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Thursday 13 December 2018

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Thursday 13 December 2018

CONTENTS

	Col.
GENERAL QUESTION TIME	1
HM Young Offenders Institution Polmont	1
Congestion (Edinburgh City Bypass).....	2
Small Business Bonus Scheme.....	3
Exports (Mentorship Scheme).....	4
Workplace Bullying and Harassment (Public Defence Solicitors' Office and the Scottish Legal Aid Board).....	5
Age of Criminal Responsibility.....	6
Housebreaking (Clear-up Rate).....	8
FIRST MINISTER'S QUESTION TIME	10
Block Grant.....	10
Two-Child Benefits Cap (Mitigation).....	14
European Union Citizens (Access to Benefits).....	16
Ferry Services (Gourock to Dunoon).....	17
Gemini Rail Services UK (Springburn Site Closure)	17
Aberdeen City Region Deal (Rail Improvements)	18
Pilton Community Health Project (Funding)	18
Amanda Cox	19
Carbon Dynamic (Administration).....	20
Draft Budget 2019-20	21
Institute for Statecraft	23
Road Traffic Accidents (Drink-driving Limit)	23
Best Start Grant.....	24
Mental Health (Teachers).....	25
Fuel Poverty.....	26
GENERAL PRACTITIONER OUT-OF-HOURS FACILITY (ST ANDREWS)	28
<i>Motion debated—[Willie Rennie].</i>	
Willie Rennie (North East Fife) (LD)	28
Jenny Gilruth (Mid Fife and Glenrothes) (SNP).....	30
Liz Smith (Mid Scotland and Fife) (Con)	33
Claire Baker (Mid Scotland and Fife) (Lab).....	34
Mark Ruskell (Mid Scotland and Fife) (Green).....	36
Alexander Stewart (Mid Scotland and Fife) (Con).....	38
The Cabinet Secretary for Health and Sport (Jeane Freeman)	40
UK WITHDRAWAL FROM THE EUROPEAN UNION (LEGAL CONTINUITY) (SCOTLAND) BILL (UNITED KINGDOM SUPREME COURT JUDGMENT)	45
<i>Statement—[Lord Advocate].</i>	
The Lord Advocate (Rt Hon James Wolffe QC)	45
DEMONSTRATING LEADERSHIP IN HUMAN RIGHTS	58
<i>Motion moved—[Christina McKelvie].</i>	
<i>Amendment moved—[Annie Wells].</i>	
<i>Amendment moved—[Mary Fee].</i>	
<i>Amendment moved—[Alex Cole—Hamilton].</i>	
The Minister for Older People and Equalities (Christina McKelvie)	58
Annie Wells (Glasgow) (Con)	63
Mary Fee (West Scotland) (Lab)	65
Alex Cole-Hamilton (Edinburgh Western) (LD)	68
John Finnie (Highlands and Islands) (Green).....	71
Ruth Maguire (Cunninghame South) (SNP).....	74
Michelle Ballantyne (South Scotland) (Con).....	76
Bill Kidd (Glasgow Anniesland) (SNP).....	78
Anas Sarwar (Glasgow) (Lab)	80
Gail Ross (Caithness, Sutherland and Ross) (SNP)	82
Jeremy Balfour (Lothian) (Con)	84

Fulton MacGregor (Coatbridge and Chryston) (SNP)	86
Alex Cole-Hamilton	88
Daniel Johnson (Edinburgh Southern) (Lab)	91
Oliver Mundell (Dumfriesshire) (Con)	94
Christina McKelvie	96
POW OF INCHAFFRAY DRAINAGE COMMISSION (SCOTLAND) BILL: FINAL STAGE	101
POW OF INCHAFFRAY DRAINAGE COMMISSION (SCOTLAND) BILL	103
Tom Arthur (Renfrewshire South) (SNP)	103
Mary Fee (West Scotland) (Lab)	106
Andy Wightman (Lothian) (Green)	108
Alison Harris (Central Scotland) (Con)	109
PARLIAMENTARY BUREAU MOTIONS	112
<i>Motions moved—[Graeme Dey].</i>	
DECISION TIME	113

Scottish Parliament

Thursday 13 December 2018

[The Presiding Officer opened the meeting at 11:40]

General Question Time

HM Young Offenders Institution Polmont

1. **Daniel Johnson (Edinburgh Southern) (Lab):** To ask the Scottish Government how many remand and how many sentenced prisoners have been sent to HM Young Offenders Institution Polmont since 2013 due to space being unavailable at secure care units. (S5O-02689)

The Cabinet Secretary for Justice (Humza Yousaf): In relation to solemn proceedings, there have been none. Local authorities are responsible for remand and summary proceedings and the Scottish Government does not hold information on those cases.

Daniel Johnson: We are now a month on from the tragic circumstances of William Lindsay's death, so I find it surprising that the Scottish Government does not know the number in question. It is vital that we understand it, so that we can put right what tragically went wrong. I ask the Government what it will do to find out what the figure is, and what it will do to put right the circumstances that surrounded William's death, because, ultimately, that is what is required.

Humza Yousaf: In relation to Daniel Johnson's first question, my answer was that we do not hold that information on record, because it is local authorities' responsibility. I can approach local authorities to ask them about that.

We have to be really careful when talking about any incident. It would be incorrect to say that secure unit space was not available at the time of William Lindsay's case on 3 and 4 October. The information that I have is that there was secure unit availability. It would have been for the local authority—in particular the social work department—to have found that out and presented it to the court at the time.

I am working extremely closely with the Deputy First Minister on this. There is an issue about secure unit availability, which is that if capacity is not up to a certain level, secure units may close. None of us would want that to happen, so we are working on options; in fact, options were presented to the Deputy First Minister and me just this week.

I will keep the member and others updated and let them know when we get to what I would

consider a more satisfactory position in that regard.

Annie Wells (Glasgow) (Con): It is estimated that 70 per cent of those in prison have a mental health problem. A report by the Health and Sport Committee last year on healthcare in prisons noted that

“there is a considerable variation across prisons and health boards in relation to mental health care available to prisoners.”

What action is being taken by the Scottish Government to ensure that prisoners, no matter where they have been sentenced, are able to access mental health support that best fits their needs?

Humza Yousaf: That is a hugely important issue. I have visited prisons across the prison estate and will continue to do so, and addressing mental health is absolutely at the core of what is provided. However, I do not doubt that we can go further and that more can be done in a variety of settings. We know, for example, that mental health issues present themselves more among female offenders than they do among the male prison population. Nevertheless, there are mental health issues among the male prison population. For young people, we have the talk to me strategy.

My previous answer dealt with the issues at Polmont, and Annie Wells will know that we have instructed a review of mental health services at Polmont, because we are not satisfied that we are in the best place possible.

We will continue to work with the Scottish Prison Service and with the national health service, which provides services in prisons. The Government is open to learning about best practice in tackling mental health issues from elsewhere, whether within or outwith the prison estate.

Congestion (Edinburgh City Bypass)

2. **Miles Briggs (Lothian) (Con):** To ask the Scottish Government what its position is on a feasibility study being carried out to address congestion on the Edinburgh city bypass. (S5O-02690)

The Cabinet Secretary for Transport, Infrastructure and Connectivity (Michael Matheson): The Scottish Government recognises the important role that the A720 plays for Edinburgh and its region and for the national economy. Transport Scotland is currently monitoring the queuing on that route and is investigating how that can be managed.

Additionally, Transport Scotland is undertaking the second strategic transport projects review. That will be a multimodal review and will consider the performance of the A720. We have given a

commitment to a collaborative review, which will provide a robust evidence base to support future decisions on investment in strategic transport infrastructure across Scotland for the next 20 years.

Miles Briggs: It is clear that work needs to commence now to take forward a long-term solution to address the constant gridlock on the A720. Therefore, will the Scottish Government also commit to a feasibility study? Will the minister agree to meet representatives from across the area, as I know that this issue is a growing problem for all of us across this Parliament?

Michael Matheson: The member might be interested to know that the strategic transport projects review will consider the entirety of the A720. That work, which will start next year, will be informed by the national transport strategy, which is due to be published at the end of next year.

The STPR2 will enable us to set out what our strategic investment decisions will be for our transport infrastructure over the course of the next 20 years, including making that assessment of the A720. The very process that the member makes reference to is facilitated through the STPR process, and I encourage people with an interest in the matter to engage in that process once it has been undertaken by Transport Scotland.

Small Business Bonus Scheme

3. **Bruce Crawford (Stirling) (SNP):** To ask the Scottish Government how many businesses in the Stirling constituency have been lifted out of paying non-domestic rates under the small business bonus scheme. (S5O-02691)

The Minister for Public Finance and Digital Economy (Kate Forbes): Information on the small business bonus scheme is not currently available by parliamentary constituency but, as at 1 June 2018, 2,670 business premises were lifted out of paying rates altogether by the scheme in the Stirling Council area.

Since the small business bonus scheme was introduced by this Government, it has saved premises in Stirling nearly £39 million.

Bruce Crawford: That is good information. In addition, can the minister tell us how much small businesses in my community will save next year as a result of the Scottish National Party Government's budget, which delivers the best budget package for small businesses anywhere in the United Kingdom? I note that, incredibly, the Tories—including Dean Lockhart, who I see is here today—have said that they will vote against that budget.

Kate Forbes: I share the member's incredulity that the Tories might be considering voting against

something that saves businesses such a great deal in hard cash. Spend on the small business scheme was £5.8 million in 2018-19 in the Stirling Council area and, as I said, since the scheme was introduced by the Government, it has saved premises in that area a whopping £38.9 million.

Dean Lockhart (Mid Scotland and Fife) (Con): Figures that the Scottish Government released two weeks ago show that more than 1,200 businesses, large and small, across the Stirling area have waited more than 18 months for the outcome of their appeals against punishing rate increases. For many, the outcome of their appeal will be the difference between staying in business or being forced to close and lay off staff. If, like me, the minister finds that situation unacceptable, what measures will she introduce to address it?

Kate Forbes: On appeals, one of the recommendations of the Barclay review, which we have accepted in full and which I am taking forward as part of primary legislation next year, along with other guidance support, was to make sure that the appeals process works for businesses and puts justice at the heart of the process, so that businesses that need access to justice can get it.

What Dean Lockhart does not acknowledge is the fact that, in the Stirling area, not only are more businesses in receipt of funds from the small business bonus scheme but the overall value of what businesses save as a result of the small business bonus scheme contributes directly to business growth in that area.

Exports (Mentorship Scheme)

4. **Gordon Lindhurst (Lothian) (Con):** To ask the Scottish Government what progress it is making with developing a peer-to-peer mentorship scheme to boost exports, alongside the Confederation of British Industry Scotland. (S5O-02692)

The Minister for Trade, Investment and Innovation (Ivan McKee): The First Minister launched the export challenge on 26 November 2018 at an event that was attended by around 100 businesses from across Scotland that have shown support for the challenge. Good progress is being made in developing the detail of the programme and we are working closely with partners, including CBI Scotland and Scottish Development International, to ensure its successful implementation.

I encourage businesses that feel that they would benefit from being mentored, or that are experienced exporters and would like to participate as a mentor, to volunteer for consideration to take part in the programme.

Gordon Lindhurst: In a recent policy paper, CBI Scotland set out a number of measures that the Scottish Government could take to support Scottish businesses to export. The recommendations included: addressing the falling number of students who pass foreign language exams; making up the shortfall in uptake in science, technology, engineering and mathematics; and considering whether secondary, further and higher education could offer opportunities to study commercial international trade.

Does the minister agree that improving our children's education in those areas is key to growing exports? Has he discussed the matter with the education secretary?

Ivan McKee: I understand the point that the member is making and I undertake to have a conversation with the education minister in which I will take the matter up—it is clearly an aspect of the overall approach that we need to consider.

Workplace Bullying and Harassment (Public Defence Solicitors' Office and the Scottish Legal Aid Board)

5. Monica Lennon (Central Scotland) (Lab): To ask the Scottish Government what its position is on the procedures used by the Public Defence Solicitors' Office and the Scottish Legal Aid Board to investigate workplace bullying and harassment. (S5O-02693)

The Minister for Community Safety (Ash Denham): The Scottish Government has zero tolerance of any form of bullying, harassment and discrimination, from any source. Where such behaviour occurs, it is essential that it is reported and tackled. It is for the Scottish Government, in overseeing the work of public bodies, to promote diversity and to help to create an open culture that increases the likelihood of individuals speaking up about wrongdoing.

The Scottish Legal Aid Board is a non-departmental public body, so staff are employed directly by the organisation. All public bodies must have their own robust grievance policies and procedures in place. The Scottish Government requires grievance policies and procedures to comply with appropriate employment legislation. They must be accessible and clearly understood by staff and—this is important—staff must know how to access and use them.

The Scottish Government also provides a model code of conduct for staff of public bodies, and SLAB has confirmed that it complies with the model.

Monica Lennon: Ceri Evans is a lawyer in the Public Defence Solicitors Office. She is deeply unhappy with the way in which SLAB has handled

her claims of bullying by her line manager. As was reported in the *Sunday Mail*, the Scottish Legal Aid Board gave Ceri's personal diary about alleged instances of bullying in her workplace to her line manager, without her knowledge. The Scottish Information Commissioner has said that that was a breach of data protection obligations.

I understand that other concerns about bullying at that public agency have been raised. Will the minister take the issue seriously and request an independent investigation of the case? Will she make sure that staff have full confidence in the policies and procedures that are in place?

Ash Denham: I assure Parliament that although the Scottish ministers have no mechanism by which they may intervene in or comment on individual and current cases, the Scottish Government is working to challenge and tackle the underlying attitudes and inequalities that perpetuate the behaviour that Monica Lennon is talking about. I am sure that she accepts that.

On the case that Monica Lennon has mentioned, the chief executive of SLAB has confirmed that an independent and external organisation with expertise in employment law, human relations and health and safety matters was commissioned specifically to review the circumstances and the organisation's policies and procedures for handling such claims. The chief executive has confirmed that relevant policies and procedures will be reviewed and updated in light of the recommendations that come from the external review. I expect the chair of the board to update me on developments.

The right to privacy is important, and public bodies are responsible for ensuring that they adhere to data protection laws. The Scottish Information Commissioner is responsible for regulation in that regard.

I am sure that Monica Lennon understands that the Scottish Government cannot comment on the particular case that she mentioned, which relates to an on-going grievance.

The Presiding Officer (Ken Macintosh): Question 6 has not been lodged.

Age of Criminal Responsibility

7. Alex Cole-Hamilton (Edinburgh Western) (LD): To ask the Scottish Government what discussions it has had with the United Nations regarding proposals to raise the internationally advised minimum age of criminal responsibility to 14. (S5O-02695)

The Minister for Children and Young People (Maree Todd): The United Nations Committee on the Rights of the Child is consulting on its "Draft revised General Comment No 10 (2007) on

children's rights in juvenile justice", to seek views on its proposal to advise a minimum age of criminal responsibility of 14. No final decision has been made and we will, of course, consider the views of that committee once a final version of the revised general comment has been received. To date, we have had no discussions with the committee. We were contacted by the United Kingdom Government on 11 December 2018 regarding a response to the consultation, and will provide our contribution in due course.

Alex Cole-Hamilton: Fewer than 700 12-year-olds and 13-year-olds are referred to the children's reporter on offence grounds each year, and only half a dozen are referred to criminal courts. Those are not significant numbers, but the impact of a criminal record on any young person's life chances is significant—it is traumatic and it is lifelong. That is why the Scottish Children's Reporter Administration told the Equalities and Human Rights Committee at stage 1 of the Age of Criminal Responsibility (Scotland) Bill that it was imperative to go higher than the age of 12 in setting the new age of criminal responsibility. Given that the UN is likely to raise the internationally prescribed minimum age of criminal responsibility to 14 in February, does the minister share my concern that the bill will be out of date even before its ink is dry?

Maree Todd: The Scottish Government absolutely recognises and respects the significance of the UN committee's general comments as an aid to interpreting the United Nations Convention on the Rights of the Child. We are committed to respecting and protecting human rights. We consider recommendations by international organisations very closely in our policy making, and we seek to uphold the very highest standards of children's rights in a responsible and appropriate way.

In Scotland's case, the age of criminal responsibility has to be looked at in the context of our unique children's hearings system, which provides a distinct welfare-led alternative to criminal procedure for the vast majority of children under 16. Raising the age of criminal responsibility must be looked at in the wider context of current approaches.

We should all acknowledge the Government's record in the area and its willingness to introduce further reform.

Oliver Mundell (Dumfriesshire) (Con): Conservative members believe that moving the age to 12 strikes the right balance, but will the minister confirm whether or not she was aware that the UN was considering raising its recommended age of criminal responsibility before she introduced the bill and gave evidence to the committee at stage 1?

Maree Todd: The Scottish Government was made aware of the consultation on 14 November 2018, the day after the Scottish Parliament's stage 1 debate on the age of criminal responsibility.

Housebreaking (Clear-up Rate)

8. **Liam Kerr (North East Scotland) (Con):** To ask the Scottish Government what the clear-up rate for housebreakings is. (S5O-02696)

The Cabinet Secretary for Justice (Humza Yousaf): The clear-up rate for housebreaking was 23.9 per cent in 2017-18, which was up from 22.5 per cent in the previous year. The rate has remained at similar levels over the past decade. Since the advent of devolution, the number of housebreakings recorded by the police has fallen by 73 per cent, to their lowest level since comparable records began.

Liam Kerr: I thank the cabinet secretary for that answer, which—phrased a little more bluntly—confirms that more than three quarters of housebreakings in Scotland go unsolved and unpunished under the Scottish National Party. That is a disgrace. When did the cabinet secretary last meet the chief constable specifically to discuss the issue?

Humza Yousaf: The chief constable and I meet regularly and discuss how we can improve safety. I regularly talk about housebreaking with my officials and with the police.

On a serious point, when it comes to the clear-up rate, we want to ensure that it is better. However, Liam Kerr should not ignore the fact that housebreakings have fallen dramatically with the SNP in power. In fact, in the north-east—in which, I am sure, he has an interest—the number of housebreakings fell by 58 per cent between 2008-09 and 2017-18. The clear-up rate for housebreakings in the north-east has increased by 5 per cent in the past year, so we are starting to improve.

I agree with Liam Kerr that the clear-up rate should be higher, so we will continue to work with the police to ensure that that happens. I am sure, however, that he will welcome the fall in the number of housebreakings over the past decade.

Kenneth Gibson (Cunninghame North) (SNP): Can the minister tell us how the clear-up rate for housebreakings in Scotland compares with the rate in England, with the Tories in government? I understand that in England, the clear-up rate is less than 10 per cent.

Humza Yousaf: There are many comparisons to make with England and Wales. We have seen a reduction in the number of housebreakings while there has been an increase in England and Wales, in fact. That might in part be because in Scotland

we have invested in our police officers and the Police Service of Scotland. For example, we have awarded a 6.5 per cent pay increase, whereas the police service in England and Wales is taking the United Kingdom Government to court because it will not pay police officers an appropriate amount.

In Scotland, since the SNP has been in power, we have increased police numbers to record levels, to 913 more than we inherited, while in England and Wales police numbers have fallen by almost 20,000, which is a terrible indictment of the UK Tory Government.

That is why we are seeing housebreakings reduce in Scotland while they increase in England and Wales. We will continue to invest in our police officers, and to make sure that Scotland is kept safe, while we leave the Conservatives to carp from a sedentary position.

First Minister's Question Time

12:00

Block Grant

1. **Jackson Carlaw (Eastwood) (Con):** Yesterday, Derek Mackay once again complained about the United Kingdom Government's block grant for Scotland next year. Other than our Cabinet Secretary for Finance, Economy and Fair Work, who in Scotland is claiming that the amount of money that he receives from Westminster will go down next year?

The First Minister (Nicola Sturgeon): In my experience, people the length and breadth of Scotland are complaining about Tory austerity and Tory cuts to the budget of this Government. Most of the money that Jackson Carlaw claims is extra in the Scottish budget is for the national health service, which we more than pass on to the NHS. *[Interruption.]* Jackson Carlaw might want to listen to this. Most of the rest comes from a capital uplift relating to changes in how Network Rail is funded. It does not translate into any additional investment whatever.

As Derek Mackay set out in Parliament yesterday, the facts are these. The money that is available to us for everything other than health is down by £340 million—1.3 per cent in real terms—in just this year, and, over the decade, Tory austerity has taken £2 billion out of this Government's budget, which is 7 per cent in real terms. When we consider that Derek Mackay managed a £750 million pound increase for the national health service, real-terms protection for local government and the education portfolio and more spending on the limited areas of welfare that we are responsible for than we inherited from the UK Government, I think that Derek Mackay has done a very good job indeed.

Jackson Carlaw: Once again, there were nice excerpts from the First Minister's big book of Voldemort's excuses but there was no answer to the question that I put. The Fraser of Allander institute says that the block grant is going up, the Scottish Fiscal Commission says that it is going up and the Scottish Parliament information centre says that it is going up. It is a pity that, typically, the First Minister refuses to acknowledge that. Even her own budget document shows that it is going up by more than £500 million, so let us give her another chance. In a further boast yesterday, Mr Mackay claimed that 99 per cent of Scotland's taxpayers will pay less tax next year than this year. Will the First Minister tell us who is most responsible for that welcome tax cut: is it Derek Mackay or Philip Hammond?

The First Minister: I am sorry to disappoint Jackson Carlaw. I did not have to go even to page 1 of my big book, because his questions were not that testing for me. Even now, I will not have to open it. The fact of the matter is not just that 99 per cent of taxpayers in Scotland will pay less tax next year than they have paid this year, but that, due to the decisions of Derek Mackay, 55 per cent of taxpayers in Scotland will pay less tax than their counterparts in the rest of the UK, making Scotland the fairest-taxed part of the UK.

What is really irritating Jackson Carlaw today is that we have chosen not to give a tax cut to higher-rate taxpayers like him. We have not increased tax for higher-rate taxpayers; we have just chosen not to reduce it. I know that Jackson Carlaw wants us to match the tax cut for higher-rate taxpayers in the rest of the UK, so I offer him this invitation again, which he did not take up last week—maybe he will do so now. If we were to do that it would cost £500 million. When he replied to Derek Mackay yesterday, Murdo Fraser, whom I cannot immediately see because he is probably hiding at the back—

Murdo Fraser (Mid Scotland and Fife) (Con): I am here.

