. The only thing that I would add concerns what Robert Brown said about latitude in the amendment. We have not defined domestic abuse on the face of the bill and, therefore, I think that it is only right to give the court some latitude in that regard.

Amendment 2 agreed to.

Amendment 3 moved—[Rhoda Grant]—and agreed to.

After section 3

Amendment 4 moved—[Rhoda Grant]—and agreed to.

The Presiding Officer: That ends consideration of amendments.

Domestic Abuse (Scotland) Bill

The Presiding Officer (Alex Fergusson): The next item of business is a debate on motion S3M-8136, in the name of Rhoda Grant, on the Domestic Abuse (Scotland) Bill. I repeat that we are very tight for time, so I ask members to stick pretty strictly to the times that they have been allocated.

15:25

Rhoda Grant (Highlands and Islands) (Lab): It gives me great pleasure to open the debate. The bill has taken a long time to bring forward, and there were times when I thought that we would never get here. Through the process, I have come to realise that there is a lot more to do in tackling domestic abuse—often, that knowledge almost derailed the bill.

Everyone to whom I spoke had another list of things that needed to be done, but much of that work cannot, in my opinion, be done in a member's bill—for example, making restriction orders easier to obtain and ensuring that the victim and children can remain in the home. Work also needs to be done to protect children from domestic abuse, as being a victim of such abuse damages their life chances. Scottish Women's Aid carries out good work with children, but we are some way behind other countries in protecting children and repairing the damage that domestic abuse does to them.

When I introduced the bill, I came up against human rights arguments. Although the clearest human rights argument I could find was that the state has a duty to protect citizens, that appeared to pale in comparison with the arguments that were put forward with regard to the offender's rights.

When the bill was first introduced it contained a section on access to legal aid, which was subsequently removed for two reasons, the first being a human rights one. If the victim got legal aid, the defendant would need to get it too. It appears that the needs of the perpetrator take precedence over those of the victim. I believe that human rights legislation is there to protect citizens and victims, not offenders. Until we get our interpretation of those laws right, they will remain a bone of contention.

The second issue relating to legal aid was the inability to calculate the cost of the provisions in the bill. Legal aid that is paid in respect of domestic abuse is not measured separately, and there are therefore no robust figures to work from. That created enough doubt in Government and committee minds about the costs associated with the provision that they would not back it.

Subsequently, the Scottish Legal Aid Board gave reassurance on their procedures for emergency situations, whereby victims who are fleeing abuse can access legal aid immediately, which enables them to access protection. Such procedures are required by those who qualify for legal aid but cannot prove it because they have no access to their own paperwork, having fled an abusive relationship, or by people who have funds but are unable to access them if that might lead the perpetrator to track them down. In both cases, emergency legal aid is available. In the second case, repayment or a contribution towards the costs would be required to be made only when it was safe for the person to access their funds. However, if such procedures are in place, why would the provisions in the bill have led to increased costs? Legal aid legislation allows ministers to make legal aid available, free from contributions, to people who are in such a position. Primary legislation would not be required.

We are still picking up concerns about financial barriers to protection, and I urge the minister to examine that carefully and monitor the situation to find out whether such barriers exist. If they do, the cost for removing them should be brought back to the Parliament. Nobody should lack protection because of financial constraints; as a state, we have a duty to protect.

The second contentious issue in the bill was the inclusion of boyfriends, girlfriends and partners who are not or were not cohabiting. We struggled to find a definition for those people after stage 2, and were in danger of omitting them from the bill's protection.

In 2009-10, the police recorded 11,000 domestic abuse incidents between partners and almost 19,000 incidents between ex-partners. We all know and use the terms "boyfriend", "girlfriend" and "partner", and we know what they mean. We know the nature of the relationship and we have no difficulty with it. It is disappointing that plain English does not suffice in legislation.

I recently spoke to Maureen Macmillan, who told me that during the passage of the Protection from Abuse (Scotland) Bill a similar problem with cohabitees arose—obviously, that is no longer a problem in law. Our legal system has to be fit for purpose. We need to use language that we all know and understand. That is a rant for another day, however.

I hope that we will not have problems in defining boyfriends and girlfriends in future. The form of words that the Parliament agreed is "an intimate personal relationship", a definition that covers the spectrum of boyfriend/girlfriend relationships and partners in a relationship. The spectrum needs to cover every stage of the relationship from the start right up where another definition, such as married

or cohabitee, applies. It is also clear that the definition covers same-sex relationships.

There were arguments about what stage of a relationship domestic abuse is likely to occur at and whether those who cohabit are at greater risk of abuse. It is clear from the figures that a significant number of people who suffer from domestic abuse do not live with the perpetrator. The bill must cover them. From anecdotal evidence, it is clear that domestic abuse can occur at any point in a relationship. In essence, domestic abuse is power-based abuse. It occurs when the perpetrator has the ability to exercise a degree of power over their victim. In some relationships, domestic abuse takes years to develop; in others, it takes just days.

Someone does not have to share a home with the perpetrator to suffer, but if the victim is a cohabitee, they need further protection. That protection is not offered in the bill. I ask the Government to take on board the need for a review of the protection that is offered in law to victims of domestic abuse and their children. Domestic abuse does not happen only in relationships that are fully sexual—relationships in which intercourse has taken place. It is about not the degree of physical intimacy but the ability to exercise power and control and to coerce. We need to protect all those who fall victim to this horrendous crime—a crime that is perpetrated by a person who is supposed to love and protect but who instead hurts and humiliates.

I ask members to support the bill at decision time. As I said, it is not the last word in tackling domestic abuse, but it is another step in the right direction. I look forward to the day when we as a Parliament and a society can eradicate this scourge.

I move,

That the Parliament agrees that the Domestic Abuse (Scotland) Bill be passed.

15:32

The Minister for Community Safety (Fergus Ewing): I am grateful for the opportunity to outline the Government's approach to the bill.

In one unfortunate respect, the bill is timely, in that the incidence of domestic abuse has been highlighted recently following old firm games. Domestic abuse is a stain on Scottish society generally. We need to ensure that our action to tackle domestic abuse is effective in a wide range of areas, including those that the bill covers, such as civil protection orders. Indeed, that is why the Government has been supportive of most aspects of the bill, albeit that we had some concerns that were shared by others.

Rhoda Grant mentioned section 2, on legal aid. We were concerned about potential costs and about how the section would work in practice. I am thinking of multicrave actions in which protection orders and other outcomes such as divorce or contact and residence are sought.

The Justice Committee also raised concerns in its stage 1 report. It concluded:

“the Committee does not support section 2 which in effect would make legal aid free to all for applications to a civil court for an interdict with a power of arrest, or a non-harassment order, where domestic abuse was involved. In the view of the Committee, this provision would create an inequality of arms between the pursuer and the defender. Additionally, the Committee is not persuaded that domestic abuse cases should be prioritised above other cases for the purposes of legal aid.”

Although the Government opposed section 2 and it has been removed from the bill, I recognise the point that Rhoda Grant made. She alluded to the Scottish Legal Aid Board’s comprehensive statement on how it deals with legal aid applications that relate to domestic abuse. In addition, through the Legal Services (Scotland) Act 2010, the board has been given a duty to monitor the availability and accessibility of legal services and to advise ministers accordingly. Indeed, the measure was incorporated in the 2010 act at my instigation. To help it to implement its new role, the board is setting up an access to legal services reference group. Scottish Women’s Aid is being invited to join the group as a core member.

In her opening remarks, Rhoda Grant stated that in certain cases people still face barriers to access to justice. I give her an undertaking that if any such cases are drawn to our attention we will study the circumstances most carefully and explore with the Scottish Legal Aid Board whether more needs to be done. I must point out, however, that the Government has extended the availability of civil legal aid on financial grounds to around 50 per cent of the population—and we are proud of having done so, given that our priority in that regard has been to extend access to justice.

Another area of concern related to the definition of domestic abuse in section 4, which came in for some criticism. We shared concerns that it was too wide and agreed with its removal at stage 2. However, that move raised questions about how best to describe interdicts covered by the bill, particularly in relation to interdicts protecting boyfriends and girlfriends. As I said a moment ago, the bill now refers to people in intimate personal relationships, and we do not consider that such relationships need be sexual.

We welcome the bill. The Government will monitor the bill’s impact; improve its information on civil protection orders to tackle domestic abuse; and continue to examine all aspects of our work

on tackling domestic abuse in our efforts to remove this stain from Scottish society.

15:36

Richard Baker (North East Scotland) (Lab): I join all those who have commended Rhoda Grant for bringing before Parliament this important legislation to tackle domestic abuse. She can be proud of her work not just on the bill but throughout her time in Parliament to highlight the need for concerted action to reduce the still unacceptably high levels of domestic abuse in Scotland. As the minister just said, in the past few weeks there has been a particular focus on levels of domestic abuse in the Glasgow area, but it is clear that, unfortunately, there is no quick fix to deal with this stubborn and serious problem in our society and that it will take a whole range of measures by our police and our justice system to reduce levels of offending. The fact that over the Christmas period there were nearly 3,000 incidents of domestic abuse in Strathclyde alone shows just how much more needs to be done to ensure that fewer women and children have to live in fear of abuse at home.

As I said, we need to do more, and the bill provides new protections and new remedies for victims of domestic abuse. I am glad that through the scrutiny of the Justice Committee, which has as always conducted its business with admirable efficiency, we now have a bill that commands support across the Parliament. Anxieties over the definition of domestic abuse were resolved at stage 2 and we have made progress in defining what a partner is in such circumstances. Although the committee did not support the bill’s original proposals for the provision of legal aid to domestic abuse victims, I am sure that we agree that the principle advanced by Rhoda Grant—that no victim of domestic abuse be excluded from taking action in the courts on the basis of financial capability—should, in practice, be met through our legal aid arrangements.

I welcome the fact that the bill’s two crucial elements on civil non-harassment orders and breach of interdict have won support. In the debate on the Criminal Justice and Licensing (Scotland) Bill, we supported the Scottish Government’s proposals to remove for criminal non-harassment orders the requirement to show a “course of conduct which amounts to harassment”,

as we believed that such a move would benefit the victims of such offences. Although we did not support the bill in the final vote, because of our concerns over the presumption against three-month custodial sentences—not least for perpetrators of domestic abuse—we nevertheless supported the Scottish Government’s measure on

criminal non-harassment orders for the reasons that I have just outlined. The Domestic Abuse (Scotland) Bill removes the same requirement for the granting of a non-harassment order in civil proceedings that involve domestic abuse. That, too, will benefit victims of abuse, who will not now have to suffer a series of offences before they can obtain such an order. Likewise, provisions that make it a criminal offence to breach an interdict with a power of arrest in domestic abuse cases also give further protection to victims and provide further penalties for offenders. Again, such moves should be very much welcomed.

To look forward, in tackling domestic abuse, the bill can, of course, be only one part of on-going work to ensure that we have in place a legal framework that does all that it can to help the victims of domestic abuse and prevent them from suffering further crimes against them in the future. I agree with the minister: the Scottish Government should always keep such matters under review to ensure that we are doing the best job that we can in serving the victims of domestic abuse. I believe that the bill is an important part of that work, and that today is a good day. We are seeking to redouble our efforts to tackle domestic abuse.