The First Minister: Not only did Murdo Fraser call for us to spend an extra £500 million on cutting tax for higher-rate taxpayers; he also seemed to call for us to spend an extra £1 billion on local government. Will Jackson Carlaw explain to me, right now, where in the budget he wants us to take the money from? Is it from health? Is it from education? Is it from local government? I am waiting with bated breath for the answer to that question.

Jackson Carlaw: I am here to ask the questions, but let us turn to that point. “Scotland’s Economic and Fiscal Forecasts December 2018” states that the SFC expects Derek Mackay’s decisions yesterday

“to start to have an effect on tax residency decisions.”

The First Minister cannot tax people who are not coming to Scotland to be taxed. Unless she starts to ensure that residency decisions are taken by the people we need in our hospitals to fill consultancy vacancies, and unless she starts to take decisions that affect the number of employers we have, she will not have higher-rate taxpayers here that she can continue to tax as she currently does.

Let us return to my line of questioning. I have asked two questions and I have failed to get two answers. The answer, of course, is that it is Mr Hammond who has reduced taxation. According to the Scottish Government’s own figures, from April next year, a household with an income of £15,000 a year will get a tax cut of £130.49. However, £130

of that much-deserved tax break is the result of the decision by the United Kingdom Government to increase the tax-free personal allowance. How much of that tax break will be down to the Scottish Government’s budget, which was announced yesterday? All of 49p. That is the real difference between the parties in government—a £130 tax cut for low-paid workers delivered by the Conservatives while the Scottish National Party gives them the price of a packet of crisps.

Let me give the First Minister one last chance to see whether she can be straight with people today. Mr Mackay boasted yesterday that, in 2018, the economy was predicted to grow at a faster rate in Scotland than in the UK as a whole. That is great news if it is true. However, according to the Scottish Fiscal Commission, in how many of the following years is that predicted to be the case?

The First Minister: It is already growing faster this year than the economy in the rest of the UK is, and that was not predicted a year or so ago, so I am not entirely sure that Jackson Carlaw’s question in that regard takes him very far.

Let me return to some of his other questions. He talks a lot about the personal allowance, but I gently remind Jackson Carlaw that the personal allowance is reserved to the UK Government, which opposes its devolution. He also talks about behavioural impacts. If he read the Scottish Fiscal Commission’s reports a bit more closely, he would see that the numbers fully take account of any predicted behavioural impact. Even taking account of that, Derek Mackay’s decision to freeze the higher-rate threshold rather than increase it with inflation raises £68 million in the next financial year. If Jackson Carlaw does not want us to do that, he has to tell us where that £68 million should come from, and if he wants us to go further and match Philip Hammond’s tax cut, he has to tell us where the £500 million is going to come from.

Since he likes comparisons, let me give him a few. Yesterday, Murdo Fraser talked about public sector workers, so let me give Jackson Carlaw a few illustrations of the differences between Scotland and the rest of the UK. These illustrations take account of the Scottish Government’s tax plans and the Scottish Government’s pay policy. An NHS porter at the top of agenda for change band 2 will be £800 better off in Scotland than if they worked in NHS England. A radiographer will be £380 better off in Scotland. A new-start police officer will be £4,500 better off in Scotland. A police constable at the top of their scale will be £1,200 better off in Scotland than in the rest of the UK. For our final illustration, let us take a paramedic who is working hard in our ambulance service; they will be £400 better off in Scotland than if they worked in the rest of the UK.

So, the budget is a good deal. Of course, all of that does not even take account of the fact that the children of someone who lives and works in Scotland do not have to pay £9,000 a year to go to university, and their elderly relative does not have to pay for personal care. Taxpayers in Scotland, whatever they earn, get a far better deal under this Government. Long may that continue.

Jackson Carlaw: It is so long since I asked my question that I will remind members what it was. I asked the First Minister in how many of the coming years the Scottish Fiscal Commission predicts that economic growth will be greater in Scotland. The First Minister did not answer that question because the answer is none. The Scottish Fiscal Commission predicts that, in every year from 2019 until 2023, Scotland's growth rate will be lower than that of the UK as a whole. Scotland is in the slow lane with the SNP.

It is no surprise that we do not get answers from the First Minister, as she simply prefers to shout abuse from the sidelines. This week, she stoked up her indignation to berate the Prime Minister. That is the same First Minister who, for the past year and a half, has dangled Scotland on a thread as she has danced and dodged around her deeply divisive second independence referendum. Double standards and hypocrisy—are they not the hallmarks of this SNP Government?

The First Minister: Embarrassingly for Jackson Carlaw, he talks about people shouting abuse when Tory MPs have spent the week shouting abuse at each other while they plunge the entire country into chaos and crisis.

However, let me go back to the gross domestic product figures and the performance of Scotland's economy. The point that I made about Jackson Carlaw's questions on forecast GDP growth is that, if we wind the clock back, we see that the figures did not predict that our economy would grow faster than the UK's in this year, yet it is growing faster than the UK's in this year. Scotland's GDP outperformed that of the UK in the first six months of this year. Scotland's unemployment rate is the lowest on record and is lower than that in any of the other UK nations. Scotland's exports are increasing faster than the increase in any other UK nation. And, of course, we continue to be the best part of the UK outside London when it comes to attracting foreign direct investment.

We have an economy that is doing better and a budget that is fairer and that gives a better deal to hard-working people in our public sector and across our private sector. That is what we get with real strong and stable Government in Scotland with the SNP. What a welcome contrast that is to the utter shambles that the Tories are presiding over at Westminster.

The Presiding Officer (Ken Macintosh): Before we turn to question 2, I just say that the opening exchange took 12 and a half minutes, which is too long. I expect succinct questions and answers from now on.

Two-Child Benefits Cap (Mitigation)

2. Richard Leonard (Central Scotland) (Lab): Yesterday, Derek Mackay said that the Scottish Government will continue to "mitigate the worst impacts" of the Tory Government's social security cuts. Is the two-child cap on tax credits and universal credit not one of the worst impacts?

The First Minister (Nicola Sturgeon): As Richard Leonard knows, the Government does everything that it can to mitigate United Kingdom welfare cuts, and we spend in the region of £100 million every year to do that. The fact that we cannot mitigate every cut is not because of a lack of political will; it is a fact of basic arithmetic. We do not hold the budget for reserved areas of welfare, so every penny of mitigation has to come from another area of our responsibilities. As the United Nations special rapporteur on poverty said just a few weeks ago:

"Devolved administrations have tried to mitigate the worst impacts of austerity ... But mitigation comes at a price and is not sustainable."

I again ask Richard Leonard, if he wants us not simply to mitigate UK Government Tory welfare cuts but to stop them at source, whether he will join me today and ask for all the powers over welfare to be devolved to the Parliament. That is the real answer, so why will Richard Leonard not back it?

Richard Leonard: Here are the facts: this Parliament has the power to mitigate the two-child cap, and that would immediately benefit 3,780 families across Scotland, some by more than £2,500 per child per year.

The urgent issue for those families is not which Parliament sets social security policy, but whether their kids go to bed hungry tonight and whether they can clothe them tomorrow morning. It would cost only 0.2 per cent of the Scottish budget to deliver, so why will the First Minister not act?

The First Minister: I am going to make a genuine offer to Richard Leonard, and I hope that it is one that he will take seriously. When Derek Mackay set out the budget yesterday, he fully allocated all the resources that are at the Scottish Government's disposal. I know that Labour thought that we kept £300 million in a reserve, but it misread the budget; we had taken £300 million out of reserve to spend on public services. So, we have used our tax powers and we have allocated all the resources that are at our disposal. We have

chosen to invest in the health service, education, local government and welfare.

Of course, there are many other things that I would love to have the money to do. If Richard Leonard wants us to spend money on other things, he has to come to us. We will help him to cost those things, because we know from comments from his colleagues this week that Labour has difficulty in costing its proposals. Once they are costed, if he wants to have any credibility and to be taken seriously, he has to tell us where he wants that money to come from in the draft budget. Is from health investment? Is it from local government? Is it from other areas of welfare? That is an offer to Richard Leonard. If he tells us, we will listen seriously. Let us see if Labour is prepared to step up to the plate.

Richard Leonard: Derek Mackay said yesterday that the choice is between either reducing public services or taxing more of the lowest earners. What about taxing more of the highest earners? In the end, the issue comes down to what this Parliament was created for in the first place. It should be a platform to lift people out of poverty.

There is precedent for that. In 2014, this Parliament came together to mitigate the impact of the bedroom tax in Scotland. The SNP said then that it could not be done and that it did not want to let Westminster off the hook. This is about lifting children out of poverty, not letting the Tories off the hook, so why does the First Minister not do that?

The First Minister: As we heard in the exchange that I just had with Jackson Carlaw, we are already asking higher-rate tax payers in Scotland to pay a bit more than they would if they lived elsewhere in the UK. That is fair and reasonable.

James Kelly (Glasgow) (Lab): What about the top earners?

The First Minister: I hear a member asking about top earners. We have raised the top rate, but all the assessment and modelling suggests that, because of behavioural changes, if we were to raise it further that could lose us revenue. Even if Richard Leonard does not agree with that—*[Interruption.]* This is a serious budget point. Even if Richard Leonard does not agree with that—even if I do not agree with that—if that is what the Scottish Fiscal Commission says, we do not have that money to spend. Anybody who knows anything about budgeting must know that.

Of course, as a source from Labour said this week, it does not even have a plan.

“At least when we had a plan, ridiculous as it was, we had a plan ... Now we have nothing. It’s a shambles.”

That comes from Labour’s own benches.

I will make the offer again. We have some weeks before Parliament has to decide on the budget. I would love to do what Richard Leonard is suggesting on the two-child cap. I am making a serious offer here. If Richard Leonard and his finance spokesperson come to me and Derek Mackay and say, “We think that you should take the money from this or that area of the budget,” I will listen. The offer is there for Richard Leonard. We have allocated all the money in the budget. If he wants to spend more, he has to tell us how much his tax proposals will cost. We heard this week that Labour does not have a tax plan. I say again, let us see whether Labour is going to step up to the plate over the next few weeks.

The Presiding Officer: We have a number of supplementaries, the first of which is from Willie Coffey.

European Union Citizens (Access to Benefits)

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I have recently been contacted by my constituent Laura Nani, a European Union citizen who has lived in Scotland for more than 30 years. Although Laura has lived in Scotland for all her working life, the Department for Work and Pensions has determined that she has no right to reside in the United Kingdom. What can the First Minister and the Scottish Government do to help European Union citizens who are residing in Scotland who have wrongfully been denied universal credit through the habitual residency test?

The First Minister (Nicola Sturgeon): The case that Willie Coffey has raised is shameful. The right to reside test is applied to low-income benefits that are reserved to the UK Government. It is a complex barrier for EU nationals whom the UK Government deems “economically inactive”. The European Commission has described the test as:

“direct discrimination based on nationality”.

I advise the chamber that we are taking a more humane approach through our new best start grants, because the Scottish system is defined by dignity, fairness and respect. We value EU nationals and we will not subject them to needless stress, anxiety and financial hardship. EU nationals who are in Laura’s position might be eligible for support from the Scottish welfare fund.

The UK system is increasingly known for two things: inhumanity and incorrect decisions. Therefore, I advise Laura to seek independent advice on whether there is a case for appeal. I encourage members across the chamber to continue to press the UK Government to scrap universal credit and to have an overall welfare

policy that is based on dignity, respect and—above all else—humanity, because the current system is definitely not.

Ferry Services (Gourock to Dunoon)

Mike Rumbles (North East Scotland) (LD): In a written answer that was published yesterday, the Government made no mention of any new vessels for the Gourock to Dunoon ferry service. Indeed, no attempt was made to give any assurance to long-suffering passengers that they might have any prospect of receiving an adequate service. Passengers have had to put up with a record level of cancellations and repeated delays on the route. When will the Scottish Government provide a decent service on the route?

The First Minister (Nicola Sturgeon): The Scottish Government is committed to providing not just decent but good services on all our ferry routes, including Dunoon to Gourock. In my previous ministerial roles, I was closely involved with the Dunoon to Gourock ferry service. I will ask the Cabinet Secretary for Transport, Infrastructure and Connectivity to write to the member specifically on the current situation, and I am sure that he would be happy to meet the member and constituents to discuss fully any of their concerns.

Gemini Rail Services UK (Springburn Site Closure)

Bob Doris (Glasgow Maryhill and Springburn) (SNP): Yesterday, news broke that Gemini Rail Services UK plans to close its Springburn site, with the loss of up to 200 jobs in my constituency. That is a devastating blow for the workforce, our communities and our proud locomotive industry, with the St Rollox site dating back to 1856. I have spoken to Unite and to the company that leased the site to Gemini Rail. Although there is anger and concern, there is also determination, both to save jobs and that the site will have a future.

Will the First Minister commit to bringing together all relevant parties, including Gemini Rail, trade unions and Scottish Enterprise, so that we do all that we can to secure the future of as many jobs as possible at that historic site? Previously, the Scottish Government has shown strong willingness to act in such circumstances. Will it act now—not just for the workers and my constituents but for the strategic interests of the Scottish economy?

The First Minister (Nicola Sturgeon): I thank Bob Doris for raising the issue. Yes, I will ask the Cabinet Secretary for Transport, Infrastructure and Connectivity to bring together all interested parties in the way that Bob Doris described. The Scottish Government learned of the development only through the media, and I am extremely

disappointed that that was the case. Officials met the new owners last week, but no reference was made to any immediate plans to make such an announcement.

The Scottish Government will continue to engage constructively with the owners in the interests of the affected staff and in the interests of the overall Scottish economy. We are committed to supporting rail services, and we have made record investment in rail in recent years. The market for the refurbishment of older rolling stock is challenging, but there remain opportunities to bid for future work. I will ask the transport secretary to convene a meeting of interested parties, and, of course, to ask Bob Doris to be part of those discussions.

Aberdeen City Region Deal (Rail Improvements)

Liam Kerr (North East Scotland) (Con): It has emerged that the £218 million from the Aberdeen city region deal that was to be used to slash train journey times to the central belt by 20 minutes will cut times by only two minutes. The money will certainly not dual track the Usan junction, on which the Scottish National Party first made a promise to the north-east in 2008—a promise that it reheated in 2016. What reassurances can the First Minister give that the 20-minutes claim was sufficiently evidenced in advance, and that the city region deal funding will generate real improvements for rail customers in Aberdeen?

The First Minister (Nicola Sturgeon): At the risk of keeping the transport secretary very busy, I will ask him to write to the member on the specifics of the evidence behind the 20-minutes issue.

On the overall question, we are committed to ensuring continuing improvement for rail passengers in every part of the country. As Derek Mackay made clear in the budget statement yesterday, we are also committed to city region deals—and not just to the current deals, but to the roll-out of such deals across other parts of the country. City region deals offer huge potential for improvements, not just in transport, but in other areas of the economy.

Pilton Community Health Project (Funding)

Andy Wightman (Lothian) (Green): In the budget statement yesterday, it was stated that investment in social care and integration will increase to more than £700 million next year. Last Thursday, the Pilton Community Health Project in north Edinburgh was told that its funding would be cut at tomorrow's meeting of the Edinburgh integration joint board. Folk have worked at Pilton Community Health Project, which is Scotland's oldest community health project, to tackle social

isolation and reduce health inequalities in one of the country's most deprived areas. The project's 40 staff risk losing their jobs. In light of yesterday's budget statement, what support can the Scottish Government provide to ensure that that funding decision is reconsidered?

The First Minister (Nicola Sturgeon): I thank Andy Wightman for raising the issue. The decision is a local one, although I understand the concern that has been raised about Pilton Community Health Project. As I understand it, the Edinburgh integration joint board will consider the recommendations of its health and social care grants programme steering group on 14 December and will make a decision on future funding of all the projects that have applied. I hope that Andy Wightman accepts that, in those circumstances, it would not be appropriate for me to comment on an individual application until after that meeting has taken place. I will ask the health secretary to update him once things have progressed further.

Amanda Cox

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): The First Minister will be aware of the tragic death of my constituent, Amanda Cox, who, after having given birth to a premature son and visiting him in the special baby unit at the Royal infirmary of Edinburgh on Monday, became disorientated and went missing for seven hours. It was not until after 10pm that she was found, seriously ill, in a disused part of the hospital. She died shortly afterwards. It is a dreadful tragedy for the family, and a small child has been left without a mother.

An internal inquiry is under way and the procurator fiscal has issued a report. However, this morning, I heard from Amanda Cox's husband, Michael, that the hospital administration has requested a meeting with him to discuss a "review of processes". The man is grieving and traumatised. Such a request is highly inappropriate and looks like face saving.

Will the First Minister ensure that the Cabinet Secretary for Health and Sport keeps a very close watching brief on the matter? In the meantime, will the First Minister confirm that none of our hospitals has processes that would let people down in such a tragic manner?

The First Minister (Nicola Sturgeon): My thoughts and sympathies are very much with Amanda Cox's family at this extremely sad time. It is an absolutely tragic situation. Our thoughts are with all her family, particularly her husband and her little boy, who remains in hospital.

NHS Lothian is assisting the police with the investigation into the circumstances of this tragic

case. In addition to the police investigation, the board urgently wants to review the care that Amanda received to ensure that all appropriate lessons are learned. I know that the board is in close contact with Amanda's family to ensure that they are kept informed while the review is carried out. However, Christine Grahame is absolutely right to say that such contact must be handled appropriately and sensitively, given that Amanda's husband in particular is grieving deeply at this time.

I will communicate the concerns that Christine Grahame has raised to NHS Lothian, whose staff are also very distressed by the tragic circumstances that have unfolded, as I am sure everyone understands.

The health secretary will keep a close watch on developments and I am sure that she will be happy to discuss the matter with Christine Grahame as more facts, information and understanding of what happened come to light.

In the meantime, I am sure that all members will want Amanda's family to know that our thoughts are with them at this impossibly difficult time.

Carbon Dynamic (Administration)

Gail Ross (Caithness, Sutherland and Ross) (SNP): The First Minister will be aware that, last week, we received the news that yet another business in Ross-shire, Carbon Dynamic, has gone into administration. Will the First Minister outline what help and support the Scottish Government can give the 40 staff who have been made redundant, and what help it can give to efforts to find a buyer for the business, which still has a healthy order book?

The First Minister (Nicola Sturgeon): I thank Gail Ross for raising the situation. I am aware of the position at Carbon Dynamic—the full name of the company is CLDB Ltd—and I know that this will be an extremely anxious time for the staff who work at the company, their families and the whole community. Obviously, the individuals who are affected by the announcement are our immediate priority and we recognise the important role that they play in the economy. We will do everything in our power to help those affected.

The partnership action for continuing employment team has already been in contact with KPMG to offer support to affected employees. On Friday of last week, KPMG issued redundancy guides and information about support to all employees, and it will continue to provide skills development and employability support. The economy secretary will be happy to talk to and meet Gail Ross to see whether the Scottish Government can bring further assistance to bear.

Draft Budget 2019-20

3. Patrick Harvie (Glasgow) (Green): Yesterday, the Scottish Government's finance secretary claimed that he was providing a "real-terms increase" of more than £200 million to local services around the country, such as the service that was mentioned by my colleague, Andy Wightman. However, once again, that claim ignores the fact that the Scottish Government is forcing councils to use their resources to fund Scottish Government policies.

Within hours of the budget being published, the Convention of Scottish Local Authorities shared its analysis, which showed that the reality was a more than £175 million cut. A few hours later, when COSLA had seen through some of the Scottish Government's sleight of hand, it revised its analysis and said that it was a £200 million cut. Later, the Scottish Parliament's independent research unit—whose impartial work sometimes shows the truth as being somewhere between what the Scottish Government and local government say—produced more detailed work, which said that the truth is a more than £300 million cut to local services.

Councils around the country are now being forced to look at cuts to schools, social care, parks and libraries—where does the First Minister think that those cuts should fall?

The First Minister (Nicola Sturgeon): I thank Patrick Harvie for raising the issue. The settlement that was outlined by Derek Mackay yesterday delivers a real-terms increase in both revenue and capital funding to local councils. That is before we take account of councils' own ability to raise revenue through the council tax.

Yes, that includes funding that the Scottish Government has made available to increase childcare—£210 million in revenue. Yes, it includes a transfer from health to help to fund social care. Those are all important priorities and it is absolutely right that the Scottish Government and local councils work together to ensure the delivery of those priorities.

However, I will make the same offer to Patrick Harvie that I made to Richard Leonard. On past form, Patrick Harvie will be more likely to step up to the plate on this than Richard Leonard will be. We have allocated all the resources at our disposal in this budget. I would like to do more for local government and health in a whole range of different areas. However, if Opposition parties want extra spending in some areas of the budget, they have a duty to say what areas of the budget they think that money should come from. We are happy to have those constructive discussions. As I said, I think that we are probably more likely to have them with Patrick Harvie and his colleagues

than with other parties in the chamber. Nonetheless, they have to be hard-headed discussions, because we cannot create money out of nowhere. I look forward to having those discussions in the weeks to come.

Patrick Harvie: I have not for a moment suggested that the new national policies are bad or inappropriate—they are important. However, if they are national policies, they should be funded from national resources and not from a raid on council budgets. Nor was there a word in the statement yesterday about fairer local taxation. There was nothing about genuine steps towards a replacement for the broken, unfair council tax—which the Scottish Government claims that it wants to end—and nothing about new ideas to help councils to raise money in new ways to fund the services that are needed.

The Scottish Government keeps saying that it is open to dialogue on those issues, but we have been trying to have that dialogue, on the basis of detailed proposals, since the end of the last budget process at the start of this year. The question is not who is going to step up and have dialogue; the question is when we will hear a response from the Scottish Government. When will it show any hint of urgency or leadership, even in making its own policy on council tax a reality?

The First Minister: I will answer the question in two parts. First, on the spending decisions that we have made in the budget and the national priorities, we have given extra money to local government to meet the costs of those priorities. As far as spending is concerned—this is simply a statement of fact—if any Opposition party wants us to spend more in a particular area, it has to tell us where it thinks that we should spend less. It is a simple matter of arithmetic.

Secondly, on the issue of local tax reform, we set out yesterday our tax and spending decisions, as is appropriate when we publish the draft budget. I know that there have already been discussions between Patrick Harvie and his colleagues and the finance secretary about tax reform, and Derek Mackay is keeping me updated on that. We expect those discussions to continue, and I very much hope that we can come to an agreement that sees a commitment made to local tax reform and a greater commitment to the devolution of tax powers to local authorities. There is a willingness to do that, and I am sure that, as is normal, we will have between now and the final votes on the budget lots of very productive discussions—or at least what I hope will be productive discussions.

Institute for Statecraft

Neil Findlay (Lothian) (Lab): The Office of the Scottish Charity Regulator states that an organisation cannot continue to be a charity if

“it is set up to be or advance a political party”

or

“its governing document allows it to use its assets ... for non charitable purposes”.

Does the First Minister believe that the Institute for Statecraft, based in Fife, should continue to be registered as a charity with OSCR, given the revelations this week that it has been engaged in partisan political activity?

The First Minister (Nicola Sturgeon): I was concerned about the revelations published in the *Sunday Mail* on Sunday involving alleged actions of the Foreign Office. It is not for me to investigate their veracity or otherwise, but it was certainly, on the face of it, a concerning report, and I hope that there will be a full investigation and full answers to the questions that people will rightly and understandably have.

On the question whether an organisation is a charity as far as OSCR is concerned, I absolutely understand the sentiment behind Neil Findlay's question and why he is asking me it, but I know that he will appreciate that OSCR takes these decisions independently—and rightly so. I am sure that OSCR keeps the charitable status of a range of organisations under review if concerns are raised about them. If, as he clearly and understandably does, Mr Findlay has concerns about this issue, I encourage him to raise those concerns directly with OSCR.

Road Traffic Accidents (Drink-driving Limit)

Maurice Corry (West Scotland) (Con): As reported in *The Lancet* this morning, road traffic accidents in Scotland have increased by 7 per cent since the introduction in 2014 of the Scottish Government's lower alcohol limits for drivers. Is that a direct result of yet another failed Scottish National Party Government policy?

The First Minister (Nicola Sturgeon): As I recall, when the Parliament decided to lower the drink-driving limit, it did so unanimously. Obviously, that must mean that the Conservatives supported the move, and I give them credit for doing so. However, it cannot reasonably be said that road traffic accidents are increasing because we have cut the drink-driving limit. That makes no sense.

I say in all seriousness that, now that we are in the festive season—we should do this all year round, but particularly at this time of year—the unanimous message that should come from all of

us to everybody across Scotland is: do not drink and drive. I find it deeply regrettable that today, as we go into the Christmas period, we have a Conservative MSP standing up and somehow seeming to suggest that lowering the drink-driving limit was a bad thing to do. I hope that he will reflect very seriously on the question that he has just asked.

Best Start Grant

4. Clare Adamson (Motherwell and Wishaw) (SNP): To ask the First Minister what progress the Scottish Government is making in delivering the best start grant. (S5F-02884)

The First Minister (Nicola Sturgeon): I am pleased to say that we are now delivering the best start grant pregnancy and baby payment. By the end of the first day, which was Monday, more than 4,000 claims had been submitted, which was an exceptional response and an important moment for Social Security Scotland. The payment will provide £600 on the birth of a first child, which is £100 more than the United Kingdom system that it is replacing. The first payments will be made before Christmas, as promised, and will begin to reach bank accounts next week.

We have also extended eligibility and the application window. Moreover, unlike the Department for Work and Pensions system, we will not put a cap on children and there will be a £300 payment for second and subsequent children. As the very significant number of claims submitted in the first days shows, our work to encourage take-up of this benefit for low-income families is paying off, and I am delighted that we are using our new social security powers to provide improved financial support to all children of low-income families.

Clare Adamson: I am delighted to hear that so many people have applied for the new Scottish Government benefit. It will greatly help many of my constituents in Motherwell and Wishaw. Does the First Minister agree that the best start grant is another example that clearly demonstrates that the Scottish National Party Government believes that social security exists as a safety net that supports people who are on low incomes and encourages the take-up of benefits, which is in sharp contrast to the shameful othering of people who are on benefits that is perpetrated by the Conservative Government?

The First Minister: Yes, I agree with that. The fantastic response to the best start grant is a clear sign that people know that Scottish social security will be different from the current United Kingdom system. We see social security as an investment in our people and we are doing all that we can to ensure that people get the financial support to which they are entitled, which includes

encouraging them to apply for the new benefit. Our communication alongside that of stakeholders is focused on new parents and, importantly, families who would not have received a UK sure start maternity grant for their child because the child was not the first born. Those families know that they can be supported by our best start grant, so we expect that a significant proportion of applications will be for second children. That is important because this Government is determined to give all children the very best start in life.

Mental Health (Teachers)

5. Annie Wells (Glasgow) (Con): To ask the First Minister what the Scottish Government's response is to a recent survey which suggests that 51 per cent of teachers believe that their job has a detrimental impact on their mental health. (S5F-02876)

The First Minister (Nicola Sturgeon): We recognise the pressures and challenges that teachers face, such as those that have been highlighted by the Mental Health Foundation Scotland. That is why we have taken action to reduce teacher workloads, to clarify and simplify the curriculum framework and to remove unnecessary bureaucracy. We also continue to take forward a range of actions to support the mental health of both teachers and children and young people, including delivering specific resources for mental health education to teachers across Scotland and providing mental health first aid training for schools.

Annie Wells: It is clear from the survey that was carried out by the Mental Health Foundation Scotland that teachers are under immense pressure, with seven out of 10 saying that they lack the skills to support pupils who have mental health problems. On top of that, the total number of teachers has reduced by more than 3,000 since the Scottish National Party came to power, which has resulted in additional workload and pressures, with serious implications for teachers' wellbeing. I welcome the commitment to have counsellors and mental health nurses in schools, but when will we see a delivery plan for counselling and mental health training in schools, which I have called for repeatedly, and what action will be taken to drastically improve the position with current vacancies?

The First Minister: The most recent statistics, which were published on Tuesday, show that teacher numbers this year are up by 447 on the previous year. There are now more teachers working in our schools than at any time since 2010 and primary teacher numbers are at the highest level since 1980—when I was still at primary school. Teacher numbers are rising. Since I became First Minister, the number of teachers in

Scotland has increased by more than 1,200. Of course, teachers still work under significant pressure. One of the pressures on teachers is dealing with young people who have mental health issues. That is why we have announced the plans to put more counsellors into schools and to improve training for teachers. All of us need to become more mental health aware. The Minister for Mental Health will set out further details of that, including the timeline, soon and I hope that the whole Parliament will get behind those measures.

Fuel Poverty

6. Jackie Baillie (Dumbarton) (Lab): To ask the First Minister how many people will be taken out of fuel poverty in 2018-19. (S5F-02889)

The First Minister (Nicola Sturgeon): The national measurement of fuel poverty is based on the annual Scottish house condition survey, so the 2018 rate will not be published until December 2019. The most up-to-date statistics that we have for 2017 show that, since 2013, fuel poverty has reduced by 11 percentage points, from 36 per cent to 25 per cent, which is a reduction of almost 250,000 households. Despite fuel poverty levels being at their lowest since 2005, it is unacceptable that around 25 per cent of households are still in fuel poverty, which is why we are taking action on energy efficiency and fuel poverty. By the end of 2021, we will have committed more than £1 billion since 2009 to make homes warmer and to lower fuel bills. Over 120,000 homes have benefited through our home energy efficiency programmes since 2013.

Jackie Baillie: More than one in four people in Scotland live in fuel poverty. For an energy-rich country, that is a national scandal. In that context, the First Minister's target of ending fuel poverty by 2040 is deeply unambitious. More than a decade ago, Energy Action Scotland told the Scottish Government that it needed to spend £200 million a year if it was serious about wanting to end fuel poverty. However, the budget provides only about half of that amount, and £30 million of that is financial transaction funding, which requires to be repaid.

As we face the prospect of a very cold winter, will the First Minister adopt a greater degree of urgency, bring forward the date by which fuel poverty will end in Scotland, and stop the scandal of older people having to choose between eating and heating?

The First Minister: There is urgency on the part of the Scottish Government. I repeat that, between 2014 and 2017, the fuel poverty rate reduced and almost 250,000 households moved out of fuel poverty. That is not enough; I do not want to live in a country where 25 per cent of households live in fuel poverty. That is why we have set ambitious

but deliverable targets. As well as the 2040 targets, our route map outlines minimum standards for the private rented sector from April 2020, which will be the first time that the private rented sector has been regulated. Next year, we will introduce regulations for all PRS properties to reach energy efficiency band D by April 2025. We have consulted on increasing that standard to require band C by 2030 and we will confirm the next steps on that measure next year. We are determined to take the necessary action.

On Ms Baillie's funding point, I will make the same point that I have made repeatedly today. As we move into the next stages of the budget, if any member of the Parliament wants us to spend more on particular areas, we will listen. We will be constructive and we will listen to all ideas, but they must come with suggestions of where—in our fully allocated draft budget—that money would come from. I look forward to hearing those proposals in due course.

The Presiding Officer: That concludes First Minister's question time. Last week, I appealed to members for short questions and succinct answers. I appealed again this week, but I do not think that members are listening. I have spoken to business managers and I have written to ministers and members. I will not become overly interventionist overnight, but unless the questions and answers are short and succinct, I will cut members off and make sure that we get through more members and more questions. Please listen to my advice.

12:48

Meeting suspended.

12:50

On resuming—

General Practitioner Out-of-hours Facility (St Andrews)

The Deputy Presiding Officer (Christine Grahame): I ask those members of the public who are leaving to do so quietly—silently, preferably—as I want to move on to the next item of business, because time is tight today.

The next item of business is a members' business debate on motion S5M-15013, in the name of Willie Rennie, on the St Andrews general practitioner out-of-hours facility. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes the proposal by the Fife Health and Social Care Partnership to close the GP out-of-hours facility in St Andrews; further notes the reported criticism from the community regarding the consultation process; understands there has nonetheless been a large response to the consultation from people in east Fife, and that over 6,000 have signed a petition and more than 2,000 have submitted objection postcards; believes that the Dundee Kings Cross out-of-hours facility is often at capacity and consequently finds it difficult to accept patients from north Fife; understands that there is a large number of students and older people in the east Fife area; believes that GPs from the area are prepared to step up to provide a local service, and notes the calls for the St Andrews' facility to be retained.

12:50

Willie Rennie (North East Fife) (LD): I am grateful to the members who, in supporting my motion, have made this afternoon's debate possible. I am also grateful to the Cabinet Secretary for Health and Sport for the interest that she has taken in the issue.

For those members who are not familiar with the situation, I should say that the Fife health and social care partnership's proposal is to close the primary care emergency service—the general practitioner out-of-hours service—that is based at St Andrews community hospital. That is part of a wider proposal that also affects Glenrothes, where Jenny Gilruth has made a powerful case, and Dunfermline, where Shirley-Anne Somerville has expressed concerns.

The fury in St Andrews and east Fife has been extraordinary. It has inspired lots of people who are unconnected with politics to be active. Penelope Fraser from St Andrews has collected hundreds of names for my petition from right across the area. Students from the University of St Andrews have produced a special video and carried out a protest outside the hospital in Kirkcaldy. Daryl Wilson from Anstruther has

produced her own special objection postcard, and more than 2,000 people have sent one to the partnership board. A group of people led by Angela Anderson have submitted a participation request under the Community Empowerment (Scotland) Act 2015. Those are just some examples of people from the community who have stepped up because they are appalled by the proposal.

The response has been overwhelming. The public meetings in Anstruther and St Andrews have been packed—in fact, one of the meetings had to be moved to a bigger venue because so many people had turned up—and 2,300 of the postcards that I mentioned have been signed. The majority of the consultation responses that the partnership received were from people in north-east Fife, and more than 6,500 people signed my petition against the closure.

I believe that the case for retaining the St Andrews facility is strong. St Andrews is a long way from Kirkcaldy, where the nearest centre would be, and some of the rural roads are particularly poor. There are lots of elderly people and young students in east Fife who do not have their own transport, and some of the people who use the facility, including students from all over the world, have special health needs. Kings Cross hospital in Dundee is often too busy to take people from north Fife; that was supposed to be a solution for the Tay Bridgehead area of Fife, but people there will also have to travel to Kirkcaldy in many instances.

Furthermore, the minor injuries unit in St Andrews is run by the primary care emergency service, so if the PCES goes, the minor injuries unit will go, too, which would be a double blow for the community.

The local GPs are prepared to provide a service. In fact, the rota at St Andrews is booked up until Christmas, and it has been for some time. A new service might be different from the one that we have been used to and it might utilise the skills of other health professionals, but a local service is possible and is required. The Lewis Ritchie report highlights the need for a multidisciplinary approach that is person centred, but there is nothing in the Ritchie report that prevents the St Andrews facility from remaining open. Indeed, I would argue that it reinforces the case for that.

There is a shortage of GPs, which is a legacy of poor workforce planning. Of course there are more GPs, but more of them are part time, which means that, in effect, there has been a cut in the number of whole-time equivalents. That is what has created the current problem. There is an issue that needs to be addressed by the Fife health and social care partnership. People in east Fife understand that, but those problems will not be

solved by the closure of the St Andrews facility. As I have mentioned, the rota at St Andrews is full until Christmas. There is also no guarantee that the GPs who currently provide that service in north-east Fife would be prepared to make the long journey to Kirkcaldy to support the new service, so, if the change were to go ahead, we would end up with fewer GPs participating in the service as a whole. The recent newspaper report in *The Courier* on low uptake among GPs of the out-of-hours service related to Dunfermline, not St Andrews. The uptake in St Andrews is healthy, and it would be extraordinarily perverse to penalise north-east Fife for the shortages elsewhere in Fife.

There have been flaws in the consultation process, including impenetrable language, three consultations bundled into one and the ruling out of the St Andrews option from the very beginning. Despite those flaws, the officials in the Fife health and social care partnership have been responsive and sensitive throughout the process. I thank them for their professionalism even though I disagree with their recommendations.

I have heard it said that people in north-east Fife are just whingeing and that they are wealthy, so they can cope. The people who hold those views are small in number but hold senior positions, and my advice to them is to think very carefully. They have responsibilities for the whole of Fife, whether or not they like some parts of it. I was the Westminster member of Parliament for Dunfermline and West Fife before I entered the Scottish Parliament, so I understand the special needs of north-east Fife and other parts of Fife. Those needs should not be ignored.

There is a strong case for retaining the facility in St Andrews. We have the need for it, with students and elderly people. It is a long distance to Kirkcaldy, and those roads are not in good condition. There is a clear demand in north-east Fife, as demonstrated not only by the public meetings but the response to the petition, and GPs are prepared to step up to provide a service. There is a demand, there is a need and GPs are capable of providing that service. There is a way to make the facility happen, and I urge the health secretary to provide her support for it.

12:57

Jenny Gilruth (Mid Fife and Glenrothes) (SNP): I congratulate Willie Rennie on securing today's members' business debate. It is not the first time that the issue has been discussed in members' business. Although the motion focuses on St Andrews, as Willie Rennie mentioned, out-of-hours closures have affected Dunfermline and Glenrothes. For the past 223 days, our constituents have been travelling to the Victoria

hospital in Kirkcaldy, which provides one GP out-of-hours service for the third largest local authority in the country.

I spoke to my colleague Stephen Gethins, the MP for North East Fife, ahead of the debate. He told me:

“The Out of Hours service must be retained at St Andrews Community Hospital.

North East Fife is a large rural area with many minor roads and remote communities like the East Neuk. Many parts of North East Fife are a significant distance from Kirkcaldy.

North East Fife has a diverse population including a higher than average elderly population and a large number of students without transport. There are real concerns about having to travel a significant distance when you are unwell”.

I agree with Stephen Gethins.

However, my concerns about the closure relate to the process as acknowledged in the motion. The service fell over almost overnight. That is not usual practice, and I am sure the cabinet secretary would agree that it is not good practice. Fife’s health and social care partnership then decided to consult retrospectively, three months after the closures had begun. It added community health and wellbeing hubs to the consultation, and then community hospital and intermediate care bed redesign—all were in the same consultation.

I know St Andrews very well, and I know my constituency. Issues of rurality in the north-east do not impact on the people whom I serve, but inequality does. Recommendation 7 of the Sir Lewis Ritchie review states:

“Quality and safety implementation and monitoring of OOH services should be assessed for their impact on health inequalities.”

No equality impact assessment took place before the closures on 9 April. I repeatedly asked the local health and social care partnership to share details of the EQIA. That did not materialise until, very quietly, in August, it was retrospectively electronically uploaded.

I encourage all members with an interest in the topic to interrogate the quality of the EQIA in its present form. Question 2 of the EQIA asks for the lead assessor’s name and contact details. The response is left blank. Age and disability are rated as “Medium Relevance”, and race, sexual orientation and religion are rated as “Low Relevance”.

Ahead of the debate, I wrote to the director of Fife’s health and social care partnership, seeking clarity. I asked who, in those categories, the partnership had spoken to. How did it identify risk? When was the work completed? Those questions have not been answered. The EQIA document, which is currently online, states that the process

started on 28 March, which is four and a half days before the service apparently fell over. However, if the service had to shut on an emergency basis, how did the partnership have time to start an EQIA? The truth, of course, is that it was not conducted in March, nor was it conducted in April. As the director confirms to me in his letter, the EQIA was not approved until 14 September. It seems to me that Fife’s health and social care partnership started from a position and then worked towards it.

In my view, the consultation was flawed from the outset. Fundamentally, people did not understand what they were being asked about. Three different services were lumped together in a bid, I believe, to deliberately confuse the public. Also, the use of jargon throughout the consultation documents is excessive. The use of phrases such as “Why we need to change” suggests that the exercise was never about seeking the views of Fifers.

St Andrews residents should be commended for their organised and tenacious campaign, but people in my constituency also organised. There were stowed-out public meetings and numerous constituent complaints, all just five years after my predecessor and the former Labour MP organised to fight against the same proposal.

It should also be noted that the partnership did not conduct any transport appraisal, which means that my constituents now have to pay for taxis to access out-of-hours services if they do not have a car. If they cannot afford to pay for a taxi, they need to ask for help to do so. Dignity is at the heart of the Government’s new social security system, but where is the dignity in being forced to plead poverty just to see a doctor?

Today’s motion is focused on St Andrews and, as Stephen Gethins has argued, the best outcome in that regard is that services are retained at St Andrews community hospital. The GPs have pledged their support for retaining out-of-hours services there. However, my constituents face very different problems from those that are faced in north-east Fife. Nearly one in three children in my constituency lives in poverty. In Levenmouth, we have some of the lowest car ownership levels in the country. Benefits cuts have stripped more than £1 million from the communities that I represent. Make no mistake: if the IJB votes on 20 December to permanently close the Glenrothes GP out-of-hours service, it is the poorest who will suffer.

Willie Rennie is right to bring the issue back to the chamber today. The public consultation has been opaque from the outset, and the EQIA is not worth the paper that it is written on. Our constituents deserve better in the 70th year of our national health service. The IJB will take its decision on closing GP out-of-hours services in St

Andrews, Glenrothes and Dunfermline in one week's time. Although that is ultimately a local decision, I would welcome the cabinet secretary's views on how we can move forward.

13:02

Liz Smith (Mid Scotland and Fife) (Con): I happen to think that this Parliament is at its best when, despite our political differences, we are able to argue forcefully when one particular issue dominates our mailbags, and this is an example of one such issue. A similar passion was evident in the previous debate in the chamber on this matter, and it is only right that we progress in that way, because this is an extremely important issue not only for St Andrews, which is the subject of Willie Rennie's motion, but for the whole kingdom of Fife.

I thank Willie Rennie for bringing this motion to the Parliament. He has been passionate and assiduous in his advocacy of the case for keeping the St Andrews GP out-of-hours facility open. Members on the Conservative benches are fully supportive of that position.

I also pay tribute to the other members—the SNP members, the Labour members and the Green member—for their contributions to the wider debate. I know that the cabinet secretary is taking a keen interest in the matter. Like Willie Rennie, I urge her to at least put some pressure on the people who are involved in the Fife situation.

This issue is not just about the decision that the integration joint board will take on 20 December; it is about the way in which we make decisions about our local health services. That is part of a bigger picture. I have previously debated with the health secretary the structure of IJBs and the ways in which we can improve local delivery in that regard.

This must be about safe and sustainable levels of staffing. Provision must be equitable and fair across the kingdom of Fife, and we must pay heed to the advice that the clinicians give us. I know that there is a difficult balance to be struck in relation to what was termed an unsafe and unsustainable situation by Michael Kellet, who made the point that there could be improvements in delivery. However, the GPs, particularly in St Andrews, are taking a completely different position. Certainly, that was the strong message that I got at the public meeting that I attended, which was organised in the first instance by Willie Rennie. I think that it is partly because of that strong message that the campaign has had such a considerable uptake in the St Andrews community.

There are therefore a number of factors to consider. Like other members, I have heard

comments about how people in St Andrews are relatively wealthy and can cope with what is proposed. Not only is that quite offensive; it is not true. There is a particularly difficult demographic in St Andrews, which has a high number of elderly people, some of whom are not particularly well off, and a large student population, so demands on services there are very different from the demands on services in other parts of Fife.

We are told that one part of the kingdom is directing operations on the matter, but I do not accept that. I think that what is happening in St Andrews is part of a much bigger picture, which we need to look at holistically, in the round. Out-of-hours care is incredibly important for a host of patients, and a town with a large population of students and retirees has a particular demographic; we must be very careful about how we respond to that.

We all know that in a health emergency it is critical that the patient receives treatment within the golden hour, as I think that health professionals call it. Travel to Kirkcaldy, Glenrothes or Dundee will be a difficult option, should the service close down.

The residents of north-east Fife were barely represented in the 2017 options appraisal workshops at which various discussions took place. I agree with Willie Rennie that some of the professionals have been listening, but I am not sure that the process has been particularly helpful to the engagement of the public. Jenny Gilruth was right to talk about the language of the consultation and the direction that it has taken in that regard.

I think that people are coming at the issue from different angles, which is not helping us to find a resolution. I am conscious that the health secretary is aware of that and is being as helpful as possible.

I reiterate my thanks to Willie Rennie and to other members, who have been honest and straightforward on a critical issue that has brought together the constituency and list members.

13:07

Claire Baker (Mid Scotland and Fife) (Lab): I thank Willie Rennie for bringing this debate to the Parliament and for his fair analysis of the situation that we face.

It is not long since many of us were in the chamber to debate the wider closure of out-of-hours services across Fife, in the debate that Jenny Gilruth brought. St Andrews is one of three areas, alongside Glenrothes and Dunfermline, in which out-of-hours services face an extremely uncertain future. I appreciate the particular

situation in St Andrews, for the reasons that Willie Rennie set out in his speech, and I welcome the opportunity to highlight it today.

Members of the Scottish Parliament were informed of the closure of the three out-of-hours sites in April. Next week, the IJB will make the decision on their future. The decision to move to contingency measures was made as a result of nursing and medical staffing difficulties, which led to concerns about clinical safety.