I congratulate Rhoda Grant again on all her work in bringing such an important bill before members.

15:40

Bill Aitken (Glasgow) (Con): Instances of domestic abuse in Scotland remain stubbornly—indeed, disgracefully—high. There were 51,926 incidents of domestic abuse in the last recorded year, which is unacceptable. Those incidents happened despite the best efforts of everyone concerned over the past 12 years. It is clear that, if there is a gap or lacuna in the protection that is being offered to the victims of such abuse, it is incumbent on us to attempt to fill it, and that is what Rhoda Grant's bill seeks to do.

Someone—I forget who it was—once described politics as being

“the art of the possible”.

Ms Grant seems to be an adherent of that view. There were one or two difficulties that she managed to overcome in a straightforward manner as she sought to get through a worthwhile bill, which reflects highly on her. She recognised the difficulties that undoubtedly could have arisen.

A number of us were considerably troubled by the legal aid aspect. There were the complexities of European involvement and the old equality-of-arms argument, which we have heard under many different headings. Rhoda Grant recognised that there would be a difficulty, but she proceeded in a

fairly forthright and determined manner to ensure that, as far as possible, someone's financial situation should not be an impediment to their seeking a remedy. On the basis of the undertaking that has been received from the Scottish Legal Aid Board, that has, of course, turned out to be the case.

The second difficulty was the problem of definition, to which I applied my mind without coming up with the answer. I am not totally convinced that we have resolved that difficulty. The record will certainly show that the minister's views on it have been quite clear, and if there is a difficulty with regard to judicial interpretation somewhere down the road, his statement on the record will be very helpful.

As I said, domestic abuse is a serious issue. We can claim some success with it over the years—there has been a 4 per cent fall in the instances of such abuse—but the situation remains completely unacceptable by any standard. I do not think that what we are seeking to do today will be a complete remedy; that will be achieved only when there is an attitudinal change in people in Scotland, particularly young people. I find it rather depressing, to say the least, that many see as acceptable the type of conduct that we have spent a great deal of time trying to deal with in the Parliament over the years, including by trying to offer appropriate protection to victims. It is not acceptable. That is a pure and simple fact, and it has to be generally understood.

I congratulate Rhoda Grant, who has, I know, worked hard. She has spent a lot of time and effort to achieve what will, I am sure, be a satisfactory result, and she has helped to move the Parliament and Scotland further down the road of ensuring that adequate protection is in place for victims of domestic abuse offences.

15:44

Robert Brown (Glasgow) (LD): The bill addresses a serious matter to which the Parliament has devoted quite a bit of attention over the years since 1999 and which calls for serious politicians. Rhoda Grant has shown herself to be very much a serious and committed politician in bringing the bill to finality today. I join other members in congratulating her, not just on her expertise and skill, but on her determination to achieve the result.

There is probably a united view throughout the Parliament that domestic abuse is not satisfactory or tolerable in the sort of society that we want in modern Scotland. We have to consider the remedies and protections that are available. Domestic violence is one of those issues that remains underrecorded and underreported. One

aspect that is probably also underreported and which does not get much mention, because domestic abuse predominantly involves women and children, is that of abuse against male partners.

The point has been made that domestic violence issues often emerge from a power tussle in relationships of one sort or another. That point has a considerable element of truth in it. We have protections in the criminal law against domestic abuse. When matters are serious and result in physical violence and things of that sort, we clearly hope that the police will deal with them. The police are much better at dealing with such issues than they were in the past, when there was a view about not interfering in domestic relationships. These days, the police are much more sensitive and attuned to the issues and deal with them much more appropriately. The more major issues should be dealt with through the criminal law, and rightly so.

There is also a necessity to deal with the not-quite-so-serious episodes—"lesser" would be the wrong word—many of which are on-going and harassing. Those are the issues on which the civil law can give a degree of assistance. When one looks back over the progress on the issue and considers the Matrimonial Homes (Family Protection) (Scotland) Act 1981 and the interdicts that go with it, it is perhaps surprising that the remedy that we have ended up with—in effect, that of making breach of interdict a criminal offence—was not arrived at in the beginning because, in a sense, it is the obvious way of tackling the issue. In the march of history, all the other mechanisms that we have had over the years, such as contempt of court proceedings, breach of interdict proceedings or the limited power of arrest, can manifestly be seen as staging posts along a line to something a bit better.

The bill originally attempted to introduce a number of provisions, but the ones that have got through at the end of the day are the right ones—the extension of the harassment definitions and the breach of interdict with power of arrest. I disagree to an extent with Rhoda Grant's comment that, in the legal aid system,

"the needs of the perpetrator take precedence over those of the victim."

I understand where she is coming from, but the legal aid system must have at its heart an equality-of-arms approach. That was clearly brought out in the committee's stage 1 report and in the approach that was taken on the proposals. As the minister rightly said, none of that means that we cannot make improvements or deal with sensitivities and problems in the system that perhaps lead to people not getting legal aid in circumstances in which they need it. The evidence

to the committee suggested that, at worst, that applies to a not very large percentage of people. However, there might be an issue of underreporting and underapplication that has to be dealt with.

On the matter of a definition, I believe that we have left ourselves with difficulties. The definition will need to be interpreted by the courts. The phraseology, although it will perhaps do the trick for the moment, has some difficulties, which I tried to point out in my examination of the issue earlier. Having said that, the bill is worth while and decent and will have an effect of value. I join other members in welcoming the bill and the work that has been done in bringing it about.

15:49

Stewart Maxwell (West of Scotland) (SNP): I begin where Robert Brown left off by saying how much I admire the work that Rhoda Grant has undertaken on the bill. It is not easy to take through any member's bill, and some aspects of this bill were particularly difficult. We debated those aspects during the committee stages, although we did not come to an agreement. I am sure that Rhoda Grant is disappointed that some bits were removed, but I hope that she appreciates that the committee did its best to strike the right balance between the rights of all the individuals who are involved in such dreadful circumstances. I am sure that she knows that there was certainly no intention among committee members to side with the perpetrator in any way, shape or form in our views on the legal aid provision that was removed at stage 2.

I agree very much with previous speakers. As Bill Aitken said, in the latest year for which we have figures—2009-10—51,926 incidents of domestic abuse were recorded. That statistic is horrific on its own but, as we all know, such incidents are very much underreported—the actual number is much higher. I say that with confidence because, as the violence reduction unit has pointed out, it takes on average approximately 35 incidents of abuse before a victim reports the matter to the police. That shows that much domestic violence that is going on is not being reported, so we are—at least formally—unaware of it. There is no doubt that, although 51,926 is a tremendously awful figure, it shows only some of the problems that we face in our society.

Those of us who were at the Commonwealth Parliamentary Association event at lunch time saw some of the difficulties with gender-based violence in Malawi. To be frank, although the situation is dreadful here—I do not underplay it—we can be thankful that we do not face the difficulties that some countries around the world face.

The bill has been debated widely at the Justice Committee and in the chamber. I will not spend time on the technicalities, the finances, the legalities and all that, which many other members have mentioned and which the committee dealt with in depth. I will return to the principle behind why we are here in the first place—why Rhoda Grant introduced her worthwhile bill. It relates to the figures on domestic abuse. We know from evidence from the violence reduction unit on the British Medical Association board of science report of 2007 that about 30 per cent of domestic abuse cases start during pregnancy. When I first read that figure, I was utterly appalled—as I am sure other members were—that pregnancy was somehow involved in the beginnings of domestic abuse. Unfortunately, pregnant women who experience domestic abuse are twice as likely to have a miscarriage. That shows the seriousness of the issue, which involves not just violence against an individual but the repercussions of that violence.

It is shocking that nearly 40 per cent of all domestic abuse cases occur on a Saturday or a Sunday. We have had many debates and we have sometimes disagreed about how we tackle the problem of alcohol abuse in our society, but I hope that the fact that 40 per cent of cases occur at weekends will make us think that it is legitimate to link alcohol and domestic abuse. In the next parliamentary session, we must tackle the problem at its source, which means dealing with the alcohol abuse problem that unfortunately exists in some of our communities.

I will finish with one telling statistic. As Richard Baker said, the Christmas holidays are a particularly difficult time—they are a peak time for domestic abuse. On average, 142 domestic abuse cases occur each day during the year. Between Christmas eve and 1 January, the figure is 183 per day. On 1 January 2010, 395 cases of domestic abuse occurred. The connection between alcohol and domestic abuse is clear, and we will have to tackle it in some depth in the next session.

15:53

Bill Butler (Glasgow Anniesland) (Lab): I welcome the opportunity to support the motion in the name of my Labour colleague Rhoda Grant. I offer her my unreserved congratulations on bringing to the Parliament a bill which, when enacted, will undoubtedly better the lot of victims of domestic abuse. Domestic abuse is a totally unacceptable and repellent form of behaviour, and she is to be commended for her hard work and commitment in producing a progressive bill that I am certain will be passed overwhelmingly at decision time.

The bill seeks to widen access to justice for victims of domestic abuse and to produce a more robust and reliable response to breached civil protection orders. As Mr Ewing said, there is no doubt that domestic abuse continues to be a stain on Scottish society.

Domestic abuse in all its forms is underreported, as Stewart Maxwell said. However, the figures that we have demonstrate the worrying extent of the problem. In Scotland in 2008-09, 53,681 cases of domestic abuse were reported to the police, which was an 8 per cent increase on the number that was reported in the previous year. The figure reflects the year-on-year rise of reported incidents since data first started to be collected in 1999-2000. There is, indeed, no room for complacency, even though there was a 4 per cent decrease in reported cases last year. For instance, repeated victimisation rates remain high, despite a fall from 61 per cent in 2008-9 to 57 per cent in 2009-10.

Those shocking statistics represent flesh and blood victims who are, overwhelmingly, female and who suffer physical and sexual abuse from partners and ex-partners. The crimes range from assault and physical attack to acts that degrade and humiliate women and are perpetrated against their will, including rape.

I believe that the provisions in Rhoda Grant's bill will tackle deficiencies in the current law and support those who are victims of gross and barbaric behaviour.

Section 1 will introduce new section 8A into the Protection from Harassment Act 1997, which will remove the requirement to show a course of conduct before a non-harassment order can be granted in civil proceedings involving domestic abuse. The new provision will mean that someone will need to provide evidence of only one occasion of harassment and not evidence that such conduct has taken place repeatedly.

The Justice Committee acknowledged in its stage 1 report the wide support, including from the Government, for removing the course of conduct requirement for civil non-harassment orders, and it was quite right to do so. No one would wish to stand in the way of legislation that will remove the requirement for a victim to undergo, in effect, a period of repeated abuse before being able to access an order. Such a state of affairs is completely unjust and unacceptable. Section 1 represents a reform that is rational, sides with the victim and, frankly, is long overdue.

I also support section 3, which creates a criminal offence when an interdict with power of arrest is breached. That reform will remove from the victim the burden of pursuing a contempt of court through the civil court and will instead place it, correctly, on the shoulders of the authorities.