As we are on the brink of the decision, it is important to emphasise the consequences. The closure of the three centres was meant to be a temporary contingency measure lasting three months. However, eight months down the line, there is little confidence that the services that we once had will return.

A contingency measure might be regarded as a temporary measure until services resume, with all three out-of-hours services continuing. It is disappointing, then, that the GP situation in Fife has not improved.

I appreciate that the Scottish Government will talk about the new GP contract and the work of the University of St Andrews and the University of Dundee on the Scottish graduate entry medicine programme. Those initiatives are welcome, but there are no guarantees that they will solve the problem of out-of-hours provision. Some areas in Fife are struggling to recruit GPs to work during the day, never mind at night. In other areas, more GPs are moving from full-time to part-time provision.

A quarter of practices in Fife are full. All surgeries in Kirkcaldy, all surgeries in Lochgelly and four out of five surgeries in Dunfermline register a full practice list. Also, at least seven GP practices are experiencing long-term recruitment difficulties, and two are considered to be in a high-risk situation. All that makes the possibility of recruiting sufficient GPs to out-of-hours service work even more challenging.

This week, Information Services Division Scotland released statistics that show a small rise in the number of GPs in Fife since this time last year. However, there are still fewer GPs than there were a decade ago. At the same time, the number of people who register at a practice in Fife is increasing.

Given that Fife has fewer GPs treating more patients, there is bound to be an impact on services, and patients struggling to book appointments at their local surgeries might start heading to accident and emergency—something that out-of-hours GP services are meant to prevent. Other people might decide to ignore their symptoms, powering through until they need more urgent care.

This has the potential to put significant pressure on Victoria hospital in Kirkcaldy, which is currently the only facility in Fife with an out-of-hours service, and—as Willie Rennie highlighted—Dundee's King's Cross hospital out-of-hours service is often at full capacity. We need to look at how to alleviate those pressures, not exacerbate them. That is why the decision to close the St Andrews out-of-hours service is all the more perplexing.

I have attended public meetings in the area, including those organised by Willie Rennie, and I have spoken to local residents and the student representatives at the university. I know how valuable the out-of-hours service is and that the alternatives are simply unacceptable and unrealistic. The travel times are too long, the rurality of north-east Fife is challenging, and the demographics of the population demand local healthcare.

St Andrews hospital had a busy out-of-hours service and we are being told that there is a commitment from local GPs to run an out-of-hours service in St Andrews in the interests of their patients. NHS Fife makes the case that it needs to deliver for the whole of Fife and it cannot accept a solution that would serve St Andrews only. I understand its responsibility to do that—it must provide a service for the whole of Fife—but such a service must have flexibility and be able to be tailored.

I want a solution that retains all three out-of-hours services, recognises the importance of local delivery and does not risk exacerbating the health inequalities that Jenny Gilruth highlighted. However, until that can be delivered, we have to be open to alternatives. NHS Fife should be flexible about St Andrews. It has to recognise the needs of its elderly population, its rural nature, its distance from Kirkcaldy, and the student population, which includes a large number of overseas students.

Reopening St Andrews hospital would not take GP resources away from other areas of Fife. A strong case is being put forward to keep the St Andrews service running, and NHS Fife must listen.

13:12

Mark Ruskell (Mid Scotland and Fife) (Green): I add my thanks to Willie Rennie for lodging the motion for debate. Of course, much of what we discussed back in October, in Jenny Gilruth's members' business debate, is relevant to the debate today, but it is good to have the opportunity to focus in particular on the situation in St Andrews and north-east Fife.

Liz Smith made the very important point, which I hope the cabinet secretary will reflect on, that

there is genuine cross-party concern. We are bringing to the chamber our thoughts and concerns, what we have heard from communities and, I hope, solutions.

Following the emergency closure of their services earlier this year, residents of St Andrews and the east neuk have endured journeys of up to an hour to access primary care overnight and at weekends, with capacity issues at King's Cross hospital in Dundee only compounding the issue. I have received reports—as, I am sure, many other members have—that patients who have had to take taxis have still not been reimbursed for those long and expensive journeys. I have also heard from students that they are relying on the good will of the university to pay for their travel costs to access the services.

The area has a unique demographic profile, as members have already mentioned. We have a significant ageing population living alongside a growing student population, which brings its own specific healthcare challenges. Young and transient populations are more vulnerable to sudden contagion incidents—not just the notorious freshers flu, but serious and sometimes life-threatening illnesses including mumps and meningitis, which require swift medical responses.

The unique demographic profile, however, also makes St Andrews an ideal place to trial new and enhanced ways to deliver out-of-hours primary care, using a mixed multidisciplinary team of advanced nurse practitioners, paramedics and pharmacists, as was recommended in the 2015 Ritchie review of primary care out-of-hours services. I have been calling for an assessment of that option for some time now. I remind colleagues that it does not have to be an all-or-nothing scenario; we could have a model that retains the important services in the communities. We can recognise the need for change, but at the same time retain a level of primary care locally by joining up with a remote working GP and an urgent care team based at the Victoria hospital.

It is clear that the consultation on the proposals has been wholly inadequate, especially given that the formal consultation began with the assumption that the services in St Andrews would close. I recognise that the initial closure earlier this year was made in emergency circumstances, but I have heard from GPs in Fife who say that they were not consulted before the closure, and were not aware of the extent of the staff crisis in out-of-hours services.

I commend the work of the royal burgh of St Andrews community council, which has sought to ensure that local people are represented better in the decision-making process through a formal participation process, and I urge the integration

joint board to grant that request ahead of next week's decisive meeting.

However, the issue is linked with the wider GP crisis that we face in Fife and across Scotland. The number of GPs in Fife has fallen since 2008, while the patient list has increased by nearly 11,000. Eighteen surgeries have stopped accepting new patients, and seven are struggling to recruit the GPs that they need to deliver a basic primary care service. When local doctors are under such immense pressure during normal surgery times, it is entirely understandable that the out-of-hours service has reached crisis point. I will be grateful to hear from the cabinet secretary in her closing speech about what is being done to address the overall GP crisis, and how the Scottish Government is planning to deliver more GPs for Fife.

I look forward to hearing the outcome of next Thursday's IJB meeting, and I hope that the board fulfils its duty to consider all options, to consult the community properly and to ensure that it is providing the best possible care in the communities, using the full range of medical practitioners at its disposal.

13:16

Alexander Stewart (Mid Scotland and Fife) (Con): I welcome the opportunity to take part in the debate, and I congratulate Willie Rennie on having secured it.

Here we are again, having to comment, condemn and debate yet another ill-thought-through proposal by Fife health and social care partnership on GP out-of-hours facilities in St Andrews. We have already heard that the primary care emergency services at hospitals in Glenrothes, Dunfermline and St Andrews have all faced difficulties in the past few months, since they experienced shortages back in April. The area has a large number of students, who depend on those facilities, and it also has an ageing population. That population deserves more—it deserves better facilities than it has at present.

I would also like to comment on wider effects. I lodged a motion back in April discussing and condemning Fife health and social care partnership for what it was doing. The consultation process, which was widely criticised across the community—rightly so—was completely and utterly unacceptable. We have already heard that 6,000 people have signed a petition and that more than 2,000 have submitted objection postcards. I sincerely hope that the IJB takes notice of that, although it does not appear to be doing so. We have all attended meetings across the region and communicated with the IJB, but it seems to be stuck in its ways about what it wants to achieve.

As others have said, we seem to be moving towards the goal of achieving what the IJB has on paper, not what the community needs and deserves.

The whole idea was supposed to be a contingency measure to sort out the situation and deal with problems in the region. That has not happened. We seem simply to have gone through an exercise and the community feels very let down by that process. We have heard that the out-of-hours facility at King's Cross hospital in Dundee is often at capacity, which means that there are difficulties in ensuring that people from north Fife can be looked after and supported. Otherwise, they have to go to Kirkcaldy, and we have already heard about the long distances and the difficulties that that causes.

It was only last week that GPs in the area talked about what they could do to provide a local service, and what they might be able to support. That should be taken on board but, once again, the IJB seems to be very blinkered in its attitude to the consultation. I very much hope that it will hear the views of local people that have been highlighted, and that it will look towards reinstating those vital services. I share the deep disappointment that Fife health and social care partnership seems to have a lack of respect for the community that it is supposed to represent.

We know that the previous Cabinet Secretary for Health and Sport kicked things into the long grass; that was how things were managed. I hope that the new cabinet secretary will look upon this situation and see it as urgent. As she has heard, constituency and list members from across the chamber really understand the problem; I think that she is beginning to understand it, as well.

We have a massive problem and a major concern. We have already heard acknowledgement that Fife is facing a recruitment and retention issue, so what do we have to do? We need to do more.

Alex Rowley (Mid Scotland and Fife) (Lab): We are aware, as Claire Baker has highlighted, that the shortage of GPs in Fife is critical, and the cabinet secretary needs to look at that. Does Alexander Stewart also understand that the Fife health and social care partnership has continued to overspend its budget? I am told that its overspend may currently be running at about £8 million. Does he think that there is a financial issue that needs to be addressed, as well?

Alexander Stewart: I acknowledge that there are priority issues with the IJB, which needs to take on board what it has and what it is doing for the communities that it represents, so I very much agree with Mr Rowley on that.

As we have already heard, St Andrews is a growing location, and other areas across the region, including Glenrothes and Dunfermline, all need support mechanisms to be put in place to ensure that the public are being looked after. The situation continues to be a cause of concern, and individuals across the region have the opportunity to ensure that the necessary changes take place.

We must do all that we can to continue. Patients' lives are at risk and the Government and the health and social care partnership have a duty of care and a responsibility to protect individuals in the region, so they must act now.

13:21

The Cabinet Secretary for Health and Sport (Jeane Freeman): Like my colleagues, I thank Willie Rennie for bringing this matter to the chamber and I thank all the members who have contributed so far. I also thank Mr Rennie for his recognition of the professionalism of the health and social care officials and the way in which they have handled the situation, as well as his recognition that what may need to be delivered to meet the needs of citizens in Fife—not just in north-east Fife but across Fife—is not necessarily what has been in place until now. That is a welcome recognition of the fact that, as we move delivery of our health and social care services forward, what has aye been is perhaps no longer the right service to offer people.

Access to urgent primary medical services outside normal GP surgery opening hours is a fundamental part of unscheduled care in Scotland. Around 4,500 patients are seen every month by the Fife out-of-hours service, with around 20 patients being seen between midnight and 8 am every week.

The reason why we have a difficulty with GP shortages in out-of-hours services comes in part from the 2004 contract that GPs signed, which allowed them to opt out of working in the out-of-hours setting. Many of our GPs, as they approach retirement, are using that to opt out of out-of-hours services. Many have retired, and new entrants to general practice have, in the main, chosen not to work out of hours.

One thing that we have touched on in this chamber before is the new GP contract, which reflects one important element—and there are many—in Sir Lewis Ritchie's review of out-of-hours services and care: that out-of-hours services require GP involvement. As well as introducing the important multidisciplinary team, the new GP contract brings GPs into general practice on the basis of a recognition that they are required to contribute to out-of-hours services.

In Fife, the health and social care partnership has taken a number of steps to improve sustainability and resilience. It has introduced new pay scales for GPs, to encourage the uptake of shifts as the norm, and that has steadied the service to some degree. It has moved ahead with the advanced nurse practitioner training programme, training band 5 nurses up to become band 7 advanced nurse practitioners.

Using the out-of-hours funding, the partnership has recruited a further three advanced nurse practitioners to work alongside GPs, and it has a paediatric advanced nurse practitioner. The partnership is also considering the prospect of introducing a salaried GP service as part of the overall GP provision. Tayside has successfully introduced a 65:35 salaried to sessional GP ratio, and the Fife partnership is working with Tayside to see what lessons it can learn. The partnership has also taken on a new GP clinical lead and is considering introducing a GP on-call service, which would involve GPs offering clinical advice at home.

I absolutely understand the concerns that members have expressed and the concerns of people in Fife about the current situation. I do not believe that the consultation was undertaken in such a manner in a deliberate attempt to obfuscate and make it difficult for people to be involved. However, I understand why that is the perception. The issues of out-of-hours services, intermediate care and how we configure primary care and deal with unscheduled care are not unrelated, and it makes sense to look at them in the round. However, with hindsight, we can see that because of the manner in which the consultation was undertaken—coming as it did on the back of the need to reduce out-of-hours services for reasons of clinical safety—it almost inevitably produced some of the serious perceptions that people have. I think that the chief officer in Fife and others recognise that difficulty. They recognise that, although they undertook a number of meetings, effective consultation and engagement are not just about the number of meetings; they are about how easy it is for people to participate.

Liz Smith: Will the cabinet secretary take an intervention?

Jeane Freeman: I will take the member in a second but, before I go any further, I have to say that I am not singling out Fife in that regard. That is an issue across our health service and our health and social care service. I am not being unfairly critical of people, because I think that folks do that work with the best of intentions, but we need to be smarter in understanding how it feels to be asked to participate so that we can make that engagement as genuinely productive as possible. I

am looking at that issue overall, across the service.

Liz Smith: The cabinet secretary has just made some perceptive comments, and she is right that the issue applies across the country and not just in Fife. Does she acknowledge that some of the language that Jenny Gilruth referred to made it all the more difficult for members of the public to understand what was going on? Perhaps that could be considered in future discussions about changes that have to be made.

Jeane Freeman: That is absolutely correct. It is a widespread issue that has been with us for a while. It is about language and how we run consultation events. We need to involve local people in a way that is genuinely meaningful, so that they can have a say. We have to be straight with them that, actually, their having a say does not necessarily mean that we will decide to do what they want us to do, but that we will come back and explain why not. There are examples of that being done very well and examples of it not being done very well.

Ms Gilruth has raised serious issues about when the equality impact assessment was done and so on. I take the issue very seriously. I am sure that Mr Stewart has noticed that at least two members of the health team are quite short, shall we say. Long grass is not particularly attractive to me, because I would disappear inside it—I am not a fan of it. We need to try to move ahead. Notwithstanding the important points about the equality impact assessment and the transport impact assessment, the health and social care partnership undertook the process in a manner that complies with the requirements. It did the options appraisal involving members of the public, produced a consultation document and ran a number of meetings. Therefore, we should not be overly critical of the approach that it took, although we might have positive suggestions to make to it and others about the language that is used and some of the critical elements that need to be put in place.

There is now, of course, a request from St Andrews under the Community Empowerment (Scotland) Act 2015 to have recognition and participation, which was entirely within people's rights to make, and I believe that there has been a request from Glenrothes, too. The St Andrews request was not put to the IJB; it was put, quite rightly, to NHS Fife. NHS Fife needs to look at that and consider it. It has already responded and asked for additional information. In my mind, all of that means that the IJB will not be in a position to make a decision next week, because NHS Fife has to hear, deal with and make a determination on that request in a proper and appropriate manner, without taking too long to do that.

It is also important that the discussions that have begun—I think that there have been three so far—with the GPs in St Andrews continue. As I understand it, the initial proposition from those GPs was not accepted on the basis of clinical advice. Therefore, clinicians are disagreeing with clinicians. That is not unusual; it happens. They need to work that through, because both parties genuinely want to find a resolution that is appropriate for north-east Fife.

I take Willie Rennie's point about how accessible the service in Tayside is in practice. I welcome the fact that the University of St Andrews has acted to produce additional health facilities for students, but they do not provide out-of-hours cover, of course.

A number of issues are being moved on. I have outlined some of the remedial actions, and there are continuing discussions with GPs in north-east Fife. There is now the requirement to treat appropriately and seriously the two requests that have been received under the Community Empowerment (Scotland) Act 2015.

Willie Rennie *rose*—

The Deputy Presiding Officer: We are running out of time, so the exchange has to be about one minute.

Willie Rennie: I welcome the fact that the cabinet secretary has indicated that the partnership will not be in a position to make a decision next week and that further discussions can take place. That is a great opportunity, because there is a willingness to try to find a solution that works. If that is the case, that is very welcome news in east Fife. I hope that the partnership is listening to the minister's advice.

Jeane Freeman: I was informed of the request from St Andrews only very recently. I read the letter that was received and I understand that, as of this morning, Glenrothes area residents forum, I think, made a similar request. My understanding and my reading of the letter that has gone back from NHS Fife to St Andrews is that an exchange of information needs to take place. NHS Fife needs to consider matters and look at what Glenrothes is saying to it, too. That all indicates to me that it is not possible to make a decision in a week's time. I will discuss further with the chief officer of Fife health and social care partnership what needs to be done and what the times might be.

I remind members that, for people who have to travel for the existing provision, the out-of-hours service will offer a home visit if travel is not possible. We should ensure that residents understand that.

Finally, I assure members who have taken part in the debate and others that I will continue to keep a very close eye on the matter in order to ensure that, within the available resource for the challenges that are to be met, we reach a resolution that genuinely meets the needs of residents in north-east Fife and Fife as a whole for adequate out-of-hours services.

13:34

Meeting suspended.

14:00

On resuming—

UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill (United Kingdom Supreme Court Judgment)

The Presiding Officer (Ken Macintosh): Our next item of business is a statement by the Lord Advocate on the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill, referenced by the Attorney General and the Advocate General for Scotland to the United Kingdom Supreme Court. The Lord Advocate will take questions at the end of his statement. I urge those who wish to ask a question, to press their request-to-speak buttons as soon as possible.

The Lord Advocate (Rt Hon James Wolfe QC): This morning, the Supreme Court handed down its judgment on the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill. Members will recall that I made a statement to the Parliament on the introduction of the bill, setting out the Government's analysis of the bill and answering questions on it. I am happy to appear again today and to make a statement on the judgment.

The bill was introduced to ensure that, in any scenario, the Scottish Government and this Parliament would have the tools necessary to prepare Scotland, within their devolved responsibilities, for the legislative consequences of leaving the European Union.

The bill was passed by this Parliament on 21 March. On 17 April, the UK Government's law officers referred the bill to the Supreme Court. That reference meant that the bill could not be presented for royal assent, and, accordingly, could not become law until the reference was determined.

On 20 June, while the reference was pending before the Supreme Court, the UK Parliament passed the European Union (Withdrawal) Act 2018, which received royal assent on 26 June. That act imposes new limits on the legislative competence of this Parliament. In particular, it imposes a new limit that has the effect that an act of the Scottish Parliament cannot now modify the withdrawal act itself, which is now what is called a "protected enactment". The provision that made that change in the law took effect when the withdrawal act received royal assent.

As a result of that sequence of events, the Supreme Court has had to address two issues. First, was the continuity bill within the competence

of this Parliament when it passed the bill? Secondly, has the position been affected by the changes that were made to this Parliament's legislative competence—after it passed the continuity bill—particularly the new limit that prevents an act of this Parliament from modifying the European Union (Withdrawal) Act 2018 itself?

On the first issue, the Supreme Court has concluded that when this Parliament passed the continuity bill, the bill was, with the exception of section 17, within the competence of this Parliament. In reaching that conclusion, the court has confirmed the constitutional analysis that I and the other devolved law officers advanced in our submissions to the court. It has affirmed this Parliament's power, subject to the limits on its competence, to prepare the statute book against the UK's withdrawal from the European Union.

The court has rejected all the submissions that were advanced by the UK Government's law officers on the first issue, with the exception of one argument in relation to section 17. Section 17 would have required the consent of Scottish ministers before certain subordinate legislation made by ministers of the Crown could take effect in Scotland. The court has concluded that that section would modify section 28(7) of the Scotland Act 1998 and would, for that reason, not be within the legislative competence of this Parliament.

On the second issue, the court has rejected the submission by the UK Government's law officers that the coming into force of the European Union (Withdrawal) Act 2018 means that the whole continuity bill is now outwith the competence of this Parliament.

However, the court has concluded that, as a result of the new limit on the legislative competence of this Parliament that has been imposed by the withdrawal act, certain provisions of the continuity bill may not now become law. That was a new limit on this Parliament's competence, which was imposed after the continuity bill was passed and which is contained in the withdrawal bill—a bill to which this Parliament did not consent.

The court has concluded that the following provisions in the continuity bill would modify provisions in the withdrawal act and, for that reason, cannot now become law: section 2(2), section 5, parts of section 7, section 8(2), sections 9A and 9B, parts of section 10, section 11 and certain other provisions in so far as they apply to, or refer to, section 11, section 26A(6), and parts of section 33 and schedule 1. Had the continuity bill become law before the withdrawal bill received royal assent, all those provisions would have survived.

Of those provisions, members will note, in particular, section 5, which would have preserved the charter of fundamental rights in domestic law, and section 11, which would have given the power to fix deficiencies in retained devolved EU law. As a result of the new limits that have been imposed on this Parliament by the withdrawal act, neither of those provisions can now become law, at least in their current form.

The Scottish Government will consider ways in which the values that are reflected in the charter of fundamental rights can continue to be given effect in Scots law, should the UK leave the European Union. As members are well aware, the Scottish Government is fulfilling—and will continue to fulfil—its responsibilities to ready the statute book for withdrawal from the European Union, using the powers in the withdrawal act.

On the other hand, the provisions of the continuity bill that can become law, now that we have the Supreme Court's judgment, include the powers in section 12 in relation to international obligations, the powers in section 13 to "keep pace" with EU law after exit day and the provisions in section 26A on environmental principles, except the part of section 26A(6) that deals with the approach to the interpretation of those principles.

The Scottish Government accepts the judgment of the Supreme Court in its entirety. The Government will wish to consider the terms of the judgment carefully, and I understand that the Cabinet Secretary for Government Business and Constitutional Relations intends to have discussions with all parties across the Parliament before determining the way forward.

The Presiding Officer: The Lord Advocate will now take questions on his statement.

Adam Tomkins (Glasgow) (Con): I thank the Lord Advocate for early sight of his statement, and I look forward to the discussions between the cabinet secretary and the parties to which the Lord Advocate referred.

Today's Supreme Court ruling is a clear, unambiguous and unanimous judicial vindication for those of us who considered the Scottish National Party's so-called continuity bill to be unlawful.

The Minister for Public Health, Sport and Wellbeing (Joe FitzPatrick): Absolute nonsense.

Adam Tomkins: As one, the Supreme Court has today ruled that it would be contrary to law for the bill, as passed by Parliament, to proceed to royal assent.

Joe FitzPatrick: That is not what it said.

The Presiding Officer: Order, please.