That provision is civilised, progressive and worthy of unanimous support.

I welcome the amendment that Rhoda Grant proposed at stage 2 and which the committee agreed unanimously that provides for a maximum penalty of 12 months' imprisonment on summary conviction for breach of an interdict with power of arrest. That amendment was wholly appropriate and proportionate.

The bill will ensure that essential protection is available to all victims of abuse, and it demonstrates that this Parliament, in the name of the people of Scotland, will always take the appropriate measures to defend victims of abuse. It is a good bill and will do much to make Scotland a better nation. I commend it to members.

15:58

Nigel Don (North East Scotland) (SNP): I congratulate Bill Butler on that exposition of what Parliament is about, with which of course I entirely concur. I also congratulate Rhoda Grant on introducing the bill, on her tenacity—which has certainly been required—and on her pragmatism in adopting the changes that were forced on us.

On amendment 4, which we earlier introduced into the bill, I think that the minister got it right when he suggested that paragraphs (a) to (d) of subsection (2) of the new section will, as a matter of ordinary statutory interpretation, be put together as a group and that paragraph (d) will be read in the context of paragraphs (a) to (c). However, if he is wrong, then it is worth putting on record, certainly from my perspective as a member of the Justice Committee, that we did not envisage the important definition in paragraph (d) covering family members.

Robert Brown reminded us that the bill covers the situation where men are victims. We have begun to learn about that issue in my time in Parliament over the past four years. We have now as a Parliament, and perhaps as a civil service, come to understand that the victims of abuse are not automatically women and children. I am not sure that we have really got that into the institutional mind yet, but I think that we are making progress.

To refer to a point that Bill Butler and others made, criminalising breach of an interdict should be very effective. As I think Robert Brown said earlier, that measure seems overdue. It is an obvious way to deal with problems where civil law breaks down. The courts will have told someone what to do, but they might not be prepared to do it. If there is an interdict, why should the breach of it not be a criminal offence? We might increasingly ask ourselves that question. If contempt of court is not an effective sanction, we might need to think

about generally criminalising breach of interdict. I mention that merely in the by-going.

Some further issues emerge from the revised financial memorandum to the bill. As the last back-bench speaker in the debate, I did not think that I would have much competition from people who had previously considered what was in the financial memorandum—it is not an area where we normally go. Time does not allow me to draw much to the attention of the Parliament, save to note that almost every paragraph of the memorandum says something along the lines of, "We don't really know, because we don't have enough information." I think that that is indeed the case. It is a little sad, however, that for something so relatively simple and specific, the Scottish Legal Aid Board was not able even to distinguish between pursuers and defenders, and a good number of other bits of useful information were simply not available. Given that almost everything is computerised these days, one has to wonder why that was the case. People need to address a general question in that respect.

Paragraph 42 of the financial memorandum says:

"Finally, it is worth noting that the cost of domestic abuse to the Scottish public purse has been estimated to be as much as some £2.3 billion."

In that context alone, it is clear that this entirely worthy bill has got to be worth the small costs that might accrue in other places.

16:02

Mike Pringle (Edinburgh South) (LD): Like all other members who have spoken in the debate this afternoon, I congratulate Rhoda Grant on getting the Domestic Abuse (Scotland) Bill through to stage 3. As I said last week in relation to the two members' bills that were considered on the same day, any member's bill requires a huge amount of work. Just getting it through the consultation stage, and then stages 1, 2 and finally 3, is a considerable achievement.

Scotland has developed an international reputation for its work on addressing violence against women, and domestic abuse in particular. The bill takes the work even further. My colleague Robert Brown has referred to the various things that have happened in the Parliament in this regard over the past few years. The Liberal Democrats welcome this debate on Rhoda Grant's bill, and we will be supporting it at decision time tonight.

I congratulate the Justice Committee on all the hard work that it has done, in particular the huge amount of work on the bill that was done by the now ex-convener, Bill Aitken. I wish Bill well with

whatever he does in the future. The Parliament will miss him sadly—I think that we all know that.

Congratulations must go, too, to the committee clerks for their work. They are the unsung heroes in the background, and they do a huge amount of work.

I reiterate the two main policy objectives of the bill. The first is to increase access to justice for victims of domestic abuse, and the second is to enable police and prosecutors to provide a more robust response to breaches of civil protection orders. I think that the bill will achieve those objectives.

From stage 2, the bill has been amended, resulting in the removal of section 2, which was on legal aid, and the removal of section 4, which covered the statutory definition of domestic abuse. Of course, there is currently no statutory or common-law definition of domestic abuse, although there are a number of commonly accepted and understood definitions and statements of what domestic abuse is, and those definitions will remain.

Section 2 would have amended the Legal Aid (Scotland) Act 1986 to make legal aid available without means testing in respect of all applications for an interdict with a power of arrest or a non-harassment order, where domestic abuse was involved. At stage 2, a Scottish Government amendment removed that section. Robert Brown, Stewart Maxwell and perhaps other members were extremely concerned about the amendments in relation to section 2. I am not a member of the Justice Committee, but I hope that they are satisfied with what the minister has said today and that they are happy with the way forward.

I agree with the minister that in this day and age we must all have a right to protection from violence, whoever we are, wherever we are and regardless of our situation and personal circumstances. I was particularly struck by what Stewart Maxwell said about new year's day, and by the minister's comments on the recent events in Glasgow, which I am sure that all members abhorred.

Domestic abuse is completely unacceptable in the 21st century. We must all continue to work together to tackle a continuing problem. The bill will do that. I congratulate Rhoda Grant on introducing the bill, which we will support at decision time at 5 o'clock—actually I think it is 5.25 pm.

16:06

Bill Aitken: I thank Mike Pringle for his kind remarks, which I appreciated.

I hope that when the bill is passed, Rhoda Grant does not feel that because of what happened to section 2 she is getting only half the loaf—although half a loaf is clearly better than no loaf—because I do not think that that was the Parliament's intention. The Parliament was confronted with a difficulty and it would have been unfortunate if we had passed the bill as introduced only to find ourselves faced with all sorts of challenges further down the road. That would have done no one any good whatever. Rhoda Grant has heard the minister underline SLAB's undertaking that the situation with regard to legal aid should not be an impediment.

The bill is a good bill. We have had many debates on domestic abuse over the years. The current situation is unacceptable. Even today, when we have been debating fairly technical matters, appalling examples have been cited. In particular, what Stewart Maxwell said about assaults on pregnant women was disturbing. Such assaults are beyond the pale. Not only are the woman and children who happen to be in the locus affected, but there is every prospect that the unborn child will be profoundly affected. Some classic illustrations of that have gone through the courts recently, which underlines how vital it is to do something about the offence. To some extent, the incidence of such offences seems to be falling, but given the obvious underreporting the situation is not at all satisfactory.

I need not delay the Parliament for too long; I know that we have other business today. I congratulate Rhoda Grant on a job well done and I look forward to the bill being passed at decision time, whenever that might be.

16:08

James Kelly (Glasgow Rutherglen) (Lab): I, too, congratulate Rhoda Grant on what I am sure will be the passing of the bill later this afternoon. As Mike Pringle said, navigating a member's bill through the Parliament is a difficult task, which involves an enormous workload in addition to the other tasks that a parliamentarian must undertake. Rhoda Grant said that at times she wondered whether she would get to the finish line, which I think sums up the hurdles that she has had to overcome on the bill. That she has been able to overcome those hurdles is a tribute to her fortitude. It is fair also to pay tribute to the minister and his team, who worked constructively with her.

As many members have said, domestic abuse is a blemish on Scottish society. As Fergus Ewing said, the issue has been given focus in the coverage of recent events around old firm games, but domestic abuse happens every day in Scotland, as Richard Baker and Stewart Maxwell said. That should drive us not to be complacent,

and it is one of the reasons why legislation is not only appropriate but necessary.

The bill that will be passed this afternoon will have two practical effects: it will improve access to justice for domestic abuse victims and provide more robust processes for prosecutors. To be specific, section 1, as Bill Butler mentioned, removes the requirement for a course of conduct in relation to non-harassment orders. That will make it easier for victims of domestic abuse to apply for such orders and achieve a more appropriate result. That is why section 1 in particular had the support of the Strathclyde Police domestic abuse co-ordination unit and the Association of Chief Police Officers in Scotland.

Section 3 will make it a criminal offence to breach an interdict with a power of arrest. It is difficult to prove breach of an interdict in a civil context, and the onus is put on the victim. The bill's provisions will make the law more robust and should assist victims of domestic abuse.

Bill Aitken quoted R A Butler, a famous Conservative from the 1950s—I knew who he was talking about—who said that politics is

“the art of the possible.”

Another big political figure from the 1950s, Aneurin Bevan, spoke about the language of priorities being an aspect of politics. Rhoda Grant has brought the two together: she has achieved what is possible by navigating the bill towards the finish line and is addressing an issue that is a priority not only for the Parliament but, sadly, for many people throughout Scotland.

We are passing a lot of legislation in these final weeks. Much of it is meaningful and purposeful, but I suggest that Rhoda Grant's bill will bring real benefit and make a real difference to the victims of domestic abuse.

16:12

Fergus Ewing: Maureen Macmillan was referred to earlier in proceedings, and I am delighted to see that she is in the public gallery witnessing the debate. I recall from stage 1 that Rhoda Grant mentioned that it was Maureen Macmillan's idea that the bill should be proposed in the first place. That has proven to be a deft and effective piece of delegation.

I warmly congratulate Rhoda Grant on the work that she has done—it cannot have been easy, as the bill was complicated—and on the pragmatic and constructive approach that characterised her dealings with me and my officials throughout. I also thank the officials for their Trojan efforts throughout the bill's passage through the Parliament.

No one pretends that the bill itself will remove the stain of domestic abuse from Scottish society. Tackling domestic abuse effectively involves a huge range of measures, and many members have highlighted the gravity of the problem that we face. Bill Aitken only a moment ago highlighted the appalling assaults on pregnant women, and Stewart Maxwell reminded us that the record shows that, of the incidents of domestic abuse that take place in Scotland each year, fewer than 6,000 are reported on a Tuesday night but more than 10,000 are reported on a Saturday or Sunday.

It is perhaps because of those shocking statistics that the police throughout Scotland are taking proactive measures and chapping on the doors of those with a record of domestic abuse to warn them that, if they misdeemean again, perhaps on particular occasions such as old firm matches, the boys in blue will be watching what they are up to. I think that all members support that sort of proactive effort.

Nigel Don, as he often does, raised points that others did not, but it was fair of him to do so. He said that there was a lack of good information. I am determined that the Government will produce better information on civil protection orders to protect against domestic abuse. We will work closely, as we have already done, with Scottish Women's Aid. We will amend the Scottish Government's website to ensure that it reflects the changes. We will consider whether a hard-copy leaflet on civil protection orders would be helpful. We will involve fully Scottish Women's Aid in all the work that we do in that respect.

Nigel Don echoed earlier concerns about whether the boyfriend/girlfriend amendment would inadvertently capture family members, which the committee did not intend should happen. By way of providing further ballast to the assurances that I have already provided, I state clearly to the chamber that when drafting the amendments we considered whether a specific exclusion was needed for family members. We decided that it was not needed, given that the new category will be read as including relationships that are like the relationship between spouses, civil partners and cohabitants. Therefore, it was not necessary to incorporate in an amendment the exclusion for family members, because the new category will be read as—I have been waiting 12 years for the chance to use this phrase—*eiusdem generis* with other relationships such as spouses and civil partners. I hope that that clarity will assist those who have the job of interpreting the legislation that we will produce today.

We as a Government have sought to tackle the issues surrounding domestic abuse with the co-operation of all parties in a very serious way. More than £44 million has been allocated over the

period 2008 to 2011 to tackle violence against women. Seventy-three projects have been funded through the violence against women funding stream. There has been three-year funding for specialist children's services through the children's services Women's Aid fund. All local rape crisis centres have been funded for a further three years. The children experiencing domestic abuse recovery programme has been launched. There has been funding for the Scottish domestic abuse helpline and national rape crisis centre, and almost £2 million has gone to fund the advice, support, safety and information services together project—the support service for victims going through the domestic abuse court. Rhoda Grant mentioned some of those wider issues. I am happy to confirm that more than £44 million has been devoted to those areas over the past three years—a hefty increase in the funding, which I believe has had the support of all members.

I thank Rhoda Grant for the constructive approach that she has taken to the bill. I congratulate her and all members who have participated in this debate and provided Scotland with this much-needed legislation.

16:17

Rhoda Grant: I thank all members who took part in the debate for their kind words—in fact, their words were so kind that when Roseanna Cunningham came into the chamber she asked whether I was standing down at the election, because people were being so nice to me. I tell her that it is not my intention to stand down, but that is up to the voters.

Before I address the points that arose in the debate, I will take a couple of minutes to thank some people, without whose help the bill would not be in front of us today. First, I thank all those who responded to the consultation. Special mention must go to Scottish Women's Aid, both nationally and the various local offices. There are far too many people to mention, but I appreciate all their help, especially that of Louise Johnson, who helped every step of the way.

I also need to thank my staff and researchers, who have come and gone over the piece. Special thanks go to Marian Grimes, who helped me focus, and Liza Gilhooly, who has accompanied me throughout the whole parliamentary process. I am sure that Liza will be delighted that Nigel Don has studied the financial memorandum, because she put a lot of blood, sweat and tears into it.

I thank Unison, which sponsored the bill. I thank Dave Watson, Fiona Montgomery, Norma Black and Unison's women's committee. I also thank Norman MacAskill for designing the consultation

document and Catriona Burness for pulling together case studies.

A huge thank you goes to James Clark, because the bill would not have got to this stage without him. I also thank Clare Connelly, who came up with the solution for how the bill could be shaped to tackle the issues. Clare carried out the 2003 study on civil protection orders, "An Evaluation of the Protection from Abuse (Scotland) Act 2001", which gave her a clear understanding of what needed to be done.

I also want to thank parliamentary staff—committee clerks and support staff. Mike Pringle said that they are sometimes the unsung heroes and I am very grateful for all their help and support.

I need to extend a special thanks to the Parliament's legislation team, who were wonderful, particularly Frances Bell. Frances was in the chamber for the earlier stages of the debate, when I was on my toes. One instance of how hard she works is that she phoned me at midnight over the Easter weekend last year, when she was still in the office and I was at home with a glass of wine. I am extremely grateful for that level of dedication.

I thank the committees for their scrutiny of the bill, and Fergus Ewing and his staff and officials for their help in drafting the amendments and their work to solve some of the highly technical issues that we faced.

I say a big thank you to Carol—that is not her real name—who allowed her story to be told to illustrate how the bill would help victims of domestic abuse. Last but not least, I thank Maureen Macmillan, who suggested the bill in the first place. I am not sure whether I should be thanking her or just saying, "That's another fine mess you got me into."

I appreciate the really good comments that members made during the debate. I am grateful to the minister for undertaking to investigate the barriers that exist. The problem may not be with legal aid, but with solicitors who may not be using the available provisions. I would be grateful if that were looked at as part of the research that the minister is to have carried out. I am grateful to SLAB and the minister for agreeing to further publicise the protections that are available for people who suffer from domestic abuse.

Robert Brown talked about the police and how they are now dealing seriously with domestic abuse. The bill will give them the tools that they badly need to help them to tackle the issue. The domestic abuse figures have fallen as a result of the work that they have been doing, and I hope that that will continue. Indeed, I hope that no victim will need to use the bill and that the police will offer

them the assistance that they need without their having to go to court.

Stewart Maxwell and Bill Butler reminded us of the need for legislation by giving us stark statistics that highlight why we need to protect people. James Kelly said that the bill will improve access to justice and protection, and I very much hope that it will. Bill Aitken said that he hoped that I did not think that I was getting half a loaf; I do not. I am very pleased with the support that I have had, for which I am extremely grateful, and I thank Bill for his help throughout the process.

As others said, non-harassment orders will be much easier to obtain. As Bill Butler said, it was wrong that a course of conduct had to be shown before someone could get a non-harassment order. The bill will stop that happening. It will also mean that the state will deal with breach of domestic abuse interdicts. Nigel Don suggested that perhaps we should go further and have the state deal with all breaches of interdicts, but I, for one, am pleased that the bill will mean that people who suffer from domestic abuse will get that specific protection. Victims will no longer be responsible for going back to court to get redress.

A number of members, including Richard Baker and Stewart Maxwell, talked about the increase in domestic abuse that takes place around Christmas, around football matches and around alcohol consumption, but let us be clear that there is no excuse for domestic abuse—none of those things is an excuse for it.

As I said, the bill is not the last word on domestic abuse. It is merely another step along the way. I hope that a day will come when, as a society, we will not tolerate such abuse and victims will no longer live in fear.

“Low Carbon Scotland: Meeting the Emissions Reductions Targets 2010-2022—Report on Proposals and Policies”

The Deputy Presiding Officer (Trish Godman): The next item of business is a statement by Roseanna Cunningham on the report on proposals and policies on climate change targets. The minister will take questions at the end of her statement, so there should be no interventions or interruptions.

16:24

The Minister for the Environment and Climate Change (Roseanna Cunningham): I will now confirm to the Parliament the package of proposals and policies that will form the backbone of action to reduce emissions over the next decade.

I am grateful to the Transport, Infrastructure and Climate Change Committee for leading scrutiny of the draft report on proposals and policies, and to the Economy, Energy and Tourism Committee for its contribution.

The publication of the RPP marks the completion of the first period of focused action following the passage of the Climate Change (Scotland) Act 2009. We have put in place the annual markers and set the strategic direction required to take us to the interim target of cutting carbon emissions by 42 per cent by 2020 and, ultimately, to our long-term target of cutting them by 80 per cent by 2050. We have shown that it is possible to hit every one of our annual targets to 2022, but it will not be easy. Current policies will get us most of the way, but the RPP shows that we need additional measures.

The committees' calls for evidence asked whether any proposals or policies were not included in the RPP that should have been. After considering evidence for 60 days, the committees did not identify any additional proposals or policies in their reports.

I might be the minister with responsibility for climate change, but we need to remember that, as Stewart Stevenson was often heard to remark, every minister is a climate change minister. That shrewd observation is borne out by the spread of policies and proposals in the RPP. As required by the 2009 act, we have also prepared a public engagement strategy, an energy efficiency action plan, and guidance on the duties of public bodies. Our land use strategy will be published shortly. In addition to our statutory duties, we have also prepared a low-carbon economic strategy and a zero waste plan. With the publication of the final

RPP earlier this week, we now enter a new period in which we focus on delivering the programme of action that is required to continue to drive down emissions.

The amendments that I have made in finalising the RPP respond primarily to the hard issues that the Parliament raised during scrutiny. A written statement was laid alongside the RPP that explains in detail the nature of the representations that were made and the changes that correspond to those representations. If members are interested in specific changes, they should read that written statement; I cannot cover all the issues today.

I will, however, cover the two most significant issues that arose: first, the substantive content of the RPP, or the package of proposals and policies; and, secondly, the delivery and monitoring of policies and proposals. The Parliament did not offer any recommendations for additional proposals or policies and the RPP demonstrates that our emissions targets can be met with some room for manoeuvre. However, the committees' reports recommended that we identify additional proposals or policies if the existing package proves to be insufficient. The Scottish Government will act responsibly and, in that scenario, we will consider whether policies and proposals should be expanded or accelerated, or whether additional ones will be required. I have amended the RPP to further emphasise that point. That applies to all the policies and proposals in the RPP, including the scenario in which the European Union does not tighten its own target to 30 per cent. Scotland is close to the discussions in Europe and we continue to call for a stronger EU target. We will also continue to lobby the United Kingdom Government to match Scotland's ambition.

Before we start considering whether additional measures might be required in future, however, we must not underestimate the challenge of delivering the proposals and policies in the RPP in a time of budget constraints—caused, in large part, by the spending decisions of the UK Government. We will have to be creative but, if we are to maintain the enthusiasm and commitment of the people of Scotland to reduce emissions, we need to ensure that the effort that we expect of them is fair. We published our public engagement strategy in December, but we still have a long way to go in helping people to understand the role that they might have to play in meeting our targets, whether voluntarily or through regulation, as individuals, or collectively in whatever organisation or business they might be.

The 2009 act provides for two Ps in the RPP: proposals and policies. The provision for proposals reflects that, in some areas, we are stepping into the unknown and looking 10 or more

years into the future. We will keep the viability of proposals under review. Just because something has not yet been committed to does not mean that it will not be implemented in the future. Equally, just because something is there at the moment does not mean that it will be considered to be appropriate in the future.

Another question raised in many representations was about what happens after the final RPP is laid and how we will get down to the business of reducing emissions. The RPP is an overview document and is not intended to be a detailed delivery plan for energy, homes and communities, business, transport, rural land use and waste. The delivery of policies and the assessment of proposals will be integrated into the policy process for the relevant sector. That harks back to the comment that I made about every minister having to be a climate change minister. With that in mind, I have not amended the RPP with further detail on how we will take forward individual actions, but I have considerably revised chapter 9 of the report to set out the common issues that will be relevant across all sectors as we implement measures. Full details are in my written statement, but some examples of those issues are the scope to deliver multiple benefits—to health, communities or the economy—alongside reducing emissions; assumptions about the effectiveness of voluntary approaches and the implications of alternative, regulatory approaches; best value, cost-effectiveness and potential sources of funding; and the role of different delivery bodies and sectors. Policy officials in each portfolio will work together with delivery partners, including, importantly, the Convention of Scottish Local Authorities, to develop an appropriate approach for each policy and proposal over the next few months.

We should put in place some early warning signals on softer measures to ensure that we can strengthen or compensate for any that do not achieve the intended outcome, but there is no single approach to determining the point at which a voluntary or incentive-based measure may be insufficient to deliver the required reduction in emissions.