Adam Tomkins: During the continuity bill's passage through Parliament, numerous Scottish Conservative amendments—some in my name and some in my colleagues' names—sought to amend the bill, so that it would be compatible with, not an unlawful modification of, the EU withdrawal act. Those amendments were rejected by Parliament and, as such, the UK Supreme Court has eviscerated the continuity bill, leaving it in tatters. Everything in the bill that is incompatible with the withdrawal act—page after page after page—has been removed by the Supreme Court.

What is left? Is it not the case that all that remains of the always unnecessary bill are provisions that simply, and wholly needlessly, repeat or replicate provisions of the withdrawal act? As such, is it not the case that there is no need for Parliament to reconsider any of the bill? Parliament should bin it.

The Lord Advocate: I will confine my remarks to the legal aspects of the member's questions; and I will leave political comment to others.

Adam Tomkins: This is the Parliament.

The Lord Advocate: As I explained in my statement, it is important to look at the bill in two stages, as the Supreme Court has done. It is clear that when Parliament passed the bill, the bill in its entirety—with the exception of one section—was within the competence of this Parliament. In the reference, the UK law officers mounted a wholesale attack on the bill. With the exception of the argument about that single section, the attack was comprehensively rebuffed.

After the Scottish Parliament passed the bill—a bill, which had it then come into force, would, with the exception of section 17, have been entirely within the competence of the Parliament—the UK Government invited the UK Parliament to pass the EU (Withdrawal) Act 2018. That was an act to which the Scottish Parliament did not give its consent. That act contains new limits on the powers of the Scottish Parliament and, in particular, makes the withdrawal act a protected enactment.

Jackson Carlaw (Eastwood) (Con): As it always was.

The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney): Just listen. You are being rude.

The Lord Advocate: That particular provision came into force on royal assent as a result of an amendment made to the EU (Withdrawal) Bill—as it then was—at report stage. As a result of that particular limitation, certain provisions of the bill can now no longer come into force. That leaves important provisions—including the keeping pace power, the environmental principles and the

provisions in relation to international obligations—in place. Importantly—this is an important constitutional judgment—the constitutional analysis that I, along with the other devolved law officers, advanced in relation to the devolution settlement was comprehensively sustained by the UK Supreme Court.

The Presiding Officer: Before we proceed, I am conscious that the Lord Advocate has been caught in a bit of crossfire. If SNP members are going to heckle during the questions, it is difficult for me to prevent the Lord Advocate from being heckled in return.

The Cabinet Secretary for Government Business and Constitutional Relations (Michael Russell): No, it is not.

The Presiding Officer: I say to the cabinet secretary that the two cabinet secretaries on the front bench are among the worst offenders: you are having a dialogue with the front bench of the Conservative Party, over the Lord Advocate's comments. We might possibly have a better exchange if we allowed the questions to be asked and the answers to be given. I live in hope.

Neil Findlay (Lothian) (Lab): As always, I will conduct myself impeccably, Presiding Officer. *[Laughter.]*

After the week that the Tories have had, I would have thought that Mr Tomkins would have been better to add some humility to his approach, rather than such arrogance.

I thank the Lord Advocate for advance sight of his statement. Scottish Labour, along with the Liberals and the Greens, worked on the continuity bill alongside the Scottish Government. We shared the Government's ideas and lodged amendments to improve the bill. That work was done constructively, positively and in good faith and we will continue to work in that way to bring about the best outcome from the court's ruling.

As a result of the subsequent legislation, the court has ruled out important elements of the continuity bill. Will the Lord Advocate advise Parliament what action the Government proposes to take to make the legislation compliant? Crucially, can he tell us what the timescale is for doing that?

No one—certainly not me—questions the integrity of either the Lord Advocate or the Presiding Officer. However, in light of the ruling, has the Government been advised whether the office of the Presiding Officer intends to make a statement on the advice that he was given and that was subsequently given to Parliament?

Last week, the UK Government was held in contempt of Parliament for failing to publish legal advice that it received on an issue of huge

constitutional significance. The Scottish National Party supported—very vocally—the call for publication of that advice. In light of that, will the Lord Advocate and the cabinet secretary support a statutory commitment to publish legal advice to the Government on areas of major constitutional change, so that the public is made aware of such advice and can see and scrutinise it? I am sure that the cabinet secretary and his party would not wish to be accused of hypocrisy or having double standards in that regard.

The Lord Advocate: I am grateful to Mr Findlay for that question. He was right to acknowledge at the outset that, in this case, the rules by which competence is judged changed after the Parliament passed the bill.

I understand that the cabinet secretary, Michael Russell, intends to enter into discussions with parties on the way forward next week. As a matter of the Parliament's standing orders, it is open to the member in charge to bring the bill back to this Parliament for reconsideration with a view to bringing it into compliance with the Supreme Court's ruling. The cabinet secretary will wish to discuss with other parties whether that is the right way forward—notwithstanding all the things that have happened since the bill was passed by this Parliament—or whether another way forward is right.

On the final question in relation to legal advice, members of this Parliament are well aware of the long-established principle that legal advice is not normally published. Although it is not for me to speak for him, I understand that the cabinet secretary will be happy to discuss that with the member further.

Bruce Crawford (Stirling) (SNP): The Scottish Parliament, unlike the UK Parliament, decided to keep the charter of fundamental rights after EU exit. It did so, in order that human rights protections would not suffer because of Brexit. Is my reading of the judgment correct—I think that the Lord Advocate has just confirmed this in his statement—that the Supreme Court decided that we were entitled to do just that? However, by passing the withdrawal act, the UK Parliament has overridden that decision and has struck down parts of the continuity bill, particularly, as I said, those regarding the charter of fundamental rights. It is an absolute disgrace that we are in this situation.

The Lord Advocate: The member's analysis is correct. When this Parliament passed the continuity bill, the provision that preserved the effect of the charter in domestic law was within the competence of this Parliament. As a result of the provision in the withdrawal act to the effect that the charter shall not form part of domestic law on

withdrawal from the EU, that provision in this Parliament's bill can no longer take effect.

Donald Cameron (Highlands and Islands) (Con): I refer members to my entry in the register of members' interests—I am a member of the Faculty of Advocates.

The Lord Advocate made reference in his statement to the new limit on legislative competence that was imposed after the continuity bill was passed. Was the Scottish Government aware that, when the European Union (Withdrawal) Bill was introduced to the UK Parliament on 13 July 2017, it contained a clause that specifically amended the Scotland Act 1998 and inserted the bill as a protected provision? As a result, does he agree that the intentions of the UK Government in relation to that point were open, explicit and clear from July 2017?

The Lord Advocate: The UK Government's withdrawal bill contained such a provision when it was introduced to Parliament. However, in the state of the bill at that time, that provision was to come into force by virtue of a commencement order. In bringing forward the continuity bill, the Scottish Government proceeded on the basis that, if this Parliament withheld its consent from the EU withdrawal bill, the conventional approach, reflected in the Sewel convention, would be applied. At a late stage in the passage of the withdrawal bill—at report stage in the House of Lords on 2 May 2018—the Advocate General for Scotland moved what he described as

“a series of very complex and extensive amendments to the bill.”—[*Official Report*, House of Lords, 2 May 2018; Vol 790, c 2163.]

Those included the provision that brought the particular provision on royal assent into force. The coming into force of that provision on royal assent was the critical change to the limits of legislative competence, which has led to the decision of the Supreme Court this morning.

Keith Brown (Clackmannanshire and Dunblane) (SNP): Although it is possible to look in wonder and laugh at the verbal contortions of barrack-room lawyers who questioned the bill's competence and are now desperately pretending that the Supreme Court has vindicated them, what has been said has serious implications. My question relates to Bruce Crawford's point on human rights, as well as to the programme of statutory instruments that the Parliament is considering. As the Lord Advocate will be aware, we are having to agree statutory instruments without seeing their content in advance. Does the ruling have any implications on that work and on that process?

The Lord Advocate: I do not think that it will have a direct impact. As the member—indeed, all

members—will be well aware, the Government has, as any responsible Government is required to, been carrying out work with a view to readying the statute book against withdrawal from the European Union. It has been using powers in the withdrawal act to that effect and, where appropriate, co-operating with the UK Government to that end. That necessary programme of work is on-going and will continue, and I do not see the Supreme Court's decision having any immediate impact on it.

James Kelly (Glasgow) (Lab): One of the difficulties for parliamentarians at the outset of consideration of the continuity bill was that the Presiding Officer and the Lord Advocate, on behalf of the Government, took different views on legislative competence. Has any consideration been given to learning the lessons from what happened by, for example, reviewing the processes and the communication between the two legal teams to try to avoid the Parliament and the Lord Advocate, on behalf of the Government, coming to different legal opinions in future?

The Lord Advocate: As I said in the statement that I made when the continuity bill was introduced, it is important to recognise that the Presiding Officer and I have separate and important constitutional functions in relation to the introduction of any Government bill. Each of us has to approach those functions with care, and I know that, in this case, the Presiding Officer approached the issue with great care and integrity.

In the course of the discussion on my previous statement, I said that the legal issues with which we were dealing in relation to the bill were ones on which reasonable legal minds could disagree. The Presiding Officer formed a judgment, as he is required to do by statute, and I formed mine, as I am required to do by statute. In the normal course of events, discussions take place between the parliamentary authorities and lawyers for the Scottish Government about any Government bill that is introduced to identify any issues and consider whether they can be resolved. I think that parliamentarians may take some comfort from the fact that, as far as I know, this is the first time in the history of this Parliament that the Presiding Officer and the Government have taken different views on a bill's competence.

The process works well as a matter of routine. It was followed in this case, but, in this case, the difference of view was not resolved. That is bound to happen from time to time when, as we do, we have to deal with what are sometimes difficult legal questions.

Patrick Harvie (Glasgow) (Green): Given the UK Government's actions and intentions—intentions that, in my view, were not only clear but clearly malign—I think that the Parliament has a

responsibility to try to give effect to the improvements that were made during the scrutiny and passage of the bill. In particular, we need the Lord Advocate's advice on how best that can be achieved.

In relation to environmental principles, section 26A survives the judgment, with the exception, as the Lord Advocate has said, of subsection (6). However, that subsection is the only link to the environmental principles set out in the EU treaty and their interpretation by the European Court. In the Lord Advocate's view, is it possible to replace or restore that link in some other way? If we cannot, we risk having an environmental principles section in the continuity bill that could be as vague and woolly as that in the European Union (Withdrawal) Act 2018.

The Lord Advocate: As I said in my statement, the Government will consider the terms of the judgment carefully and will wish to discuss the way forward with all parties across the chamber. I saw the judgment for the first time this morning, as other members did, and I hope that the member will forgive me for not offering a snap legal opinion on the particular and interesting question that he raises.

Tavish Scott (Shetland Islands) (LD): I thank the Lord Advocate for advance sight of his statement. The judgment confirms that the Scottish bill, as a whole, was not outside the legislative competence of the Scottish Parliament when we voted it through. What is more, the difference between the situation before and the situation after the passage of the UK act gives weight to the view that the UK reduced the powers of this Parliament.

Does the Lord Advocate agree that the UK Government needs to learn from this and make sure that if Brexit does indeed go ahead, the devolved Administrations are fully involved in developing UK-wide frameworks with proper dispute-resolution mechanisms? Will he confirm that section 13 of the continuity bill, on keeping pace with EU law, can be implemented without those sections of the bill that the Supreme Court says have been overtaken by the UK act?

The Lord Advocate: On the first point, the Government's position is on record. As a law officer I am obviously concerned that the constitutional arrangements under which this Parliament and this Government operate are followed. It is satisfying that the constitutional analysis that was put forward by the three devolved law officers has been accepted by the Supreme Court in its judgment. The member is correct that the keeping pace power would not be outwith competence were it now to become law.

Clare Adamson (Motherwell and Wishaw) (SNP): The Presiding Officer ruled that the continuity bill was outwith the Parliament's competence because the Parliament is

"bound to act compatibly with EU law until such point as the Treaties cease to apply."

He further said:

"this prevents the Parliament from exercising legislative power now, even though it assumes it will be legally able to act in the future."

Did the Supreme Court judgment agree with the Presiding Officer's ruling?

The Lord Advocate: As I said in my answer to another question, and as I acknowledged when the Parliament met in February, the question on which the Presiding Officer and I disagreed was one on which reasonable legal minds could disagree. As we both acknowledged in our respective statements, only the court could finally and authoritatively decide that issue, or the other legal issues that arise in relation to the bill. On that particular issue, the Supreme Court has preferred the arguments that I advanced. That should not be taken as a criticism of the Presiding Officer, who has a responsibility to exercise his judgment on the legal issues that arise in the context of bills such as the continuity bill.

Jamie Greene (West Scotland) (Con): Today's ruling not only vindicates the Presiding Officer's decision to question the competence of the bill, or parts of it, but should serve as a reminder to all of us, as legislators, that when we rush legislation through the Parliament, this is where we end up. The Lord Advocate has stated that the Scottish Government will accept the judgment in its entirety and, in answer to a previous question, has stated that there is a possibility that the bill may be brought before the Parliament again in some shape or form. If that is the case, does the Lord Advocate believe that the bill should be subject to the normal, robust three-stage process, with the due scrutiny that every bill that goes through the Parliament deserves, rather than the emergency procedure that rushed the bill through the Parliament in March this year?

The Lord Advocate: As I said earlier, when this Parliament passed the bill, it was, with the exception of one provision, within the competence of the Parliament. The rules changed after the Parliament passed the bill. As to the process that should be followed in any reconsideration or in any future process, that is entirely a matter for the parliamentary authorities. It would not be appropriate for me to comment on that.

Stuart McMillan (Greenock and Inverclyde) (SNP): The Lord Advocate has mentioned on a couple of occasions the amendment that was made on 2 May to make the UK bill a protected

enactment. Did the UK Government make it clear at that time what the effect of that would be on the continuity bill or did it wait until the matter was in the Supreme Court?

The Lord Advocate: When the amendment was made to the withdrawal bill, it formed one of a number of amendments that were presented to the House of Lords as

“a series of very complex and extensive amendments to the bill.”—[*Official Report*, House of Lords, 2 May 2018; Vol 790, c 2163.]

The issue that the member identified was not specifically drawn to the attention of the House of Lords.

Pauline McNeill (Glasgow) (Lab): Does the Lord Advocate agree that it is largely an important decision for devolution in this Parliament that, but for those sections and the withdrawal bill, the continuity bill would have survived. As the judgment says, the court rejected all the UK Government law officers’ arguments, except for that on section 17. Does he agree that that is an important constitutional point for devolution?

Could the Lord Advocate provide a preliminary view on whether section 12, on international obligations, provides scope for the replacement of section 5, which—as has been mentioned—has reference to the charter of fundamental rights in domestic law, without which many people who have substantial rights flowing from it could lose out? Could section 12 provide an alternative, and is there an alternative to it?

The Lord Advocate: On the member’s first point, I agree that it is an important legal judgment for the devolution settlement. There is a lot in the fundamental analysis that the court has identified that will be important for this Parliament and for both this Government and the UK Government going forward.

I hope the member will forgive me if I do not give a snap view on the specific point on the use of section 12. As I said in my statement, the Scottish Government will consider ways in which the values that are reflected in the charter can continue to be given effect in Scots law should the UK leave the European Union. There may be various ways in which that might be done.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): The UK Government has lost the Gina Miller case over triggering article 50; it has lost the case brought by Scottish parliamentarians over the revocability of article 50; and now it has lost this case, over whether the Scottish Parliament can choose its own path through the mess of Brexit. Can the Lord Advocate confirm that the UK Government has effectively lost three important pieces of Brexit litigation?

The Lord Advocate: I think that the record speaks for itself when it comes to the decisions of the various courts that have ruled on issues arising from Brexit. It is undoubtedly true that the withdrawal from the European Union has thrown up a number of difficult, important and serious constitutional issues, which have found their way into the courts, and the courts have issued the rulings that they have.

Mike Rumbles (North East Scotland) (LD): The Supreme Court has said that section 17, the key section of the bill, is outwith the competence of the Scottish Parliament and that it always was. That means that the bill could not have received royal assent on that point alone. We have a politically independent Presiding Officer in our Parliament who, on legal advice, ruled that the bill was not competent. Does the Lord Advocate not accept that it was a mistake to ignore the Presiding Officer’s ruling on competence and to advise the Government to press on with the bill without amendment?

The Lord Advocate: The question of the significance or otherwise of section 17 is a matter on which opinions could differ. It certainly does not go to the heart of the bill in terms of securing legal continuity. Without that section, the remainder of the bill stands in its entirety.

I think that what can be said is that, in the reference, the UK law officers mounted a wholesale attack on the bill in its entirety and, with the exception of that single argument in relation to that single section, the attack has been rebuffed.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): On a point of order, Presiding Officer. Mr Findlay correctly said that, for every bill, you provide a point of view on whether the bill falls within or outwith the competence of the Parliament. I am confident that, in reaching your conclusion on the continuity bill, you would have taken appropriate advice.

Paragraph 7 of the judgment says:

“the Presiding Officer opined that the Scottish Parliament could not seek to exercise competence before that competence had been transferred to it”.

Paragraphs 82 and 83 lay out the respective positions of the UK Government and of the Lord Advocate. However, paragraph 85 states:

“Prospective legislative provision for the consequences of the repeal of the 1972 Act, which has no legal effect until such repeal, entails no modification of that Act. The challenge under section 29(2)(c) of the Scotland Act therefore fails.”

Presiding Officer, given that it has been the judgment of the Supreme Court that we may, in future, legislate for foreseeable events, will you consider—you will not wish to respond immediately, because it is probably a complex

issue—whether, in future, it would be appropriate to take advice that might lead to a different conclusion on another occasion?

The Presiding Officer: I thank Mr Stevenson for his point of order. I am interested to note that he not only asked a question but answered it, which was very helpful. [*Laughter.*]

Mr Stevenson is right: the advice that I offer is offered to all members; it is not offered in support of or in opposition to a bill. It is advice that is taken impartially. It is not a court ruling—the court ruling has been made by the Supreme Court. As Mr Stevenson accurately points out, it will be for me and officials to consider the matter in some depth, which we will do.

I thank the member for his point of order, and I thank all members and the Lord Advocate for the statement and questions.

Demonstrating Leadership in Human Rights

The Deputy Presiding Officer (Linda Fabiani): The next item of business is a debate on motion S5M-15126, in the name of Christina McKelvie, on demonstrating leadership in human rights.

14:38

The Minister for Older People and Equalities (Christina McKelvie): It gives me great pleasure to open this debate. As 2018 draws to a close, it is appropriate for the Parliament to reflect on the state of human rights not just in Scotland but across the United Kingdom, in Europe and internationally.

The sad truth is that, around the world, human rights remain under daily threat. We see the suffering of ordinary people in Syria and Yemen continuing unabated. The lives of children, families, men and women are treated as no more than “collateral damage”. The Rohingya people have been ignored and abandoned by the international community, and those who dare to challenge global injustice do so at genuine risk to their lives. The cold-blooded murder of Jamal Khashoggi horrified the world. His case gained international attention, but he was only one of more than 30—yes, 30—journalists who have been murdered in 2018. Human rights defenders from all walks of life in every country face daily threats in order to safeguard fundamental freedoms. They are entitled to not just our respect, but our gratitude.

Nearer home, in the context of our daily lives, we have a personal responsibility to act in solidarity to respect, protect and realise the rights of everyone in our society. Every person in Scotland who goes hungry, is homeless or is denied dignity or equality is a person whose rights are being denied. We are all entitled to those rights and many more.

On Monday this week, the Universal Declaration of Human Rights was 70 years old. Its formal adoption by the United Nations General Assembly on 10 December 1948 was a momentous achievement for humanity. Just 30 articles long, it set out for the first time the fundamental human rights that belong to all people, everywhere and in all circumstances. Emerging from the brutality of world war two, the universal declaration recognised that

“disregard and contempt for human rights”

had

“resulted in barbarous acts which have outraged the conscience of mankind”.

The United Nations was clear that such crimes must never be repeated and that the rights that were articulated in the universal declaration should be cherished and universally protected.

Over time, the values and rights that were set out in the universal declaration were translated into international law through a framework of human rights treaties and conventions, and those values have, in turn, become central to the values that we share across the chamber.

As well as the 70th anniversary of the universal declaration, 2018 marks the 20th anniversary of the Human Rights Act 1998 and the Scotland Act 1998. It is no exaggeration to say that those two domestic statutes have transformed human rights in Scotland. In a radical departure from the Westminster model, the Scotland Act 1998 ensures that acts of this Parliament are “not law” if they are in breach of rights that are derived from the European convention on human rights. The Human Rights Act 1998 requires every public authority in Scotland to act compatibly with those same fundamental rights and it enables human rights cases to be pursued in the Scottish courts.

This Parliament has repeatedly recorded its support for those vital constitutional protections. ECHR rights are now at the heart of how Scotland’s public institutions conduct their business—not just as an aspiration or a moral imperative, but as a matter of law.

However, the Scottish Government wants to go further. We believe that Scotland should act to give even clearer domestic effect to the full spectrum of international human rights—economic, social and cultural as well as civil and political. Our approach to social security provides a prime example. The way that we understand social security—as a right, not a privilege and as an enabler, not a deficit—stands in stark contrast to UK Government welfare reforms. Universal credit has now gone live for all new claimants in Scotland and I am gravely concerned about the impact that it will have.

Those concerns are widely shared. Professor Philip Alston, the UN special rapporteur on extreme poverty and human rights, was brutally honest in his assessment following his 11-day visit to the UK in November. In his view, the UK approach is

“punitive, mean-spirited and often callous”

and is unnecessarily inflicting “great misery”. In Scotland, though, we are determined to do things differently. We are building a system with dignity, respect and human rights at its heart. Crucially, we have recognised that social security is not just a right in itself, but essential to the realisation of other fundamental human rights.

Oliver Mundell (Dumfriesshire) (Con): Will the minister commit today to addressing all the issues that the UN rapporteur set out for the Scottish Government in relation to the social security system in Scotland?

Christina McKelvie: Absolutely. We have taken seriously all the recommendations in Professor Alston’s report and we are looking at how we can give effect to them.

We have also recognised that human rights are not just about what we do, and how we do things is every bit as important. That is why I am proud, too, of the new social security charter—a clear, accessible document that explains people’s rights in relation to the new system. It provides a practical guide to the standards that we need to achieve and the standards that ministers will be held to account for delivering. It was developed not by civil servants or politicians working in isolation, but by rights holders themselves—by people with direct personal experience of why the right to social security is so important.