The Climate Change (Scotland) Act 2009 sets out a robust framework for monitoring and reporting on annual targets and assessing progress with measures in this and future RPPs—I remind members that work on the next RPP will have to begin before the end of the year. To complement that, we are developing a low-carbon management system, which will be central to our internal monitoring of practical actions to reduce emissions. That has evolved further since it was first mentioned in the draft RPP, and the RPP has been updated to reflect that.

This Government's purpose is to focus public services on creating a more successful country, with opportunities for all of Scotland to flourish, by increasing sustainable economic growth. One of the points of agreement to emerge from the Parliament's scrutiny of the draft RPP was that action to reduce climate change should deliver more than just emissions reductions. I wholeheartedly agree with that. The low-carbon market is already worth £8.8 billion to Scotland and by 2015 the figure could rise to more than £12 billion, which is over 10 per cent of the Scottish economy. By 2020, there could be 130,000 low-carbon jobs in Scotland, which would represent a doubling of jobs to over 5 per cent of the Scottish workforce. Energy efficiency measures will lead to lower levels of fuel poverty and warmer homes, and greater levels of active travel and improved air quality will bring health and lifestyle benefits.

In conclusion, the RPP confirms a package of proposals and policies that continues momentum in 2011-12 and shows how annual targets can be met each year to 2022. That package will form the forward work programme for this and successive Governments over the next 10 years.

This parliamentary session saw the introduction of the world-leading Climate Change (Scotland) Act 2009. The next parliamentary session will witness a transition to a low-carbon society. A low-carbon society makes sense for consumers, for business and for public services. It makes sense for Scotland.

The Deputy Presiding Officer (Alasdair Morgan): The minister will now take questions on the issues raised in her statement.

Sarah Boyack (Edinburgh Central) (Lab): In our first debate on climate change in this session, John Swinney said that the Scottish Government would not wait until a Scottish climate change act had been passed before beginning to act on reducing carbon emissions, but the first thing that the Scottish National Party Government did was to dump its promise to set a statutory annual target of 3 per cent year-on-year reductions in CO₂ emissions.

We are still waiting for the final land use strategy, the national strategy on electric vehicles has been delayed until after the election and there has been a cut in the energy efficiency programme. Little has been added since the consultation and it is not fair to blame the committee for not meeting the challenge.

What is missing, in particular, is a sense of urgency and clear priorities, especially on transport. As there is little prospect of the EU signing up to the 30 per cent reduction target to which the minister referred—it has now published a 25 per cent target—what does the minister

intend to do? Does she accept that we should now produce policies to reduce that gap and allow us to plan for the future to ensure that we fill the gap between the initial 34 per cent target and the 42 per cent target that the Parliament voted for? Or is it a question of the SNP watering down that commitment through a we-will-if-you-will approach? All the detail is being left to the next Government. What does the minister now say to the Stop Climate Chaos Scotland campaigners who thought that they were getting real action on climate change in the current Parliament?

Roseanna Cunningham: Dearie me. I say to Labour members that their constant negativity and carping does them absolutely no favours whatsoever. In all that, I did not hear a single positive comment from Sarah Boyack that suggested anything that would, in practical terms, be delivered by Labour.

Sarah Boyack mentioned the EU. Let me be clear about this. Where the EU is going with its targets continues to be a contentious issue. The RPP makes it clear that we will consider whether existing policies and proposals may be accelerated or expanded and whether additional policies and proposals may be required if the EU does not get to 30 per cent. Can we please not give away the argument before we get there? At this week's meeting of European environment ministers, an expanded group of seven countries, led by the UK, signalled its support for the EU to increase its greenhouse gas emissions reduction target to 30 per cent. Greece, Sweden and Portugal are now on side for the first time, alongside the UK, Spain, Denmark and Germany. Let us not give away the argument and make it easy for those who want to gainsay the 30 per cent target to turn around and say that we do not need to set it. If we want the EU to set it, we must keep up the pressure.

It is pretty obvious that Labour has nothing positive to contribute to the debate.

Jackson Carlaw (West of Scotland) (Con): I observe the usual courtesy in thanking the minister for advance sight of her statement and I thank her for the pragmatic way in which she addressed the committee's report and the work that it did.

I was particularly struck by the minister's comments on the need to engage the public and the public engagement strategy. Does she agree that a considerable amount of work remains to be done to get the public on side, that we must not be defeatist about our ability to do that, and that we should not rush to a regulatory framework in advance of the success that we might achieve?

Roseanna Cunningham: That is a fair point to raise. Public engagement is at an early stage, but

we are going about it in a concrete and determined way. The point that Jackson Carlaw has raised in respect of where we need to be with that is precisely why the Government has continued the climate challenge fund, which we have found to be a very good mechanism for getting money right down into the grass roots to do the things that we need to do.

Just the other day, I attended a public engagement stakeholder meeting that I had specifically asked to be set up. It involved people who are doing things at the level of that interface right down at the grass roots. Rather than sit around the same tables with the usual suspects who already know the script and what needs to be said, we need to ask what obstacles and challenges require to be addressed when we are getting the message across. That was a useful meeting in identifying where some of the specific obstacles and challenges lie. We will now take that information away and work out how we can overcome those obstacles and challenges.

I will be honest: a lot of work needs to be done. Although the Government wants to stick, as far as possible, to a voluntary approach, there is some regulation built in and we may have to come back to other regulation in the future. Nevertheless, we want to win hearts and minds first, if possible.

Alison McInnes (North East Scotland) (LD): I will return to the European issue. I do not think that it is giving away any argument to ask how we can meet our robust targets if the EU does not go as far as we want it to. Much of the Government's confidence that its policies and proposals are sufficient to hit the target of 42 per cent has been based on the EU target of 30 per cent. We know that, last week, the European Commission recommended 25 per cent. I am interested in the minister's assessment that we are still able to reach 42 per cent. In an earlier debate in this Parliament, the point was made that we would need to hit every policy at 100 per cent to be wholly successful.

During the consultation period, more actions were called for in terms of transport, including reducing speed limits and bringing forward demand-management measures. In response, the Scottish Government stated that it is possible to meet the targets within the policies and proposals that are in the RPP. Given that the EU's recent moves might entail our having to make additional cuts in the non-traded sectors, such as transport, does the minister stand by that dismissive stance towards the need to consider additional policy proposals?

Roseanna Cunningham: I do not think that the stance is dismissive at all; I think that it is pragmatic. The debate is on-going at the EU level and we must be engaged at that level to press for

the 30 per cent target. If the EU falls short—I know that there is a specific point of disagreement between two EU commissioners, which shows that the EU is not as joined-up on these issues as we would wish—we will need to readdress the issue.

I remind members that the work on the next RPP must begin by the end of the year. We would be looking for proposals and suggestions from everybody. I do not for a minute expect the committee or anyone else—ourselves included—to be the sole repository of wisdom on this matter. However, it is a bit much for some parties to criticise the lack of proposals and policies without generating any ideas of their own.

John Wilson (Central Scotland) (SNP): Will the climate change duties that were agreed between the Scottish Government, local authorities and other public bodies form part of future single outcome agreements that are produced by community planning partnerships and local authorities?

Roseanna Cunningham: We ought to be clear that the climate change duties of public bodies are statutory and arise from climate change legislation. As a rule, statutory obligations are not repeated in single outcome agreements. I appreciate that single outcome agreements are at a relatively early stage in terms of people's understanding of what they might expect in that regard.

Single outcome agreements focus on local actions to deliver local outcomes. Acting on climate change involves a partnership between the Scottish Government and local authorities and we are working closely with local authorities to develop guidance that will assist them to comply with the statutory duties that were placed on them by this Parliament.

Cathy Peattie (Falkirk East) (Lab): We know that the Government resisted placing a duty on the public sector. Although the duties came into force in January 2011, guidance was not launched until early February. Local authorities have a key role, but they tell me that public duties simply cannot be fulfilled by part of a single outcome agreement. I welcome what the minister said, but, clearly, local authorities have a point in that regard.

What has been agreed by COSLA with regard to the implementation of the climate change public duties?

Roseanna Cunningham: COSLA has been particularly helpful to me in the months since I took over this portfolio. Although there was some suggestion that COSLA would come out in opposition to the targets that the Parliament set, that is not in fact the position that it is taking, and it is being clear about that.

I ought to clarify to the chamber that the draft public bodies guidance was published by the end of December, although the final version was not able to be published until later. Those are deadlines that were included in the legislation.

At the moment, we meet regularly with the public sector as a whole, which includes COSLA, to discuss issues that affect all parts of the public sector. The member might be interested to know that those meetings are co-chaired by me and the appropriate COSLA representative. We are operating on the basis of an equal partnership. It is for local authorities to decide how best to meet the duties that this Parliament placed directly on them.

Rob Gibson (Highlands and Islands) (SNP): Turning to rural land use, we all welcomed the funding for Scottish Natural Heritage and RSPB Scotland last December for research into wetlands. When does the minister consider that our knowledge of soil and emissions science will be ready to allow a decision to be made on investment in reducing and rewetting peatlands? Will it be in time for Scotland to play its part in the incorporation of wetland management figures into international reporting in 2013?

Roseanna Cunningham: The member might be aware that there has been no agreement on the inclusion of those figures in international reporting. We are currently working hard to decide how to incorporate them into our own methodology, and we hope that a decision will be made—which I am sure the member will want to see—at Durban this year.

Funding has been made available to SNH and the RSPB to carry out the necessary research to establish how practical restoration will be in areas in Scotland where it might need to take place. However, members must be aware that there are difficulties with reconciling different research, which shows that the possibilities are not agreed across the board. The Scottish Agricultural College has come out with figures that are very different from those of the International Union for Conservation of Nature, so we need to resolve some of the issues that that raises.

Money is also available through the Scotland rural development programme. The RSPB has, in addition to the £150,000 that we gave it for the peatland projects, received another £370,000 in SRDP funding for such projects. When that research is done, we will be in a better place to make decisions about taking forward more widespread projects with regard to restoration.

Iain Smith (North East Fife) (LD): The minister made a great deal of there being no proposed amendments or recommendations for additional policies and proposals. However, the problem is not a shortage of policies, proposals, plans or

strategies, but a lack of clear identification of how we will implement any of those, particularly in relation to the budget.

One of the concerns that the Economy, Energy and Tourism Committee raised was that the report on proposals and policies did not come out at a time when it would help to inform budget making, and was effectively being led by rather than leading the budget. Will the minister give an assurance that the report will help to inform future budgets, and that future revisions to it will appear at a time that will allow them to inform rather than be led by future budgets?

Roseanna Cunningham: A considerable amount of that is in the hands of the Parliament itself. One of the difficulties that we encountered with the first round was the timing, because of the deadlines that were put in place for the legislation on delivery and the way that that worked in relation to the budget process.

If there is a better way to do it—which I think is probably the case—it would be helpful if we could sit down and talk about those things across the board, because the Parliamentary Bureau will need to make a decision on how that might be managed.

I remind members that we will very quickly enter the next round of the RPP. It is difficult to see how one can always keep the budget process totally separate from processes such as that, given the way in which the Parliament works on an annual basis.