I hope that members will forgive me for focusing on social security. It is a subject that is close to my heart. However, it is just one example of how the Scottish Government’s priorities and activities are focused on enabling people to realise their human rights. We are also tackling poverty and inequality and building a fairer and more inclusive Scotland. We are promoting fair work and are developing a fair work action plan to embed good practice in Scottish workplaces by 2025. We are committed to advancing equality throughout society.

Daniel Johnson (Edinburgh Southern) (Lab): I agree with the minister that fair work is very much a human right. Does she think that zero-hours contracts are compatible with that human rights-based view of work?

Christina McKelvie: The Scottish Government has a clear view on exploitative zero-hours contracts, so I think that the member and I would be in agreement on that point.

The Government has articulated in words and actions our vision for the future. We have a clear understanding of where we want to go and the values that will guide us.

I was delighted that, on Monday—which was human rights day and the 70th anniversary of the Universal Declaration of Human Rights—the First Minister was able to announce the setting up of a new national human rights task force. It will take forward the recommendations that were published on Monday by the First Minister’s advisory group on human rights leadership, which include proposals for a new act of the Scottish Parliament to create a comprehensive human rights framework for all of the people of Scotland.

The ambitious vision that the advisory group has set out is intended to finally bring home all the rights that are set out in the international human rights treaties. The proposal is to set out civil, political, economic, social, cultural and environmental rights together, for the first time, in a single, coherent statute.

Clare Adamson (Motherwell and Wishaw) (SNP): Section 2(e) of article 24 of the United Nations Convention on the Rights of the Child says that states parties should

“ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents”.

As convener of the cross-party group on accident prevention and safety awareness, I am keenly interested in that provision. Can the minister tell me how the Government is going to support the prevention of accidents?

Christina McKelvie: I thank the member for her intervention and for her tireless work on the cross-party group. Promoting and ensuring the safety and wellbeing of children and young people is a huge part of the work that we do in Government and in this Parliament. It is something that schools, social workers, community education, the police, health professionals, voluntary organisations, youth groups and many others deliver on a daily basis. Parents, carers and young people themselves have a special role to play in keeping everyone safe, and I am happy to acknowledge the importance of that work and of that article.

At the same time as we are involved in the work that I have outlined, we will take forward our existing programme for government commitment to incorporate the principles of the UNCRC. We will consult on proposals in 2019. I welcome the Liberal Democrats’ support for our action on children’s rights—

Alex Cole-Hamilton (Edinburgh Western) (LD) *rose*—

Christina McKelvie: —and we are happy to support their amendment today. [*Laughter.*] It seems that I might have pre-empted Mr Cole-Hamilton. If he lets me finish, I might just make him happy.

I am sure that Mr Cole-Hamilton will acknowledge in his speech the significant progress that we have made and are committed to making on children’s rights, including on the incorporation of the principles of the UNCRC. He will be aware that the Minister for Children and Young People has already made clear that this Government will build on the consensus achieved today around legal reform for the future. In doing

so, we will of course consider carefully any and all comments that are made by the UN Committee on the Rights of the Child, noting that its draft general comment seeks to encourage states to increase the minimum age of criminal responsibility to 14. I am sure that Mr Cole-Hamilton is smiling behind me, but I am running out of time and I want to get to my conclusion.

Respecting, protecting and fulfilling human rights is not just a job for Government. That is why I also commend the Equalities and Human Rights Committee on the publication on 26 November of its report and recommendations. “Getting Rights Right: Human Rights and the Scottish Parliament” is an impressive and comprehensive piece of work that presents practical proposals and well thought-out recommendations, and we will respond to it in due course.

I know that I am running out of time, Presiding Officer, and I do not want to get that look that you sometimes give people.

I began on a note of pessimism with a recognition that the ideals of the Universal Declaration of Human Rights remain at risk. The “barbarous acts” that it speaks of continue to outrage the collective conscience of decent people the world over. However, I want to end on a positive theme. Challenges confront us and we need to strive harder, here in Scotland and on the international stage, to realise the vision that is enshrined in the UN declaration. Scotland has its own, unique contribution to make to that.

In recent weeks, we have been presented with two detailed prescriptions for change, and we will begin 2019 with not just a commitment to continue Scotland’s human rights journey, but specific proposals to carry forward. I therefore ask this Parliament to reaffirm its commitment to the fundamental principles and common values that are expressed in the Universal Declaration of Human Rights. Those principles are at the centre of Scotland’s shared ambition as a nation: an ambition to create a Scotland where every member of our society is able to live with human dignity, and where the universal human rights that belong to us all finally become embedded in every aspect of our daily lives.

I move,

That the Parliament reaffirms its long-standing commitment to human rights and human dignity and to the principles of equality, democracy and the rule of law; notes with approval that 2018 is the 70th anniversary of the adoption by the UN of the Universal Declaration of Human Rights; further notes similarly that Scotland has enjoyed 20 years of the vitally-important human rights safeguards that are contained in the Human Rights Act 1998 and the Scotland Act 1998; expresses its wish that all of Scotland should work in concert to promote and vindicate human rights for all, keeping pace with progressive international standards and demonstrating global leadership; notes the

publication on Human Rights Day 2018 of the report and recommendations of the First Minister's Advisory Group on Human Rights Leadership; welcomes the report and recommendations of the Equalities and Human Rights Committee, which was published on 26 November 2018, following the human rights inquiry that it carried out, and agrees that the Scottish Government should now take action, in partnership with civil society, the Parliament and all parties, to ensure that Scotland continues to lead by example across the full spectrum of civil, political, economic, social, cultural and environmental rights.

14:50

Annie Wells (Glasgow) (Con): Monday 10 December was human rights day—the anniversary of the day in 1948 when the United Nations General Assembly adopted the Universal Declaration of Human Rights. It is significant that this year we mark the 70th anniversary of that milestone document, which proclaimed the rights to which all human beings are entitled, regardless of

“race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

The declaration, which established the equal dignity and worth of every person, has become the most-translated document in the world, and has empowered us all to stand up for our rights and those of others. By acknowledging the significance of the Universal Declaration of Human Rights and marking human rights day on its 70th anniversary, we reaffirm the beliefs that were set out 70 years ago.

The United Kingdom has a proud tradition of respect for human rights and of changing our country for the better.

Daniel Johnson: I agree with what Annie Wells said about the declaration. Does she agree that other international institutions are also important—for example, the European Court of Human Rights?

Annie Wells: I absolutely agree, and the Scottish Conservatives are committed to the country remaining a signatory to the European convention on human rights.

In 1950, the UK signed the European convention on human rights—an international human rights framework that enshrines basic rights, including the right to freedom of expression and the right to a fair trial, and which established the European Court of Human Rights to interpret, as required.

The Human Rights Act 1998 made the ECHR part of domestic law, which means that anyone who is resident in the United Kingdom can use the legislation in courts of law to defend their rights. It compels public organisations to treat everyone equally, and with fairness, dignity and respect. As I

said, the Scottish Conservatives are committed to our remaining a signatory to the ECHR and to our continued membership in that regard, which is why I lodged the amendment. Human rights should be embedded in the day-to-day business of government, and Scotland and the rest of the UK should continue to lead by example.

Since the Universal Declaration of Human Rights was signed 70 years ago, there have been a huge number of positive steps. Just in my time as a member of the Scottish Parliament, I have had the pleasure of being able to support lesbian, gay, bisexual, transgender and intersex inclusive education and the Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill, which were milestones in progressing human rights in this country.

Although there is no doubt that Britain is a more inclusive society than it was at the time of the declaration, we must always work to progress and maintain the rights and protections that we enjoy. There are key areas in which I would like to see change. First, we must focus on gender equality, by taking serious action on gender-based violence, sexual harassment and the practice of female genital mutilation in this country.

We must continue to challenge modern slavery. There was a big rise in human trafficking cases in Scotland in 2017, which were up more than 40 per cent on the previous year.

We must continue to improve LGBTI rights and focus on support in education and making sure that mental health support is always available when it is needed. We must also continue to focus on achieving parity between physical health and mental health. Despite what feels like a major shift in attitudes to mental health, for many people everyday stigma continues, in particular in the workplace.

In the context of education, the work of the cross-party group on autism has opened my eyes to the struggles of pupils with additional support needs. That is something that I will pursue.

Human rights have not only changed our country; they have given us a long-standing responsibility to defend people's rights across the world. All rights that are set out in the UN Declaration of Human Rights and in international law are of equal importance, but there are issues that must be prioritised.

Modern slavery continues to be one of the great human rights challenges of our time. If all enslaved people were brought together in a single country, it would be the 34th most populous country in the world, ahead of Poland and Canada. That is simply not acceptable in the 21st century. With the aim of eradicating it through concerted and co-ordinated global action, the UK

Government last year called on countries all around the globe to endorse its call to action to eliminate modern slavery, with total development spending to tackle it increasing to £200 million.

It also remains our duty to end inequality and discrimination around the world. Despite the belief that is shared by many people at home that all people should be able to live in dignity and free from violence and discrimination, regardless of their sexual orientation or gender identity, far too many people across the world live in persecution. As I highlighted in the debate marking 16 days of activism against gender-based violence, one in three women across the world is still experiencing gender-based violence. When it comes to LGBTI rights, homosexuality remains illegal in over 70 countries.

I am pleased to see the Foreign Office's focus on gender with the appointment of the first-ever special envoy on gender equality, and the setting up of the equal rights coalition, which is a group of 35 countries that are committed to working together on LGBT equality. Of course, there is still much to be done.

I am pleased, too, that Scotland is leading the way when it comes to human rights abroad. Earlier in the year, I welcomed the setting up of the Scottish human rights defender fellowship—a partnership that will see international human rights campaigners come to Scotland to study at the University of Dundee and build relationships with Scottish human rights and equalities organisations.

To close, I again mark my support for human rights day. I welcome the great progress that has been made on many fronts in relation to protecting and enhancing human rights, but I recognise the need to do much more—not only here in Scotland, but all round the world.

Through the debate today, we send many powerful messages as a Parliament, which is a hugely positive step when it comes to highlighting our leadership on human rights. That is a message that we must continue to send. I am committed to doing everything that I can in that regard.

I move amendment S5M-15126.1, to insert after “carried out,”:

“and notes the balance of support within the committee for the report's conclusions.”.

14:57

Mary Fee (West Scotland) (Lab): I am grateful for the opportunity to open this important debate for Scottish Labour. Scottish Labour is happy to support the Government motion and the Liberal Democrat amendment. I ask for support for the

amendment in my name, which highlights the findings of the First Minister's advisory group. That group highlights the fragility of human rights protection, in that

“too many people are not enjoying their rights”,

and

“in too many places services are not meeting needs”.

My and colleagues' contributions will expand on that.

On Monday, the First Minister's advisory group on human rights leadership published its long-awaited report. It was fitting that it was published on Monday, because that was the 70th anniversary of the United Nations Universal Declaration of Human Rights.

I fully welcome the advisory group's proposal to introduce a human rights bill to the Scottish Parliament. However, we must be conscious of the need to ensure that the bill is not just symbolic. A human rights act for Scotland must be a practical and enforceable piece of legislation that enshrines human rights in Scots law. As elected representatives, it is our duty to ensure that human rights are embedded in our policy-making process. It is also the duty of members of Parliament to adopt a more proactive approach in assessing the human rights implications of proposed legislation. In Scotland, I believe that we must be more reflective and self-critical of our approach to human rights.

We must be honest about the highly concerning rise of racism, Islamophobia and other forms of discrimination. Article 14 of the Universal Declaration of Human Rights states that every person

“has the right to seek ... asylum from persecution”

and from oppression.

It is true to say that Scotland has welcomed people who seek asylum and who are fleeing some of the world's most oppressive persecution. However, it is also true to say that after arriving in Scotland, asylum seekers are regularly subjected to substandard housing conditions and are faced with the threat of eviction. In circumstances where asylum seekers are forced into destitution with no recourse to public funds, they have no support from state services.

For example, in Glasgow, there is only one night shelter that provides emergency accommodation for destitute asylum seekers. It provides accommodation for 35 males, but has no facilities for destitute women asylum seekers. The night shelter is provided by a charity that is run by volunteers, and gets no support from the local authority or the Scottish Government. We might meet our basic human rights obligation to protect

individuals' right to seek asylum in Scotland, but not only can we do better—we must do better.

In relation to disability rights, article 1 of the Universal Declaration of Human Rights states that

“All human beings are born free and equal in dignity and rights.”

However, that is not the reality for Scots living with complex and often multiple disabilities. From Lockerbie to Lochinver, the lack of changing places toilets throughout Scotland is unacceptable.

Oliver Mundell: I thank Mary Fee for giving that shout out to Lockerbie. Will she join me in welcoming the new changing places toilet at Johnstonebridge service station and the plans that are under way to explore creating one in Lockerbie itself?

Mary Fee: I absolutely welcome the progress that has been made in the provision of changing places toilets, and I congratulate the service station that Oliver Mundell mentioned for installing one. However, the lack of access to adequate toilet facilities locks out people who are living with complex disabilities. It denies those individuals their dignity by forcing them to make the unacceptable choice between being trapped in their own home and getting changed on an unhygienic toilet floor. That is simply not good enough. The reality is that inclusive and supportive rhetoric rings hollow without substantive action to match the concerns.

Human rights protect us all. They provide us with the minimum social protections that are necessary for living in a civilised and pluralistic society.

I cannot speak in a debate about human rights without talking about a group of people for whom I have campaigned since being elected. Gypsy Travellers face persecution and discrimination almost daily. I have often said in the chamber that discrimination against Gypsy Travellers appears to be the last form of acceptable racism. It is unacceptable and it must stop. I hope that by taking a human rights approach to the issues that Gypsy Travellers face we can finally bring an end to that insidious racism.

In the context of Brexit, we must avoid standing still on human rights. In that respect, I fully support the Equalities and Human Rights Committee's recommendations: first, to nominate a human rights champion on each Scottish Parliament committee; and secondly, to ensure that human rights are a central consideration when committees undertake post-legislative scrutiny.

As I have already stated, I welcome the Scottish Government's approach to enshrining human rights in Scots law. However, I ask the Scottish

Government to match its progressive rhetoric on human rights with substantive actions, and to implement the recommendations of the Equalities and Human Rights Committee's report, “Getting Rights Right: Human Rights and the Scottish Parliament”.

Human rights are central to making Scotland a more equal, inclusive and progressive society. It is incumbent on Parliament to mainstream human rights through the policy-making process, and to ensure that Scotland and the Scottish Parliament lead the democratic world on human rights.

I move amendment S5M-15126.3, to insert at end

“; believes that cuts to public services and social security pose a risk to the human rights of those living in Scotland, and agrees with the First Minister's Advisory Group on Human Rights Leadership that ‘too many people are not enjoying their rights in everyday life’ and ‘in too many places services are not meeting needs’.”

15:03

Alex Cole-Hamilton (Edinburgh Western)

(LD): I move the amendment in my name. I remind members of my entry in the register of members' interests, which shows that I am a former convener of Together, the Scottish Alliance for Children's Rights, and that I sat on Scotland's national action plan leadership panel.

I welcome very much the work of the First Minister's advisory group and the publication of its report. It has been my privilege to work alongside Professor Alan Millar over a number of years, and I find the report to be a well-considered and important contribution to the rights agenda in this country.

For 20 years, Scotland's framework for human rights rested on pillars of civil and political rights that were guaranteed by membership of the European Union and by the European convention on human rights. Brexit both removes the former and endangers the latter. Our response to that threat should unite the chamber, and I believe that the act of Parliament that is proposed in the pages of the report rises, in part, to the challenge before us.

The amendment in my name focuses on part 4 of the report, which covers the provision for children's rights. If we are to be the global leader on human rights that we seek to be, at no point in life's journey should the rights that are afforded to our citizens fall behind the international curve. We want Scotland to be the best place in the world to grow up in. That ambition unites the chamber, but, consistently and repeatedly, we have been found wanting in our provision for children's rights.

I ascribe no blame to any particular Administration for that; it is a collective failure, and

we need to challenge one another repeatedly on whether we could do better. Nevertheless, it would be churlish of me not to recognise the commitment of the current Scottish Government, and I offer credit where it is due. In the previous session of Parliament, the Government took measures to increase the age of leaving care and subsequently implemented the care review. Members of the Government have offered safe passage and support to John Finnie's proposed children (equal protection from assault) (Scotland) bill, which is on physical punishment, and the First Minister has given a commitment to Scotland's finally incorporating the principles of the UN Convention on the Rights of the Child into Scots law. Those are welcome steps forward.

The first part of my amendment covers that last commitment. The incorporation of the UNCRC is the only way to make rights meaningful for children. Without so doing and offering legal redress to children whose rights are denied them, we would sit behind the international curve and would never lay any claim to making Scotland the best place in the world to grow up in.

Daniel Johnson: Does the member agree that honouring human rights and international institutions sometimes means doing what is uncomfortable but that it is always the right thing to do?

Alex Cole-Hamilton: I absolutely agree with that. Doing the right thing is sometimes out of step with public opinion, but it is incumbent on us as legislators to lead public opinion as well as to follow it.

Many stakeholders who are involved in the policy work around the UNCRC are concerned that the Government may lose time for bringing legislation forward during this parliamentary session, so I ask ministers to restate in their closing remarks the Government's commitment to producing legislation during this session.

The remainder of my amendment speaks to the final, major frontier in children's rights that inhibits our aspiration to be a global rights leader: the age at which we hold our children responsible for their actions.

In 2007, the UN established 12 years as the internationally advised minimum age of criminal responsibility. It was a floor from which the UN expected all nations to lift still further. That was recognised as an important frontier for the UN, as it should be for all of us, because it recognises that moments in time, often triggered by unresolved trauma and neglect, should not define young lives for the rest of their days. Criminal records inhibit rehabilitation and self-esteem, and, in the countries that recognise that, reoffending is reduced and life outcomes are improved.

All told, it has taken us 11 years to get Scotland to that baseline, yet it was serendipitous that, on the day following our stage 1 debate on the Age of Criminal Responsibility (Scotland) Bill, the United Nations revealed its intent to lift that floor to 14 years in February. Passing the ACR bill unamended would see us reach parity with the four most socially conservative countries in Europe and rest two years below the limit set by the United Nations. Put simply, the bill before us would be out of date even before the ink on it was dry.

If we are truly to set out our stall as an international human rights leader—as I strongly believe we should—at the very least, we must meet the *de minimis* expectations of the international community. Otherwise, we will be failing many of the 700 12 and 13-year-olds who appear before the reporter each year on offence grounds, who will get a criminal record.

The Minister for Children and Young People (Maree Todd): I am pleased to reiterate, as I did earlier, that the Scottish Government recognises and respects the significance of the UN committee's general comments as an aid to interpreting the convention. We are absolutely committed to respecting and protecting human rights, and we will consider the recommendations from international organisations closely in our policy making and seek to uphold the highest standards of children's rights in a responsible and appropriate way. Does the member agree that responsible government requires us to consider fully the implications of making any change to the law on any matter, but perhaps most particularly—

The Deputy Presiding Officer: I remind the minister that interventions are not statements. Please wind up.

Maree Todd: I am asking the member to agree that, particularly in the area of offending and criminal justice, we need to fully and carefully consider the implications—

The Deputy Presiding Officer: Minister, please finish.

Alex Cole-Hamilton: I take the intervention in the spirit in which it is offered. It is an important point, and I agree with it. That is why I was delighted that, this morning, the Equalities and Human Rights Committee agreed to take further evidence on exactly that issue, so that we can offer due diligence and scrutiny on the legislative changes that I have proposed in amendments to the Age of Criminal Responsibility (Scotland) Bill, which would lift the age of criminal responsibility to 14.

I am over my time, so I will wind up. Support for my amendment in this debate would not suggest that members or their parties are yet persuaded

that we should seek to increase the age of criminal responsibility beyond 12. However, the amendment lays out clearly the basic reality that, to achieve our ambition to establish Scotland as an international human rights leader, we must attain the very minimum standards that are prescribed by the United Nations in the field of human rights.

The Deputy Presiding Officer: Please move your amendment, Mr Cole-Hamilton.

Alex Cole-Hamilton: I moved it at the start of my speech, Presiding Officer.

The Deputy Presiding Officer: Do you want to argue?

Alex Cole-Hamilton: No.

I move amendment S5M-15126.2, to insert at end:

“, and welcomes the Scottish Government’s commitment to incorporate the UN Convention on the Rights of the Child into law and its move to meet the minimum age of criminal responsibility specified by the UN Committee on the Rights of the Child, both of which are prerequisites in establishing Scotland as an international human rights leader.”

The Deputy Presiding Officer: Thank you very much.

15:11

John Finnie (Highlands and Islands) (Green): I am delighted to speak in the debate. Largely, it is a consensual debate, and I align myself with many of the comments that have been made thus far. The minister made a comprehensive contribution. I was particularly pleased that she mentioned international affairs, because it is important that we are outward looking and pick up on that. I align myself with the comments of Mary Fee, and I acknowledge her good work in relation to Gypsy Travellers, which is an issue on which we all hope for some advancement. We are happy to lend our support to Alex Cole-Hamilton’s amendment and to his remarks on young people.

Likewise, I take Ms Wells’s comments in good faith. I do not doubt that she means well, but I have some difficulties in squaring those comments with the position of the UK Government, which has done much to discredit human rights and has played a part in supporting journals that vilify human rights. The minister referred to the roll-out of universal credit. That started in Inverness, and I can certainly testify to the grief that has been visited on the community there. Nothing has been done for individuals’ dignity or for community dignity, and significant sums of money have been taken out of the locality—I think that Highland Council estimates that the figure is £12 million or £14 million. To me, the roll-out of universal credit, the two-child cap and the disgraceful rape clause

are not indicative of a Government that puts human rights far up its agenda.

On a more positive note, I congratulate the First Minister’s advisory group, and particularly Professor Alan Miller, who is held in high regard around the planet. We are blessed to have someone of his standing in Scotland. The group’s report uses the phrase

“people are empowered to lead lives of human dignity, to have a sense of worth”.

That is hugely important. It is sometimes difficult to put what is important into words, so that is helpful.

The Government’s motion talks about a

“long-standing commitment to human rights and human dignity”.

We, in the Parliament, have much more in common than divides us on the issue. I particularly like the phrase

“should work in concert to promote and vindicate human rights”.

Reference is also made to the Equalities and Human Rights Committee, and I commend its work, too.

However, if we are going to do that, we need to put some meat on the bones of some issues. An example is Gaza, where the population is under siege and has been attacked systematically in terms of weapons, energy, food, water, sanitation and medication. I see the Conservative members looking away at this point.

Gordon Lindhurst (Lothian) (Con): I did not notice any Conservative member looking away at that point. The situation in Gaza is not that simple. What about the north of Israel, which is under attack constantly as well?

John Finnie: I am happy to unreservedly condemn violence from any quarter. I do not hear that condemnation from others. Of course, an issue of proportionality is at play. There is no proportionality in relation to the siege of Gaza and the disgraceful behaviour of the apartheid Israeli regime.

If we are going to put meat on the bones, we should not roll out the red carpet for the representative of that regime in this country, and we should lend support to Dr Philippa Whitford, a surgeon who offered to provide treatment but who was denied entry to Gaza. That is a shocking situation, and reciprocity by the United Kingdom Government—not that we are going to see it—would be helpful. We can lend support to the boycott, divestment and sanctions.

There are a range of international matters—in fact, I ran off pages—

Oliver Mundell: Will the member take an intervention?

John Finnie: Yes.

Oliver Mundell: I draw members' attention to my entry in the register of members' interests. Does the member honestly think that stopping trade and contact with the outside world is a good way of influencing people in a modern and global world? Is that not exactly the opposite of the openness to moving forward that we should be encouraging on both sides?

John Finnie: My position is clearly different from the member's, because I do not have my picture taken, grinning, beside the person who built the apartheid wall in Israel. Dialogue has a part to play, but it takes two people to be engaged in dialogue. So, yes, I strongly believe that boycott, divestment and sanctions play an important part.

Looking at other aspects of the issue, I would particularly like to lend support to the Kurdish community, who are under siege. The UK Government is unwilling to pay any regard to that situation or, indeed, the influence that its position has on the lives of Kurdish people in Scotland, who see the harassment that Kurds face as a result of interventions by the UK state. Of course, that is seen to be offset by the fact that the UK has access to military bases.

I also want to talk about investment. If we are going to spend our money, let us spend it on healthcare, housing and education; let us not give £2 million to Lockheed Martin, a company that recently made a profit of £3.14 billion. Let us not put Government money towards that. Let us not prop up and lend support to the Saudi regime, which has absolutely no regard for individual human rights and has placed an entire country—Yemen—on the brink of famine as well as committing countless war crimes. That has not stopped the US, the UK or France from selling weapons to Saudi Arabia, or, until fairly recently, rolling out the red carpet for the crown prince, who was lauded in the west as being a reformer, although that is not the case. That includes, very close to home, Highlands and Islands Enterprise, which told me that it does not promote investment in the defence sector but then—very unfortunately for HIE—a few weeks later sent me an invitation to a trade fair involving the arms sector.

Let us practice what we preach. We have more in common than divides us, but there is a way to go yet.

The Deputy Presiding Officer: We now move to the open debate, with speeches of up to six minutes.

15:18

Ruth Maguire (Cunninghame South) (SNP): Presiding Officer,

"I will respect your rights regardless of who you are. I will uphold your rights even when I disagree with you. When anyone's human rights are denied, everyone's rights are undermined, so I will STAND UP. I will raise my voice. I will take action. I will use my rights to stand up for your rights."

That was the pledge that we were all asked to take by the United Nations High Commissioner for Human Rights on this, the 70th anniversary of the universal declaration.

On Monday, the Equalities and Human Rights Committee hosted a human rights takeover, here in our Scottish Parliament. It was a fitting celebration of the 70th anniversary of the declaration and a real joy to attend. I would like to place on record my thanks to the committee clerks for organising it and to all the human rights defenders who came, gave speeches, answered questions, asked challenging questions and took part in our breakout sessions.

The Scottish Parliament is rooted in human rights. They are at its foundation and its core, expressed through its founding principles: power sharing, accountability, accessibility and equal opportunities. Human rights are not some lofty concept or something for other people. They are the basic rights and freedoms that belong to every person in the world, from birth until death, where ever you are from, whatever you believe and however you choose to live your life.

On Monday, here in the chamber, I quoted Chest, Heart & Stroke Scotland, and I am going to do so again, because it made a beautiful submission to the committee inquiry. It said that human rights

"remind us ... we are working with people and their lives—not just a condition, not a policy, not a statistic, not just a problem to be solved. They matter because they protect us from the worst that we can do to one another—and highlight the joy and positive impact we can have. Human Rights illuminate the respect and humanity we can show each other."

Caring about human rights opens the potential to deliver dignity, fairness, equality and respect for all.

There are some really good examples of where the Scottish Government and this Parliament are doing that, such as in the work on tackling homelessness, social security, support for victims and witnesses, and the carers policy.

In Government, the Scottish National Party defends existing human rights safeguards, such as the Human Rights Act 1998, the Scotland Act 1998 and European Union law, and we are taking action to secure the progressive implementation of

all human rights, including economic, social and cultural rights.

I welcome the Scottish Government's commitment to the incorporation of rights that are set out in treaties, but the most important thing is that that is done correctly, in a way that will work in practice and in real life, and that will result in real improvement in lived experience. It is worth taking time to ensure that that happens.

I am not speaking on behalf of my committee today, but I will take the opportunity to again speak about the recommendations in our report, "Getting Rights Right: Human Rights and the Scottish Parliament". We want people across Scotland to understand and feel confident in using their rights. We want public bodies to take decisions that advance human rights. We want the Scottish Parliament to be the guarantor of those rights.

Gillian Martin (Aberdeenshire East) (SNP): Would the member agree that one of the most important things that the SNP Scottish Government has done with regard to human rights is to ensure that anyone, regardless of their economic situation, can access free higher and further education?

Ruth Maguire: I thank my friend and colleague Gillian Martin for that intervention. I absolutely agree with her.

The committee's report outlines 40 recommendations that are aimed at achieving what I have said. Given the major changes to the rights landscape internationally and within the UK as, or if, we leave the EU, achieving those aims takes on a new urgency.

The recommendations include Parliament tracking the Scottish Government's progress against international human rights obligations, human rights training for MSPs and staff, and integrating human rights considerations into all parliamentary scrutiny. On that point, I am clear that it needs to be about spotting opportunities to advance human rights, not just spotting where rights might be eroded or impacted on. The committee also recommends adding human rights to the committee's remit permanently and creating human rights champions on each of the Parliament's committees.

As I said, human rights are at the heart of the Scottish Parliament's vision of being a power-sharing Parliament. The task for us is to ensure that that vision is a reality more often. I know that our Scottish Government is committed to ensuring that Scotland is a modern, inclusive nation that protects, respects and realises internationally recognised human rights. I am sure that every member in the chamber wants people across Scotland to be empowered individuals who feel confident in using their rights. We want public

bodies to take decisions that advance human rights, and we want Parliament to be a guarantor of those rights.

There are loads of human rights defenders among us, there are lots of good ideas and there are lots of examples of best practice. The challenge, which we all need to take together, is to make best practice standard practice.

Let me finish with the pledge that I started with. I am sure that it is one that no one would disagree with:

"I will respect your rights regardless of who you are. I will uphold your rights even when I disagree with you. When anyone's human rights are denied, everyone's rights are undermined, so I will STAND UP. I will raise my voice. I will take action. I will use my rights to stand up for your rights."

The Deputy Presiding Officer: I allowed a bit of leeway in opening speeches, so we are quite tight for time. If members could follow Ms Maguire's example and have their speeches come in at under six minutes, that would be great.

15:23

Michelle Ballantyne (South Scotland) (Con): The concept that human beings should have a set of basic rights and freedoms has very deep roots in the United Kingdom. As a teenager, I lived near Runnymede, where, in 1215, almost a century before Bruce's struggles in the Scottish wars of independence and at a time when Genghis Khan was still laying waste to Asia, the Magna Carta was signed. The charter acknowledged, for the first time, that subjects of the Crown had legal rights and that laws applied to everyone, regardless of status. Although historians still debate just how much the charter protected the ordinary citizen, habeas corpus, limits on taxation, protection from illegal imprisonment and the rights of the people and barons alike are just a few of the rights that we take for granted today that have their foundations in the Magna Carta.

By 1689, every corner of the British isles was recovering from years of sectarian warfare, the after-effects of which we sadly still feel today. However, regardless of the religious violence of that era, one defining moment shines through: the creation of the bill of rights in England and, in Scotland, the Claim of Right Act 1689.

The importance of those documents cannot be adequately dealt with in the few minutes that I have to speak. However, their impact can still be felt and it runs through the very foundations of this building, up the Royal Mile to the Court of Session and the High Court of Justiciary in Parliament Square. The bill of rights not only laid the groundwork that enables all of us to speak freely here today, but created a blueprint for fair,

transparent and accountable government that is envied the world over.

Today, as we debate leadership in human rights and talk of the protections offered to us by the Universal Declaration of Human Rights, the ECHR and the Human Rights Act 1998, it is important that we remember the leadership that was shown by our forebears who delivered the Magna Carta, the bill of rights and the claim of right. I say that because others have.

The United States of America is a country founded on the principles of individual rights, and the Magna Carta and the bill of rights were prominent in the minds of Hamilton and Madison. That is true to such a degree that one can go to Runnymede and see the swathe of memorials there. The ideals of liberty and the idea that rights surrendered to the state must be protected are best commemorated by the rotunda donated by the American Bar Association and the John F Kennedy cenotaph. Those memorials are not only a reminder of the power that the rule of law possesses, but a reminder that, despite centuries of threats to our democracy and our individual liberty, Runnymede has remained. It has witnessed the rise of Cromwell's commonwealth, the threat of despotism from Napoleonic France, the two global conflicts and the bleak days of the cold war, yet two things have remained constant.

Gillian Martin: It is very interesting to hear about the history of human rights, but can the member make a comment about the current situation in relation to human rights in modern Scotland?

Michelle Ballantyne: In a way, I am. The debate is about leadership in human rights. It is right that we remember the background and history of our countries. We have always been at the forefront of human rights. The field in which the Magna Carta was signed has survived, as have the rights enshrined in law there almost a millennium ago.

My point is this: no matter what, we have preserved human rights, and I have no doubt that in the future we will continue to do so. However, those rights do not come for free. They come with a duty and a responsibility to uphold them for future generations, so that they may enjoy the same liberties that we are privileged to possess today. That is true leadership in regard to human rights. That is the spirit in which we have acted throughout the centuries and in which we continue to act today, when we pioneer new legislation and bring human rights into the actions taken daily by the Parliament. It is that spirit that reminds us of our obligations as human beings to treat each other with dignity, fairness and respect, and I see that spirit running through our legal systems today. We have a responsibility to not just enforce our

own rights, but protect the rights of others. As we have heard from other members, that is important work that both the Scottish and UK Governments have dedicated themselves to across the globe.

I know that some people have their concerns that our rights may be affected in the years to come. However, having examined the history of this country, I can tell you that I have no doubts. We have our role models to follow and all that remains is for us to fulfil our obligation to society and continue to fight for oppressed peoples, no matter if they are in Paisley or Pyongyang.

The Deputy Presiding Officer: A very quick intervention, please.

Ruth Maguire: What assessment would be made, using a human rights approach, of the two-child cap and the rape clause? Would they be compatible with the human rights aspirations that Michelle Ballantyne is speaking about?

Michelle Ballantyne: I had actually finished my speech, Presiding Officer.

In all such things, much of it becomes a political discussion on what we believe is right in relation to the delivery of systems. It is always important that we protect people's rights. It is wrong to say that individual Governments do not do that.

The Deputy Presiding Officer: I remind all members to take care to address the motion that is up for debate. Sometimes it is a judgment call.

15:29

Bill Kidd (Glasgow Anniesland) (SNP): I start by stating my appreciation for the advisory group of human rights experts who have, over the past year, dedicated their time, knowledge and attention to development of their comprehensive recommendations. I also thank the many civil society human rights representatives who made up the reference group, which has kept the process relevant to everyday experience in Scotland. The adoption of the recommendations, alongside political will and prioritisation of introduction of the necessary changes, can and will result in the development of a more equitable society.

Our nation will see social and economic rights, as well as civil and political rights, resulting in a comprehensive change to the lives of the people who currently most need realisation of those rights. By social and economic rights, I mean adequate housing and food, protection against poverty and social exclusion, the right to education, social security and social protection, and the right to take part in social and cultural life. This is about dignity and the fact that nobody deserves to live in poverty or to be denied his or

her rights. Human rights are absolute and universal.

The Scotland Act 1998—which led to the establishment of this Parliament—incorporates the civil and political rights of the Human Rights Act 1998, which reflects the concrete legal protections that were set by the European Convention on Human Rights. I agree with the proposal to enshrine EU human rights protections in order to guard against any legal threats that are posed by Brexit. The proposed act of the Scottish Parliament will go further than any other human rights legislation in the UK by incorporating socioeconomic, cultural and environmental rights. The Office of the United Nations High Commissioner for Human Rights notes that

“unless specific action is taken towards the full realisation of economic, social and cultural rights,”

civil and political rights

“can rarely, if ever, be realized, even in the long term.”

That highlights why going beyond the 1998 civil and political rights protections is an important next step.

Human rights are intrinsic and they belong to everyone. However, for those rights to improve the lives of the people who call Scotland their home, all of us here in Parliament have the responsibility to introduce legislation that can make that possible. That means introducing a human rights framework that has the capacity to be transformational. There is no good or intractable reason why a state cannot uphold human rights and see those rights being reflected in the quality of its citizens' lives and freedoms. That is by no means a small task: full and comprehensive realisation of human rights in Scotland faces substantial challenges. It is, however, our duty as parliamentarians, and it is the duty of the Scottish Government, to lead the way towards an equal future for all.

The biggest challenge that human rights face in Scotland is poverty. Poverty deprives people of choice and freedom and it takes away what should rightfully belong to an individual, including basic things such as the security of a home and good-quality food to eat.

Poverty is a significant political issue. Philip Alston, the United Nations rapporteur on human rights and extreme poverty, has been mentioned. He spoke of how he anticipates that poverty will worsen because of Brexit. He also spoke of the disproportionate effect of austerity—namely, benefits freezes and the roll-out of universal credit—on the poorest people.

Universal credit was introduced in Drumchapel—part of my constituency—last Wednesday. It is pushing many families in my

constituency into a very difficult situation right before Christmas. It is doing that across the country, which is resulting in more and more families having to rely on food banks. That is unacceptable.

Human rights, and the act of treating people with dignity, should feed into all areas of policy and be an important consideration in any political decision. This is the 21st century: it should not be considered to be radical or revolutionary to say such things. Nevertheless, the fact that we see policies that are penalising some of the poorest people in Scotland and the rest of the UK shows that they still need to be said.

The incorporation of human rights into law, and putting a duty on public bodies to comply with that law, would once again evidence the Scottish Parliament's prioritisation of the people of Scotland. My constituents should have good-quality homes to live in, and should not have to worry about relying on food banks to make it through Christmas. Incorporation of human rights should not be revolutionary, but it appears that it has to be. That is why I welcome the recommendations of the First Minister's advisory group. We will lead the way in making the revolutionary the everyday—when abstract rights become the norm and the expectation.

I want the children of my constituency, and of all constituencies, to grow up knowing their own and everyone's rights in an equal society, and I want them to have a future in which they can make life choices free from the constraints of poverty, and in which they are treated with dignity and respect at all times.

15:35

Anas Sarwar (Glasgow) (Lab): I welcome this debate marking the 70th anniversary of the Universal Declaration of Human Rights. I have to say that it is very timely, given the times of division in which we live.

In particular, I congratulate the advisory group on its report and its call for leadership. However, that call needs to go beyond the Government and politicians to every citizen the length and breadth of our country, and right around the world. Only if every citizen sees the fight for human rights as their own fight can we get true good practice and real change.

The reality is that hate and prejudice are on the rise. We have Islamophobia, antisemitism, anti-Catholic hatred, racism and sexism, and LGBT rights—and so many more—seem to be under attack here at home and around the world. It certainly feels like we as a nation and as a world are going backwards.

There is a constant debate about the role of social media in that respect. Social media amplify division and create echo chambers, and social media feeds give people permission to say things anonymously that they would not normally say to someone face to face. However, social media also help to build solidarity and understanding among people in different parts of the world, and to expose abuse locally, nationally and internationally.

I will touch, too, on the role of the mainstream media. In this political climate, many of us attack them; indeed, my family has had its fair share of troubles with them over the years. However, we should also resist the urge to shout “Fake news!”, given that so many of the human rights abuses that take place are exposed only through the bravery of journalists around the world putting themselves at risk in order to report what is happening in those other parts of the world.

We also have to accept that our political leadership—in its broadest sense—is failing. The political order is failing. At this time of political failure, we rely more than ever on people, rather than politics, to drive change. The fundamental point is that change will come only when our politics changes, which is the responsibility of each and every one of us who occupies a role in the political sphere.

The Universal Declaration of Human Rights can be broken down to three simple words: equality, justice and opportunity—for every citizen, regardless of their background. What are the basic rights? They are minorities’ right to protection, a person’s right to education, the right to healthcare, the right to a home, the right to justice, the right to security and safety, the right to social welfare, and the right to live without fear.

However, what do those rights mean in practice? The sad reality is that it is unsafe for some people to walk down certain streets, even in Scotland. There are women and people in minority communities who are scared to walk down some streets. We need to recognise that so much prejudice—whether it be Islamophobia, racism or antisemitism—is gendered. People see women as the easy target to attack on our streets. The number of women whom I have spoken to who have been sworn at, been threatened or had their headscarves removed on our public transport is simply unacceptable.

The fact is that we need to recognise, respect and accept each other’s differences, whether they be physical or related to colour, religion, gender, age, LGBT status or whatever. We must celebrate our differences—we must not use them as a way of attacking each other and dividing people.

Human rights are under attack here in Scotland, across the UK and right around the world. We are seeing the rise of the far right and, with it, the othering of our fellow citizens and, in turn, fear of the other. People such as Tommy Robinson and Steve Bannon are becoming international celebrities as a result. How do we defeat such people? I do not think that we can defeat them by shouting them down or even by denying them access to a platform—although I would deny them all platforms. Instead, we have to take the argument that Steve Bannon and Tommy Robinson are making head on and defeat it.

We change people through education and by building relationships—not with punishment. We allow people to learn from each other and to recognise when they get it wrong, and we allow people to change—through dialogue and not through division.

How will we do that? Let us empower our citizens and our communities. Let us build confidence in our communities so that people, particularly women, can come forward and share their stories, so that we can learn from each other: children learning from children, adults learning from adults—people learning from each other. Let us make that difference a strength in our communities and recognise that our differences are actually strengths.

The fight is for every single one of us—we should not leave it to be someone else’s fight, whether it is the fight at home or the fight abroad. We should not leave people just to fight their own corner: we should imagine that it is our family, our child, our mother, our father, our loved one who is under attack. How would we feel and what would we do in response?

I welcome the publication of the recommendations, and I welcome the fact that we will have a human rights act in Scotland. What we need more than a change in the law, however, is a change in culture. We need more than just warm words—we can all do warm words. We all need to lead by example.

Let us not have Scottish exceptionalism that says that bad things only happen elsewhere, because bad things happen here, too. They happen in our institutions, in our public sector bodies, in our playgrounds, in our college and university campuses and in our workplaces across the country. Let us have genuine, individual leadership and let us have human rights for all.

15:41

Gail Ross (Caithness, Sutherland and Ross) (SNP): This week we celebrate the 70th anniversary of the Universal Declaration of Human Rights, which is a significant milestone. The

UDHR is a historic document that outlined the rights and freedoms that everyone is entitled to. It was the first international agreement on the basic principles of human rights and it laid the foundations for the human rights protections that we have here today. Nearly every state in the world has accepted it and it has inspired more than 80 international conventions and treaties, as well as numerous regional conventions and domestic laws. It has been the catalyst for improving human rights protections for groups such as disabled people, indigenous peoples and women and it has been translated into more than 360 languages.

The celebration of the 70th anniversary in Parliament this week shows the significance that we place on such protections. For the first time in Scotland, we have a committee that is dedicated to equalities and human rights. We embed the principles in our legislation and we do it because it is the right thing to do. We are human rights defenders, human rights guarantors, human rights ambassadors and human rights champions.

This week, the Parliament has seen several human rights milestones for Scotland. On Monday, the Equalities and Human Rights Committee had a human rights takeover of Parliament. We heard from human rights defenders such as Bianca Jagger, Davie Donaldson, Judith Robertson and, as is fitting in the year of young people, children and young people from across Scotland. We heard from the Council of Europe's Commissioner for Human Rights about how Governments need to be strong, about how the Scottish national action plan is a good example of human rights policy, and about how the Scottish Government sets an example with its scrutiny of policy, the Scottish Human Rights Commission and the Commissioner for Children and Young People.

On Monday, the First Minister's advisory group on human rights leadership launched its report, which will be the basis of my speech. The report is a significant step for us in our role as human rights defenders and is a chance for Scotland to continue to show leadership in the field. The report has seven recommendations. The main one is that we create

"An Act of the Scottish Parliament which provides human rights leadership."

The act will specifically look at

"Civil and Political Rights and Freedoms ... Economic, social and cultural rights ... Environmental rights"

and

"further specific rights belonging to children, women, persons with disabilities, on race and rights for older persons and for LGBTI communities."

The new framework will have

"dignity as its core value."

Launching the report, the First Minister said:

"As First Minister of Scotland I am determined that the Scottish Government will be recognised internationally as a government that does stand up for human rights."

It is an important time for Scotland in terms of human rights. We stated in our programme for government that we will incorporate the UNCRC into Scots law and one of the recommendations of our recent committee report is that we hope that that happens during this session of Parliament, if possible. It was therefore reassuring to hear the minister's remarks on that in her opening speech.

Our committee's report and the report of the advisory group have many recommendations that would improve the lives of our citizens. We must take those recommendations seriously.

We are considering how far to raise the minimum age of criminal responsibility and, in a couple of months, we aim to bring children's legislation in line with adult legislation with the Children (Equal Protection from Assault) (Scotland) Bill, which has been introduced by John Finnie.

Our committee report also asks that human rights be given more scrutiny in the budget process; that acts of Parliament with a significant human rights approach be prioritised for post-legislative scrutiny; and that we hold annual debates on the universal periodic review and on the Scottish national action plan on human rights. We would like other committees in the Parliament to identify and appoint a human rights champion, we would like to strengthen our relationship with the Scottish Human Rights Commission and strengthen its powers, and we would like to amend standing orders so that the Equalities and Human Rights Committee becomes a mandatory committee of this Parliament.

As we debate this today in the chamber of the Scottish Parliament, let us not lose sight of the fact that we still have much to debate about human rights, both here and in wider society.