Marlyn Glen (North East Scotland) (Lab): Behavioural change and continued funding for energy efficiency and home insulation are essential for cutting emissions in homes and communities. How well are programmes such as the loft insulation scheme monitored? Critically, how much is spent on remedial roof ventilation, for example? Is more detailed monitoring in place?

Roseanna Cunningham: This Government has done a great deal in respect of insulation over the piece. Since 2009 we have enabled 380,000 homes throughout Scotland to be offered energy efficiency advice, discounted or free insulation measures—which includes the insulation that Marlyn Glen mentioned—and interest-free loans, together with referrals to other schemes. That was complemented by an extra £10 million in 2010-11 in respect of the universal home insulation scheme.

There is money, and it is being rolled out. In fact, insulation measures have arguably been one of the biggest successes in terms of alerting people and getting them to understand the advantages of doing such things and how important they are.

Of course, against a background of rising energy costs, I guess that there will be even greater interest in the provisions; moves down those roads are even more likely. The issue that the member raises is an interesting example of where we can put forward a policy that will achieve the climate change objectives that we are trying to achieve and demonstrably save people money at the same time. We will therefore have a much bigger win in public engagement terms than might otherwise have been the case.

Patrick Harvie (Glasgow) (Green): Not for the first time, I am looking at the transport section of a climate change document and seeing a wonderful picture that has been painted of a happy passenger loading her bike on to a train. It is hard to take that seriously when I know that we have been buying new trains that have no dedicated cycle spaces. Those trains will be running on Scottish railways for years to come.

Does the minister accept that the Transport, Infrastructure and Climate Change Committee made clear recommendations for elements of transport change, including a hierarchy that sees demand reduction ranked first, followed by active travel, public transport and then—and only then—techno fixes. Does she think that a phrase such as “the proposals set out are being considered for future adoption subject to their affordability and further feasibility work”.

sums up the appropriate degree of urgency on the transport side?

Roseanna Cunningham: Once again, we are dealing with nothing but negativity. An enormous amount of work is being done. Can more be done? Of course it can. Over the coming years, the work will undoubtedly be done, especially if this Government is returned. I make an absolute guarantee of that.

Much has been delivered, including substantial funding in the 2011-12 budget. I would have expected Patrick Harvie to have welcomed that, but instead he attacks the Government on the matter. We have delivered a great many programmes, including active travel and the freight facilities grant that was requested. We have looked at a number of different things and made huge amounts of investment.

I appreciate that the point of view of the Green party is that nothing that any other party says or does about transport is satisfactory, but the truth of the matter is that we are making substantial changes. We are beginning to shift people's perceptions, which is the first and most important part of getting them to change their behaviour.

The Deputy Presiding Officer: I must ask the remaining two members to be brief in putting their

questions and the minister to be brief in her replies.

Shirley-Anne Somerville (Lothians) (SNP): Like the original draft, the new report on proposals and policies records the on-going discussions with the United Kingdom Government on the £1 billion that will flow to the UK Exchequer by 2014-15 in the form of proceeds from the carbon reduction commitment energy efficiency scheme. Unlike revenue from the fossil fuel levy, will Scotland's share of the CRC proceeds be made available to be invested in Scottish Government projects to tackle climate change? That would allow us to set our own priorities on the issue.

Roseanna Cunningham: The point is an interesting one. It brings into play the much bigger question of the powers that are available to the Scottish Parliament to effect some of the changes that it might wish to make. The issue that the member raises is the subject of current and on-going dialogue. That is the most polite way I can put it.

Ms Wendy Alexander (Paisley North) (Lab): I have a helpful question for the minister. Last summer, the Scottish Government was helpful enough to provide to the independent budget review a figure of £8 billion for the estimated costs to the public purse of delivery of the RPP by 2020. Given the refinement work that has been going on over the past six months, is there an updated figure? Does the £8 billion figure stand or has it been increased or decreased? What is the current estimate?

Roseanna Cunningham: I think that no new estimate has been developed, but the figure is being kept under review for reasons that the member will understand. The issue is bedevilling the European Union scenario, where the figure is seen as a cost, and benefits tend not to be balanced off against costs. This Government wants to see the benefits that arise. Although we do not have an update on the £8 billion, we are very conscious of the matter.

Local Government Finance (Scotland) Amendment Order 2011

Local Government Finance (Scotland) Amendment (No 2) Order 2011

The Deputy Presiding Officer (Alasdair Morgan): The next item of business is a debate on motions S3M-8130 and S3M-8140, in the name of John Swinney, on the Local Government Finance (Scotland) Amendment Order 2011 and the Local Government Finance (Scotland) Amendment (No 2) Order 2011.

16:54

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): On 10 February, Parliament approved the Local Government Finance (Scotland) Order 2011, which enabled Scotland's local authorities to set next year's revenue budgets. As part of that, local authorities were asked to provide by 28 February formal assurances that their approved 2011-12 budgets included provision to deliver on all the specified commitments in the 2010 spending review agreement, including freezing council tax levels for a fourth consecutive year; maintaining record levels of front-line police officers to help to keep our communities safe; maintaining the commitment to implement the early years framework and curriculum for excellence, to help to ensure that our children receive the best possible education; maintaining pupil teacher ratios in primary 1 to 3; and delivering a new change fund to help to alleviate pressure on the health and social care system and to identify and deliver new ways of working to improve outcomes in those fields.

On 1 March, I was delighted to welcome the news that all 32 local authorities in Scotland had formally accepted the funding package that the Government had offered. Their decision had been taken on the clear understanding that the funding that was held back from the original order would be forthcoming. As a result, the motions seek Parliament's agreement to deliver an extra £426.3 million revenue funding to support the vital services that our communities expect and deserve, and to help to deliver our jointly agreed set of commitments.

On a more technical point, this year's local government finance order is subject to two amendment orders. This is because—as I announced on 9 February in the stage 3 debate on the Budget (Scotland) (No 5) Bill—I have also

updated the forecasts for the total estimated distributable non-domestic rates income for 2011-12 to take account of lower than expected losses from revaluation appeals and a considered assessment of growth. As a result, the distributable amount of non-domestic rates income for 2011-12 has been increased by £11.5 million, and to maintain the total local government funding I have consequently offset the revenue support grant total by the same amount. Those two offsetting changes have no impact on the total revenue funding that will be available to local authorities next year.

Failure to approve both amendment orders today could have potentially serious consequences for all local authorities across Scotland and on the vital services that they will provide to our communities. It would, for example, result in a further significant reduction in funding on top of the £432.9 million that has already been taken out of local authority budgets in the face of the wider public spending reductions that had to be confronted in this year's budget.

The provisions in the orders clearly support one of the Government's central commitments, which is delivery of the council tax freeze. The freeze demonstrates the Government's commitment to continuing to do all that it can to support families in what remains a challenging financial climate, and it will be welcomed by households as a means of helping to ease the financial pressures that they face as we work towards economic recovery.

Our agreement with local authorities to extend the council tax freeze means that, over the full four years of this Parliament, our commitment will have cumulatively saved households the length and breadth of Scotland £700 million. Such a substantial saving to all households in Scotland has helped—and will continue to help—to boost spending in local economies.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): Is the cabinet secretary very pleased by how that £700 million has been distributed between the wealthiest people living in the biggest houses and the poorest people living in the smallest houses?

John Swinney: It is clear that the council tax freeze has provided welcome assistance to people who are facing severe financial challenges. For example, since 2007-08, the tax for an average band D property in England has increased by £118, or 8.9 per cent, whereas in Scotland the tax has remained the same. As a result, the average council tax bill for a band D property in England is £290 higher than it is in Scotland. That is a real benefit to household incomes in Scotland.

The amendment orders also contain the additional funding that I announced in the stage 3

debate on the budget on 9 February, which includes £5 million for the supporting people budget to help to smooth the impact on local authorities that are most adversely affected by the recent updating of indicators used in the distribution formula, and a £0.4 million increase in Edinburgh's capital city supplement. In summary, approval of the amendment orders will authorise the distribution of a further £431.7 million to local government to fund the on-going council tax freeze and the essential services that local authorities deliver for the people of Scotland.

Since the order in February, two distributional changes to revenue funding have been agreed with the Convention of Scottish Local Authorities. The distribution of £15 million for the protection of teachers' posts has now been agreed and included in the revised figures in the amendment order, and the Lothian and Borders Police board loan charges specific grant allocations have been reallocated within the constituent local authorities.

In order to provide the best possible outcome for councils, we have worked constructively with our local government partners, and have agreed an overall funding package that restricts councils' average funding reduction to 2.5 per cent. That is greater protection than there is in other parts of the Scottish budget, and the agreement for Scottish local authorities is superior to that for local government in England.

I move,

That the Parliament agrees that the Local Government Finance (Scotland) Amendment Order 2011 be approved.

That the Parliament agrees that the Local Government Finance (Scotland) Amendment (No. 2) Order 2011 be approved.

17:00

Michael McMahon (Hamilton North and Bellshill) (Lab): When we previously debated a local government finance order, on 10 February, local authorities throughout the country were in the throes of putting together cuts that were foisted on them by the budget reductions which Mr Swinney outlined in his financial package. At the time, the cabinet secretary advised us that he would come back at a later date, as not all of our local councils had written back to confirm their annual submission to his council tax freeze blackmail threat. With the requisite acquiescence obtained, we have come back to the chamber to finish off the job.

Mr Swinney will receive the usual enthusiastic support for his suppression of local democracy from the anti-local government Conservative party, but I assure the Scottish National Party Government that there is no agreement from the Labour Party that the local government financial

settlement is fair or that its concomitant additional burdens are properly funded. Like many of our colleagues in local government, Labour accepts the financial deal with resigned recognition of a fait accompli, rather than with any recognition that it is fair and properly funded.

As I said when the initial order was presented to members, the Government's failure to get its priorities right and the maintenance of its coercion strategy have prevented it from working constructively and imaginatively with our local authorities to find ways of protecting jobs and services.

Joe FitzPatrick (Dundee West) (SNP): I am curious and slightly stuck for words. Can the member tell me whether or not the Labour Party supports the council tax freeze? The proposals that have been made are important, as they will deliver the council tax freeze. Does the Labour Party support that freeze?

Michael McMahon: Mr FitzPatrick should have stayed stuck for words. We have made it absolutely clear that we have always objected to the underfunding of the council tax freeze. That is the problem. I am glad that Mr FitzPatrick intervened, as I was going to make that point. When I spoke in the debate on 10 February, I made it absolutely clear, for the avoidance of doubt, that Labour has no problem with zero increases in the council tax. I suggest that members look at the *Official Report* of that debate and read other debates in which we have confirmed that position. I welcome the opportunity to reiterate that view and to remind members that what we object to is the unnecessary adverse impact of the underfunding of the council tax freeze and what that has continually forced on our councils. The loss of more than 3,000 teachers in our schools lies at the door of the underfunded freeze. We should make no mistake about that.

Four weeks on from the previous debate, we remain concerned about the adverse impact of the Government's strategy, but we accept its reality. That said, we must acknowledge not only that our local authorities have signed up for the status quo for the fourth year, but that it has been indicated to them that they can expect no better in the 2012-13 financial year.

It is clear to us that the SNP has broken local government finance. Its proposals for a local income tax would smash local government finance to pieces and ultimately wreck local government altogether. It will take some time for us to undo that mess. We have to accept that, when we come into office in May, we will have to begin the task of repairing local government.

The cuts that have been caused by the settlement hurt the most vulnerable people: the

young, the old, the poor and the disabled. They will not get the services that they need and deserve from our local councils because of the SNP Government. Local authorities and those whom they serve can only hope that the financial orders are the last ones to be inflicted on them by the current finance secretary. We will do all that we can to ensure that that is the case and that the road back to strong local government can begin when a Labour Administration is returned to the Parliament to deliver that.

17:04

Derek Brownlee (South of Scotland) (Con): That is a terrifying prospect.

Given that we vote in the budget debate in February, I always wondered why we regularly come back to consider such orders. I appreciate that there is the technicality of voting to give additional money to councils around the council tax freeze, but I always wondered why we had debates associated with such orders and whether we were not simply rehearsing old territory. It has suddenly come to me that that is actually a work of tactical genius—on the part of the Government business manager, I presume—because it ensures that we regularly have to sit through what has become a long-running soap opera: the Labour Party's evolving position on local government finance. Only four years ago, the Labour Party said that it was going to have a review of local government finance and that we would have the details soon. Now, it appears that Michael McMahon is simply the latest in a long list of Labour figures who have been hung out to dry by their leader.

Michael McMahon: Does the member recognise that, in the interim, we have had a recession and the council tax freeze? Does he accept that the landscape of local government has changed and that it would be remiss of us not to reflect that?

Derek Brownlee: I am glad that someone on the Labour benches has finally admitted that the recession happened on that party's watch, because Labour members have been keen to deny that in previous years. Michael McMahon tells us that the Labour Party has been keen on the council tax freeze, which makes me wonder what Tom McCabe, David Whitton and Malcolm Chisholm were thinking when they voted against the council tax freeze in the Finance Committee's report on this year's budget.

Michael McMahon: It is underfunded.

Derek Brownlee: Oh—it is underfunded, which I presume is why, in 2009, Mr McMahon said:

"The SNP Government is ripping off local councils by £270 million."

Are we to take it that the Labour Party proposal now is that the council tax freeze will be fully funded if it gets £270 million per year extra? It appears that Labour members here, like their masters in London, are happy to make spending commitments, but do not have a clue how to meet them.

We have been consistent in welcoming the council tax freeze. We are the only Opposition party that has supported the council tax freeze since 2007. Of course, we welcome the measures that have been taken in relation to police numbers.

Jeremy Purvis: When the evolving debates began, I think that the Conservative policy was to halve the council tax for all pensioners. For the record, and so that I understand the member's party's position, is that still Conservative policy?

Derek Brownlee: If I remember correctly, the Liberal Democrats were committed to a local income tax, but Ross Finnie has said that they would not introduce it in the next five years. We would reduce pensioners' council tax bills by £200. I appreciate that that is a different formulation from that in 2007 but, as Mr McMahon said, things move on. In relation to the measure on police numbers, which is a key commitment that was also secured by the Conservatives, it is nice that there is no longer any confusion in the Labour Party and that it now seems to want that to happen, too.

I turn to an issue on which we should reflect as we discuss the orders. Mr McMahon has reeled off a list of things that he will sort if we have a Labour Administration in May, but where on earth will Labour get the money from? The Labour Party has ruled out spending reductions here, there and everywhere and has made spending commitments in every spending portfolio. Apparently, it now rules out a graduate contribution, although a previous member of the Labour shadow cabinet was hung out to dry on that by their leader. So, where exactly will the money come from? That makes me wonder whether the Labour Party has given any thought to what would happen in the unfortunate event that we wake up after 5 May and find that we have a Labour Government, because an awful lot more Labour spokesmen will be hung out to dry in that case.

Our position is clear. We support the council tax freeze. Just as we would not have supported a budget this year that did not freeze the council tax, we will not do so in future years. Labour members might wish to reflect on that if we are unfortunate enough to have them in government again.

17:08

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): We will not block the council

tax freeze and we will vote in the same way as we have done on previous local government finance orders. We register our concern about some of the implications, but the measures will not be blocked by Parliament. I did not enjoy being asked in the Finance Committee to welcome the policy, which I think was the subject of the vote to which Mr Brownlee alluded.

It is interesting that one of the few things that was talked about at the SNP conference at the weekend was how the SNP has delivered the council tax freeze in every year of the session. Of course, the SNP did not want to keep that commitment, as it was supposed to be only a stop-gap measure in advance of replacement of the council tax with a local income tax—a policy for which Liberal Democrats are still arguing. The SNP failed even to introduce to the Parliament proposed legislation on council tax abolition, so it is interesting that the SNP now claims that the council tax freeze is one of its biggest promises kept.

The problem of fairness comes into play and simply cannot be denied. One of the biggest concerns is that those who are on the biggest incomes would pay more under a local income tax, but are the ones who gain more through the council tax freeze, as they are likely to live in the biggest homes.

We speak to constituents about the fairness of the policy. Time and again it is worth repeating that I am fully aware that freezing the council tax helps many families. I am fully aware of the pressures on their household incomes and of the fact that many view the freeze as being a contribution to dealing with those pressures.

However, we must consider the people in the largest homes, who gain the most, and the people in the lowest income brackets, who are not gaining. The figures are straightforward. There are 130,000 households on low incomes that live in band A properties. If a family's income is less than £15,000, they will have gained not one penny from the £700 million tax cut. If we use the deflators that the Government uses and to which the cabinet secretary has referred, those in the biggest houses—such as those in band G, which had average council tax bills of £1,900 in 2009—are making a cumulative saving of £138 a year. Those who are on the lowest incomes gain nothing and those who are among the highest incomes gain £138 a year.

I asked the cabinet secretary specifically about the distribution of the £700 million between the lowest and the highest—between those in band A and those in band H—because I am fully aware of the figures for band D. I wanted him to acknowledge on the record the situation between

band A and band H, but he chose not to, which was a telling omission.

The SNP has blamed reductions in council services on everyone else, when the council tax freeze has caused a revenue shortfall of £700 million. We know from lecture after lecture that the Scottish budget is fixed and that, if we come up with spending plans, we must tell the Government where the money for them would come from. Given that, I presume that £700 million has been saved elsewhere in the Scottish budget to offset the council tax freeze.

We will abstain on the motions. I know that the Parliament will support them, but it is worth recognising that the policy is not fair.

17:12

Joe FitzPatrick (Dundee West) (SNP): The orders will put in place the last piece of council funding for 2011-12, which will ensure that council tax is frozen across Scotland for a fourth consecutive year. When fuel and food prices are rising at well above the inflation rate, it is a source of comfort for families across the country that council tax will not rise by even one penny.

Michael McMahon: Some people might benefit from the freeze, but is Joe FitzPatrick concerned about people who rent small band A and band B houses from their councils and whose rents have increased by double-digit figures?

Joe FitzPatrick: I had intended to congratulate the Labour Party on doing one of the most fantastic U-turns to support the council tax freeze, but I am sorry—Labour members cannot support the council tax freeze while continuing to oppose it.

The argument in relation to people who live in lower-band properties is clear. The Finance Committee's adviser made it clear that, although the saving from the council tax freeze is smaller for people in lower bands, it means much more to people who are on low incomes. Saving on average £300 in council tax might not matter to Michael McMahon, but it matters to my constituents.

I will raise another point that the Labour Party has failed to recognise. The SNP Government has continued the work to improve housing across Scotland. Often, that involves taking people out of lower-band houses and putting them in higher-band houses. People in Ardler in my constituency have been affected by that. The community of Ardler village resided originally in multistorey flats, which were all band A. In the main, those people now live in band C housing association houses. Their incomes did not change when they moved house, but their council tax shot up. Some of those

folk feel that it is unfair that they must pay much more just because they have decent houses. That is why it is crucial that, ultimately, we get rid of the council tax. However, until we get rid of it, it is crucial that we freeze it at least, to take the pain out of the sting.

I have argued for the council tax freeze in the Finance Committee and in the chamber for the past four years. I was slightly upset that I had failed to persuade our Labour colleagues in that time. All of a sudden, however, Iain Gray has made a statement, but it is clear that he has not persuaded other Labour members. It is clear that the U-turn was about fear of punishment at the ballot box. Anyone who speaks to their constituents knows just how important the extra little bit of help from the SNP Government—in the form of the council tax freeze—has been. In my constituency, I have found on the doorsteps huge support for the freeze—from people in large and small houses.

For the past four years, the Labour Party has missed the point that the council tax freeze is about ensuring that people—in these challenging economic times when bills are increasing—do not have their challenges compounded by spiralling council tax bills. Members should remember that under the previous Administration double-digit increases were the norm. Bills were rocketing. In Dundee, Labour put up the council tax by 15 per cent in one year. Fifteen per cent! I say to Michael McMahon that people's incomes did not rise by 15 per cent that year. The Labour Party did not care about those households—in band A, band B, band C, band D and band E—that had to find the extra money.

For the past four years, the SNP has stood by the people of Scotland by freezing the council tax in these trying times. The average household in my constituency would have had to pay an extra £150 this year if Labour had got away with stopping the council tax freeze in 2007. Year on year, such savings add up to more than £300, where—

The Deputy Presiding Officer: I need to stop the member there, I am afraid.

17:16

Mary Mulligan (Linlithgow) (Lab): I am pleased to be able to take part in today's debate. Everyone in Scotland is affected by local authorities' ability to deliver quality local services, so the financing of those services is a critical issue for us all.

I understand that this is a challenging time for public finances, but it is equally challenging for individuals. No one wants to increase financial burdens on hard-working people across Scotland.

However, people know that the services that they and their families depend on need to be paid for. By introducing a cut in local authorities' budgets of 2.6 per cent, and by insisting on an underfunded council tax freeze, the SNP is delivering the worst of all worlds.

As members might expect, I agree with my colleague Michael McMahon when he says that the council tax freeze is not fully funded—despite the £70 million uprated in each year of the freeze.

Derek Brownlee: Will the member take an intervention?

Mary Mulligan: Let me make this point first.

To understand the pressure that local authorities are under, we need only consider the kind of cuts that they are having to introduce. In West Lothian, the council decided to make a saving of £123,000 per year by axing free milk for pupils in primary 1 to primary 3 who were not on free school meals. With the new charge of 17p per carton, people will clearly be out of pocket when we consider the few pence that they will save from the council tax freeze.

In another decision, West Lothian Council increased the charges at the Low Port outdoor education centre by between—

Derek Brownlee: Will the member take an intervention?

Mary Mulligan: I will finish these examples and then let Mr Brownlee in.

The council increased those charges by between 28 and 44 per cent. The cost of a half-day visit will increase by £1.30—more than the average saving from the council tax freeze. The First Minister is very proud of his Linlithgow roots, and I am sure that he and the Cabinet Secretary for Justice have experienced the joys of the Low Port centre. I am also sure that they are pleased that they did not have to pay the present prices.

Derek Brownlee: The member made a point about the council tax freeze having been underfunded consistently since its introduction, and the Labour Party is committed not only to freezing the council tax but to funding it fully. By how much will the council tax freeze have to be funded in order to be fully funded?

Mary Mulligan: We will come to that, Mr Brownlee.

The other point that puzzles me—Mr McMahon mentioned this too—is that, although the SNP Government staunchly defends the council tax freeze, it does not use the same arguments when it comes to increases in council house rents or housing association rents. The Scottish Government claims that the council tax freeze is to protect the poor and the vulnerable. Although the

poorest in social housing will receive housing benefit, just as the poorest paying council tax receive council tax benefit, it is the people who are just above the housing benefit line who will suffer the most. They can least afford the higher rents—and, in fact, higher rents may affect their ability to work. Despite that, the silence on rent increases from this Government—in particular from Joe Fitzpatrick when he was asked—is deafening.

I understand why local authorities have signed up to the council tax freeze—not to do so would cost them dear. However, I am surprised that alarm bells have not been ringing for the cabinet secretary, given that his biggest supporters are the Conservatives. Perhaps that reveals a truth that the SNP would rather not admit to. I fear that Mr Swinney has been more concerned about grabbing a council tax freeze headline, rather than considering how he can best support local services for people in Scotland.

17:20

John Swinney: Mr Purvis made a point about a £700 million revenue shortfall, which could have been spent in other ways. I simply point out to Mr Purvis that, in the budget settlement this year over which the United Kingdom Government of which he is a supporter has presided, revenue funding to the Scottish Government has been reduced by £500 million in one financial year. I do not really think that there is much room for us to be criticised in that respect.

Mr McMahon, in a quite astonishing contribution to Parliament, did not give off the vibe that he is particularly convinced by the latest Labour position of supporting a council tax freeze. His speech had the hallmarks of the position of giving every reason, in Parliament, why a council tax freeze should be opposed; meanwhile, his party is shoving leaflets through doors saying that it will deliver a council tax freeze. That type of thing is much more a Liberal Democrat tactic than something with which the Labour Party is associated.

We should look at the record to see what everyone has said on the matter, starting with a couple of the members who have spoken in the debate. It is nice that Mary Mulligan has spoken in today's debate. The last time that she spoke on the issue in the Parliament, Mrs Mulligan said:

“the council tax freeze now seems like a bad idea. The money that was used to secure the freeze could have been better used.”—[*Official Report*, 19 May 2010; c 26334.]

The Deputy Presiding Officer: Order. We need to have fewer conversations in the chamber, please.

John Swinney: I wonder where Mrs Mulligan was the day when it was carefully considered at

the policy forum of the Labour Party to undertake that spectacular U-turn.

That brings me to Mr McMahon—we have a couple of remarks before us, and this one is very much on the point that Mr Purvis raised. Mr McMahon said:

“The fact is that those who are hardest hit by the recession, and by social exclusion generally, are those who benefit least from the council tax freeze”.—[*Official Report*, 19 May 2010; c 26324.]

If that was the Labour Party's position, why is it now arguing for a freeze? Labour is arguing for that because things are getting tough for it on the election circuit.

Iain Gray told us this on 17 August 2010, in the *Daily Record*—if it is in the *Daily Record*, it must be the orthodox Labour position:

“Labour leader Iain Gray demands end to council tax freeze to help authorities offset Tory cuts.”

The long and the short of it is that we cannot believe a word that Labour says.

Michael McMahon: Will the cabinet secretary give way?

John Swinney: I will certainly give way to Mr McMahon if I have the opportunity to do so.

The Deputy Presiding Officer: Very briefly.

Michael McMahon: It will take only a brief intervention to point something out to Mr Swinney. I explained the difference between what he has said and what I have said. However, I cannot do anything about his inability to understand our position.

John Swinney: The problem is that I understand all too well what the Labour Party is up to. The Labour Party has been caught in that very familiar accident and emergency situation that it found itself in today with regard to Monklands. Apparently, Labour is going to save Monklands from the health secretary who has saved it already. It really is quite preposterous, as we go back to the flip-flop over tuition fees. The Labour Party has no credibility, and it is not coming back into office either.

Expenses Scheme

17:24

The Presiding Officer (Alex Fergusson): The next item of business is consideration of motion S3M-8179, in the name of Tom McCabe, on behalf of the Scottish Parliamentary Corporate Body, on the reimbursement of members' expenses scheme.

Motion moved,

That the Parliament, in exercise of the powers conferred by section 81(2) and 83(5) of the Scotland Act 1998 determines that for the period 1 April 2011 to 31 March 2013 paragraph 1.2.4 of the Reimbursement of Members' Expenses Scheme agreed to by resolution of the Parliament on 12 June 2008 ("the Resolution"), (as amended by resolution of the Parliament on 24 March 2010) and annexed as Annex 1 to the Resolution shall not have effect.—[*Tom McCabe.*]

The Presiding Officer: The question on the motion will be put at decision time.

Parliamentary Bureau Motions

17:24

The Presiding Officer (Alex Fergusson): The next item of business is consideration of Parliamentary Bureau motions. I ask Bruce Crawford to move motion S3M-8167, on the approval of the Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2011.

Motion moved,

That the Parliament agrees that the Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2011 (SSI 2011/draft) be approved.—[*Bruce Crawford.*]

The Presiding Officer: The question on the motion will be put at decision time.

The next item of business is consideration of 11 Parliamentary Bureau motions. I ask Bruce Crawford to move motions S3M-8163 to S3M-8166 and S3M-8168 to S3M-8174, on the approval of Scottish statutory instruments, en bloc.

Motions moved,

That the Parliament agrees that the Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment (No. 2) Regulations 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Regulations 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Cross-Border Mediation (Scotland) Regulations 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Debt Arrangement Scheme (Interest, Fees, Penalties and Other Charges) (Scotland) Regulations 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Fundable Bodies (Royal Conservatoire of Scotland) Order 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Fundable Bodies (University of the Highlands and Islands) Order 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Legal Profession and Legal Aid (Scotland) Act 2007 (Modification and Consequential Provisions) Order 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Proceeds of Crime Act 2002 Amendment (Scotland) Order 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Public Services Reform (Agricultural Holdings) (Scotland) Order 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Scottish Charitable Incorporated Organisations (Removal from Register and Dissolution) Regulations 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Sexual Offences Act 2003 (Remedial) (Scotland) Order 2011 (SSI 2011/45) be approved.—[*Bruce Crawford.*]

The Presiding Officer: The questions on the motions will be put at decision time.

Decision Time

17:25

The Presiding Officer (Alex Fergusson): There are nine questions to be put as a result of today's business. The first question is, that motion S3M-8127, in the name of Jim Mather, on the Local Electoral Administration (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees that the Local Electoral Administration (Scotland) Bill be passed.

The Presiding Officer: The Local Electoral Administration (Scotland) Bill is therefore passed. [*Applause.*]

The next question is, that motion S3M-8126, in the name of Shona Robison, on the Certification of Death (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees that the Certification of Death (Scotland) Bill be passed.

The Presiding Officer: The Certification of Death (Scotland) Bill is therefore passed. [*Applause.*]

The next question is, that motion S3M-8129, in the name of Fiona Hyslop, on the Public Records (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees that the Public Records (Scotland) Bill be passed.

The Presiding Officer: The Public Records (Scotland) Bill is therefore passed. [*Applause.*]

The next question is, that motion S3M-8136, in the name of Rhoda Grant, on the Domestic Abuse (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees that the Domestic Abuse (Scotland) Bill be passed.

The Presiding Officer: The Domestic Abuse (Scotland) Bill is therefore passed. [*Applause.*]

The next question is, that motion S3M-8130, in the name of John Swinney, on the Local Government Finance (Scotland) Amendment Order 2011, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Alexander, Ms Wendy (Paisley North) (Lab)
Allan, Alasdair (Western Isles) (SNP)

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 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)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 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)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 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)
 Morgan, Alasdair (South of Scotland) (SNP)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)

Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 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)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

Abstentions

Brown, Robert (Glasgow) (LD)
 Finnie, Ross (West of Scotland) (LD)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 McArthur, Liam (Orkney) (LD)
 McInnes, Alison (North East Scotland) (LD)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 O'Donnell, Hugh (Central Scotland) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)

The Presiding Officer: The result of the division is: For 102, Against 0, Abstentions 15.

Motion agreed to,

That the Parliament agrees that the Local Government Finance (Scotland) Amendment Order 2011 be approved.

The Presiding Officer: The next question is, that motion S3M-8140, in the name of John Swinney, on the Local Government Finance (Scotland) Amendment (No 2) Order 2011, be agreed to.

Motion agreed to,

That the Parliament agrees that the Local Government Finance (Scotland) Amendment (No. 2) Order 2011 be approved.

The Presiding Officer: The next question is, that motion S3M-8179, in the name of Tom McCabe, on behalf of the Scottish Parliamentary Corporate Body, on the reimbursement of members' expenses scheme, be agreed to.

Motion agreed to,

That the Parliament, in exercise of the powers conferred by section 81(2) and 83(5) of the Scotland Act 1998 determines that for the period 1 April 2011 to 31 March 2013 paragraph 1.2.4 of the Reimbursement of Members' Expenses Scheme agreed to by resolution of the Parliament on 12 June 2008 ("the Resolution"), (as amended by resolution of the Parliament on 24 March 2010) and annexed as Annex 1 to the Resolution shall not have effect.

The Presiding Officer: The next question is, that motion S3M-8167, in the name of Bruce Crawford, on the Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2011, be agreed to.

Motion agreed to,

That the Parliament agrees that the Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2011 (SSI 2011/draft) be approved.

The Presiding Officer: If no member disagrees, I propose to ask a single question on motions S3M-8163 to S3M-8166 and S3M-8168 to S3M-8174, on the approval of Scottish statutory instruments.

The question is, that motions S3M-8163 to S3M-8166 and S3M-8168 to S3M-8174 be agreed to.

Motions agreed to,

That the Parliament agrees that the Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment (No. 2) Regulations 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Regulations 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Cross-Border Mediation (Scotland) Regulations 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Debt Arrangement Scheme (Interest, Fees, Penalties and Other Charges) (Scotland) Regulations 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Fundable Bodies (Royal Conservatoire of Scotland) Order 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Fundable Bodies (University of the Highlands and Islands) Order 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Legal Profession and Legal Aid (Scotland) Act 2007 (Modification and Consequential Provisions) Order 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Proceeds of Crime Act 2002 Amendment (Scotland) Order 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Public Services Reform (Agricultural Holdings) (Scotland) Order 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Scottish Charitable Incorporated Organisations (Removal from Register and Dissolution) Regulations 2011 (SSI 2011/draft) be approved.

That the Parliament agrees that the Sexual Offences Act 2003 (Remedial) (Scotland) Order 2011 (SSI 2011/45) be approved.

The Presiding Officer: That concludes decision time.

Meeting closed at 17:28.

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