As we move forward with this matter, I hope that everyone's voices will be heard, because human rights do not belong just to the policy makers—human rights belong to us all. We know that the world is watching; we are often told that. There are no second chances on the issue. We have to get it right and we have to get it right first time.

15:46

Jeremy Balfour (Lothian) (Con): I welcome the debate. Looking back over the past 20 or 30 years, I think that the issue of human rights has become much more embedded in Scottish society and our education system. About 10 nights ago, I

was trying to persuade one of my daughters that she should think about heading towards bed. She quoted me the human rights legislation about the right to play. I was told that I was taking away her right to play and that she would be discussing that with her teacher the following morning. Rights are important although, as a father, I would argue that so, too, is responsibility.

In the time that remains to me, if I can move away from my traumatic experience as a father, I will discuss the issue of disability. Persons with disability—whether physical and obvious or hidden and much less obvious—face discrimination and barriers that restrict them from participating in society on an equal and everyday basis. As I talk to many people across our country who have differing forms of disability, that becomes clearer and clearer. Sadly, I think that my experience as a disabled individual is too often the exception rather than what is normal. Persons with disabilities have remained largely invisible and often sidelined in the human rights debate.

Many people find it difficult to communicate in a way that people understand. The full range of human rights is closed to those with disability. There are many different reasons for that. Unlike other characteristics, disability is such a wide-ranging subject; what affects somebody with one disability will be someone else's very different experience. One of the problems that politicians and the Scottish Government have—and I sympathise—is about who to consult when we talk about disability. Too often, we can leave people out.

The United Nations Convention on the Rights of Persons with Disabilities is an international legal agreement that exists to protect and promote the human rights of disabled people. The UK Government signed up to it in 2009, making a commitment to promote and protect the human rights of disabled people. There is a long way to go on that, whether it is the UK Government or even, I suggest, the Scottish Government. A report in October by the UN Committee on the Rights of Persons with Disabilities said that progress had been made on disability in the UK but concluded that there was still a long way to go, and that a long, large drive and effort would have to be made. Issues such as housing, employability and access to basic services are human rights, which disabled people often struggle to get.

I welcome the debate, and I welcome the comments by Scottish Government ministers and other members. However, I again make a plea, because the rights of disabled people in Scotland have not yet been fully met. There is still a lot of work to be done. Even though moves have been made in the right direction, words are not enough. We need action, and we need it quickly.

15:50

Fulton MacGregor (Coatbridge and Chryston) (SNP): It is an honour to speak in this afternoon's debate to recognise the 70th anniversary of the ratification of the milestone Universal Declaration of Human Rights.

I am a member of the Equalities and Human Rights Committee, which, as others have said, has published a report that sets out a human rights road map for the Scottish Parliament. The report makes 40 recommendations that aim to bolster the role of MSPs as supporters of human rights, including the recommendations that the Parliament should track the Scottish Government's progress against international human rights obligations and that it should integrate human rights considerations into all parliamentary scrutiny.

One area that the committee considered was that of local authorities. It is evident that they must actively use a human rights-based approach and do more than what is known as box ticking. That will lead to better outcomes for residents. The committee also commented on the protection of human rights in public institutions such as local authorities.

It is fitting for me to mention a care-experienced young man whom I have had the pleasure of getting to know over the past year or so. On Monday of this week, at the takeover event to mark the 70th anniversary, Ryan McShane, a member of the Scottish Youth Parliament and a student at St Ambrose high school in Coatbridge, gave an exceptional speech to the Parliament and the First Minister, Nicola Sturgeon. Unfortunately, I could not be there, but I watched his speech that night and I encourage all members to do so.

I put it on record that I could not be there because I was in Norway with the Justice Committee—we went there to see its justice system, which helps vulnerable child witnesses through the barnahus model. Young people in Norway who have to give evidence in a criminal trial do not need to appear in court but are interviewed and supported in a barnahus. That is an example of the approach that the Scottish Government is taking to the promotion of human rights in the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill, which is going through stage 1 at the moment. The barnahus model is something that we should all aspire to.

Ryan McShane is a care-experienced young person who has been actively defending human rights and holding decision makers to account, as he demonstrated on Monday when he addressed the First Minister and the Parliament. Ryan went to the UN in Geneva as part of the Scottish delegation that was supported by the Children and

Young People's Commissioner Scotland to bravely speak about the trauma of his past experiences in the foster care system, which involved him having many different placements before finding a family who have provided lasting love, happiness and understanding. I want to take the opportunity to pay tribute to his foster carers and to all those carers across the country, including kinship carers, who give children the chance to reach their potential. Care-experienced young people have the right to have a family like the one Ryan has had, and we have a duty to support them in having the same opportunities and rights as anyone else in Scotland.

I have said previously in the chamber that before I became an MSP I was a social worker, and I worked with many looked-after children. That is why I was delighted when the First Minister launched an independent review of the care system. That review is currently taking a comprehensive look at the care system in Scotland. Children and young people's voices and experiences, as well as those of the people who work with and care for them, are at the heart of that process. Final recommendations on changes to policy and legislation will be reported to the Scottish Government by the summer of 2020. Nothing can be more important than how we care for those who are cared for by the state and how we promote their human rights.

Children and young people in care have often experienced significant trauma in their lives. That is why, yesterday, in response to my question, I was glad to hear Derek Mackay commit to spending on the child abuse inquiry to make sure that victims' voices are heard in that inquiry. However, we still have work to do to ensure that human rights are for everyone.

Care-experienced young people in higher education face additional hurdles in the pursuit of their education. There are some safeguards in place, such as the bursary for care-experienced students under 26, but there are anomalies in the system. Constituents recently raised concerns with me that their daughter, who was adopted from outwith the UK but is now a British citizen, will not be considered for financial assistance for university as she has not been looked after by a local authority in the UK at any point in her life. Such children and young people adopted from overseas have care experiences and have experienced significant trauma, yet they cannot receive financial support for university. I have written to the Student Awards Agency For Scotland and the Minister for Further Education, Higher Education and Science asking for a review of that. Human rights are for everyone, regardless of which country they are adopted from—no ifs, no buts. All children and young people in Scotland deserve the same higher education opportunities.

I will comment on the impact of Brexit on human rights and particularly on EU citizens. My office invited every EU national living in Coatbridge and Chryston to a constituency surgery last Friday. It was an extremely busy surgery—almost 100 folk turned up throughout the morning—and I am really pleased that so many people were able to come out. What they came to see me about was not such good news. They were worried about their status, employment and, of course, those ridiculous settling fees. I had people there who have been in the country for 10, 20 or 30 years, feeling that they were not welcome and that they had to pay a fee to be a citizen of this country. That is absolutely ridiculous. I call on the members on the benches to my left to speak to their counterparts in London to try to get that sorted.

While we are talking about the UK Government, where are human rights when it comes to universal credit, the two-child cap and the rape clause? Other members have asked the same question. If MSPs are not getting folk coming in to tell them about the devastating effects of those policies, they might want to check out how available they are to their constituents.

This has been a mainly consensual debate. I guarantee that I and other back benchers will hold the Government to account, for example on the SAAS issue. Again, though, I make a plea to my Tory colleagues, in this consensual debate, to look at the effects on human rights of some of their London colleagues' policies.

I wanted to mention some other issues, but I have run out of time. It has been an absolute pleasure to speak in the debate, and here's to the next 70 years of demonstrating leadership on human rights.

The Deputy Presiding Officer: We move to the closing speeches. I call Alex Cole-Hamilton for around six minutes, please.

15:57

Alex Cole-Hamilton: I very much welcome the tone and tenor of the debate—it has hit absolutely the right note. I associate myself with the remarks of the minister, Christina McKelvie, at the beginning of the debate, and thank her warmly for her remarks in response to my intervention. I acknowledge that I have crossed swords with this Government on issues such as the age of criminal responsibility, but I recognise the Government's listening mode and the interest that it has shown, particularly around general comment 24 and the uplift to the age of 14 that the UN is about to embark on. I look forward to working with the Government on a consensual basis as we progress through the passage of the Age of Criminal Responsibility (Scotland) Bill.

My amendment does not seek to pre-empt the arguments or discussions that we will have at stages 2 and 3 of the bill. Rather, I want to lay out a common understanding that, if the Parliament seeks to be a human rights leader—which we should—we need to achieve the international de minimis expectations. In children's rights, that is around things like physical punishment. It is about how we offer legal redress to children who have had their rights denied—Jeremy Balfour will be afraid, because his daughter may be coming at him with a legal team—and the age at which we credit kids with responsibility for their actions.

This has been a really good debate. I acknowledge Annie Wells's contribution and congratulate her on her support for the ECHR. I am glad that she is in her party, because there are many in her party who do not support the ECHR. She will have a fight on her hands, but I recognise and congratulate her on her credentials in the human rights arena.

I am also grateful for Mary Fee's contribution, and acknowledge her tenacious and forensic approach at stage 1 of the Age of Criminal Responsibility (Scotland) Bill. It is Mary Fee who drew forth answers on going further than 12 as a baseline for the age of criminal responsibility, which helped to move the frame of the debate right out of the traps. I also acknowledge her work on the rights of Gypsy Travellers, which is another area where we fall behind the international curve.

Measuring ourselves against other countries is a helpful way of making public policy, although it is not the only way, and it should not be the only factor that we build in. However, with regard to the age of criminal responsibility, we are on a trajectory to join the four most socially conservative countries in Europe by having a baseline of 12. We often compare ourselves to Denmark. For many years, the age of criminal responsibility in Denmark was 15. When a more socially conservative Government was elected, it lowered the age to 14, thinking that that would be a populist thing to do. However, within two years, it had taken the age back to 15, having recognised the demonstrable negative impact on life outcomes and reoffending that the change had had in Denmark.

People have sometimes challenged me when I have compared us with other nations with regard to this issue, and have pointed out that we have a unique process involving our children's hearings system. We should be justifiably proud of our children's hearings system, which results in a process that is more humane than that in other countries. However, it was telling that, during stage 1 of the bill, the Scottish Children's Reporter Administration, which is in charge of the children's hearings system, recognised that there is still

demonstrable harm done to children who are criminalised through the children's hearings system. Malcolm Schaffer said:

"We have not recognised the sort of criminalisation effects that an appearance at a hearing for committing an offence can have".—[*Official Report, Equalities and Human Rights Committee*, 6 September 2018; c 3.]

It is partly because of that that he restated several times his belief that it is imperative that we go further than the age of 12 in the bill. In any given year, 650 children who are between 12 and 13 will come before the reporter on offence grounds, and six will come before a court.

I want to talk briefly about the case of Lynzy Hanvidge, which we heard about at stage 1. On the night on which she was taken into care, she, understandably, erupted—kicked off, as we might say—and was arrested and spent a night in the cells. She was 13 years old, and nothing in the bill as it stands would do anything to change her story. It is stories such as hers that have reframed the debate.

I do not think that it is controversial to move the age of criminal responsibility in Scotland to 14. Since I lodged my amendments, I have done many interviews and written many op-ed pieces and have had no adverse reaction from the Scottish public whatsoever. In fact, many people are surprised that it is not 14 already. We should, therefore, move forward with confidence.

I recognise John Finnie's personal efforts in the field of children's rights, particularly with regard to the physical punishment of children. I hope that his Children (Equal Protection from Assault) (Scotland) Bill will become an act, because physical punishment is an abomination. We are continually outstripped by other countries that have outlawed the practice, all the way to Sudan.

Gordon Lindhurst: Mr Cole-Hamilton talks about comparing us with other countries, but the suggestion of making smacking a child a common-law offence, with the ultimate penalty being up to life imprisonment, is completely disproportionate, as can be seen when we compare that with the situation in countries such as Denmark, Germany and France, where the practice is not criminalised at all.

Alex Cole-Hamilton: I look forward to the exchanges on this subject during the passage of John Finnie's bill. However, I say two things to Gordon Lindhurst. First, in the countries that have criminalised the practice, parents have not been marched through the courts for normal parenting behaviour; we are talking about a culture change. Secondly, we often hear about kids running into traffic or putting their hands into fires if they are not given a decent smack, but in the countries that have criminalised the practice, we have not heard

about a rash of kids running into traffic or putting their hands into fires. There are many misconceptions on this issue, and I look forward to addressing them head-on when we deal with John Finnie's bill.

I know that I am vastly out of time, Presiding Officer. Can I have a little bit more?

The Deputy Presiding Officer: You may.

Alex Cole-Hamilton: Thank you.

Ruth Maguire made a typically thoughtful contribution, and I pay tribute to her convenership of the Equalities and Human Rights Committee. That has not always been an easy job but, as I said earlier, we have agreed to take more evidence to fully scrutinise what it means to increase the age of criminal responsibility to 14 or 16. That is a measure of her commitment to keep us in step with international law and of her diligence in relation to the committee's work.

I will depart from a focus on my amendment to pay tribute briefly to Anas Sarwar, because I do not think that I know another person in this Parliament who is more dedicated to fighting racism, Islamophobia and antisemitism than he is. I am proud to call you a friend, and I think that you are an asset not only to your party but to this Parliament. Keep doing what you are doing; it is important.

Gail Ross took up Daniel Johnson's intervention on the issue of why we adopt rights. We do it because it is the right thing to do. It does not make us popular, necessarily, but it is the right thing to do.

Michelle Ballantyne took us back to the Magna Carta. We have recognised that we have aspired towards human rights for a millennium. Let us make ours the very last generation that has to push back these frontiers, because, if we are leaving it to other generations to drive forward human rights, we will have failed in our mission.

The Deputy Presiding Officer: I remind members that even when you are being nice you should speak through the chair.

16:04

Daniel Johnson (Edinburgh Southern) (Lab): I thank the Government for bringing the debate to the Parliament, because it is important in the context of immediate and substantive issues, as well as general issues.

Human rights are important but they are not permanent. They are concepts that we have invented. They are an important promise, based on the important idea that we are all equal; they are the pledge that we will respect one another on that basis.

Human rights developed in the 20th century in a way that fundamentally limited the power of the state. That is why universal human rights are important. Until the second world war, it was held that states could do what they wanted within their borders. Human rights did not just entrench the idea of what each individual human being should expect, on the basis of a belief in equality; they enabled us to build a rules-based international order that limits the rights of the state.

I quote Clement Attlee. I apologise for the gendered language, but these are the words that he used:

"since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed".

That sums up where human rights begin, their importance and why we must celebrate the United Nations Universal Declaration of Human Rights in 1948 in Paris, which was based on Franklin D Roosevelt's four freedoms speech. I reference that speech again, as I did in the human rights defenders debate, because it sums up simply what is at the heart of this. FDR talked about "freedom of speech" and "freedom of ... worship"; he also talked about "freedom from want" and "freedom from fear".

I draw two lessons from that. First, human rights do not just exist. They require our efforts to uphold and fight for them. It is an on-going fight, not just a historical fight. Secondly, meeting human need is as much a human right as are rights of conscience. Sometimes we talk about freedom of speech and worship in an esoteric way, but freedom from want and freedom from fear are just as important.

We cannot therefore be passive about human rights. Our commitment is required, not just to implement them but to progress them. We must challenge ourselves to do so, because human rights are the fundamental cornerstone of an international order. Let us be under no illusion: that order is under attack. The minister was right to open the debate by talking about the threats to human rights. There are threats in developing and less developed nations and in nations that have oppressive regimes.

There are also threats from more developed nations. In the United States, Donald Trump is actively pursuing a project of dismantling the international world order. He has withdrawn from the Paris climate change agreement. He refuses to nominate replacements to the World Trade Organization Appellate Body. Human rights are the cornerstone of the international rules-based order, which the United States is seeking to dismantle.

We must also be mindful of issues closer to home. I am pleased that Annie Wells and other

Conservatives spoke in favour of the Human Rights Act 1998 and the European convention on human rights, but their party's recent record in that regard is chequered. In November, Penny Mordaunt suggested that the UK might withdraw from the United Nations Educational, Scientific and Cultural Organization. In its 2015 manifesto, the Conservative Party pledged to repeal the very Human Rights Act that many members supported today. Indeed, when Theresa May made her single intervention during the Brexit campaign, although she spoke in support of remaining in the EU, she also suggested that we might withdraw from being a signatory to the ECHR.

That is the beginning of the toxic logic of exceptionalism, against which we must speak up and to which we must give no quarter.

Members talked about the challenge in that regard. Anas Sarwar and Gail Ross, in particular, did so in important ways. Anas Sarwar was right to say that we cannot leave it to international institutions or even just our Government to progress human rights. We must take up the challenge ourselves, as individuals, in our own communities. Gail Ross spoke very well about the ways in which this Parliament and we as parliamentarians can seek to improve our processes so that they put human rights at the very heart of our approach.

The Government's motion outlines its approach to human rights. It is absolutely right to look at ways in which we can bake human rights into law, but that cannot be simply a legal matter to do with changing our laws. It has to be, in the words of Mary Fee, a practical effort. To quote from the Scottish Government's advisory group on human rights leadership report,

"too many people are not enjoying their rights in everyday life"

and

"In too many places services are not meeting needs."

We must be mindful of article 25 of the UN Convention on Human Rights—the article enshrining freedom from want—because the reality is that in this city, there are 20,000 people waiting to be housed. My recent casework shows that the health board is stating that people needing hip replacements and knee surgery are having to wait 12 to 18 months. I was very pleased that Jeremy Balfour raised the human rights perspective in relation to disabled people because the reality is that only 43 per cent of disabled people are in employment compared with 80 per cent of the able-bodied population.

I mentioned zero-hours contracts earlier. The Scottish Government has made some very powerful statements about zero-hours contracts, but it continues to include businesses that use

them within its definition of positive destinations. The purpose of the Labour amendment is to underline that we must uphold human rights not only in our language and in our law, but in our deeds and, indeed, our definitions.

Finally, I am pleased to support the Liberal Democrat amendment, because Alex Cole-Hamilton is absolutely right—if our commitment to human rights is to mean anything, it must be about upholding the views, the judgments and the regulations from those international institutions that are the arbiters and the champions of human rights, even when it is uncomfortable to do so. That is why his amendment is so important.

Human rights require us to challenge ourselves and to struggle to ensure that we progress them. We can have no exceptionalism; we must abide by the international rule of law and that is ultimately the challenge to the Government. We welcome the sentiment, but it must be backed up by action.

16:12

Oliver Mundell (Dumfriesshire) (Con): I have listened to the whole of this afternoon's debate and, to be honest, it has been quite depressing. I may have missed the consensual tone that other people are talking about, but I think that—sadly—what members mean by consensus is that we must all agree on the same thing all the time or we cannot agree on anything. I do not think that that is true. That is not the approach that I take to politics.

Twice, in particular, I was disappointed—first, when John Finnie accused me of looking away when I was looking directly at him and, secondly, when he accused me of smiling in a photo when that is irrelevant to the point that I was making. If Mr Finnie had been present on that occasion, he would have known that I belligerently asked questions of that individual over and over again about Israeli settlements, which cause me deep concern. If we are going to genuinely improve the situation in the middle east, making categorical statements and virtue signalling in the chamber does absolutely nothing to serve that cause.

John Finnie: Does the member recognise that the role of international law and the UN resolutions is fundamental? Members cannot say that they applaud human rights but have no regard for international law or UN resolutions. The number of violations of both of those in respect of that particular scenario is well known to the member.

Oliver Mundell: That is absolutely not what I have said, and it is not the position that I have sought to set out. I think that international norms are important; I do not think that issuing them as though they are absolutes takes cognisance of the pragmatic realities—the difficult and challenging

realities that we see in this world. That is why I find it difficult to reconcile some of these issues.

I think that human rights are absolute—*[Interruption.]* I do, but, when it comes to working out exactly what is going on in individual situations, it can be far more complicated. *[Interruption.]*

The Deputy Presiding Officer: Mr Finnie, ask to intervene if you are going to.

Oliver Mundell: It does people an injustice if we try to suggest otherwise. That is why I find it difficult to listen to the Scottish Government, which is happy to point to flaws in the UK Government's policies but less keen to spell out precisely what it is going to do in relation to the UN rapporteur's recommendations.

That is also why I find it difficult to watch the minister squirm about what she is going to do on the age of criminal responsibility. I am happy to say that 12 is a reasonable and pragmatic compromise without waiting to see what is happening, because I think that it is perfectly legitimate to disagree with the UN on certain judgments of committees; there is nothing to be ashamed of in that. The decisions should be taken here, in Scotland, looking at how people in this country feel about issues.

Maree Todd: I assure the member that, just as he says that he was not looking away, I was not squirming.

Oliver Mundell: I am happy to have that confirmed. If the minister would like to stand up again and confirm what the Scottish Government's position is—whether it is for setting the age of criminal responsibility at 12, 14 or 16—I would be delighted to give way.

Maree Todd: As I have reiterated many times in the chamber and in other places, I was absolutely delighted to gain consensus to raise the age of criminal responsibility to 12. I understand that there is pressure to push it further, but there is no consensus on what age to push it to. I am in listening mode, as you would expect of a responsible Government minister, and I look forward to the evidence-gathering session of the committee of which you are a member.

The Deputy Presiding Officer: Members must always speak through the chair, please.

Oliver Mundell: I am pleased, because that, in effect, confirms my point. The Government is unfortunately willing to take a pick-and-mix approach to when it follows UN guidance, whereas I am honest enough to stand up and set out my opinion, which is that the decisions should be taken here, in Scotland, with MSPs taking into consideration how our constituents feel about the matter.

Alex Cole-Hamilton said that we should be leaders on the issues, not followers. I think that our role lies somewhere in the middle. If we move too fast, push too hard and stop listening to what real people are saying—if we stop listening to the experience of their everyday lives—we will not bring them along with us on the journey.

Alex Cole-Hamilton: On what I said about leaders and followers, Oliver Mundell was in the committee when we took stage 1 evidence in which the vast majority of stakeholders said that we are not going far enough in setting the age at 12. The fact that I put amendments that would set the age at 12, 14 and 16 into the public domain and received no negative public attention should suggest to Oliver Mundell that we are in step with public opinion in seeking to push the ceiling on the age.

Oliver Mundell: The problem is that, through no fault of the Parliament's and despite the hard work of the clerks and members, the vast majority of responses to consultations undertaken by the committees of this Parliament come from advocacy groups—charities and organisations—and not from individual members of the public. We have a duty to listen to the public as well, which is why I am happy to stand by my positions and to make them clear. I am not ashamed to have visited Israel, that I believe that 12 is the right age of criminal responsibility or that I believe that, at its heart, universal credit is a good policy that is designed to make people's lives better, simplify the benefits system and help to get people who want to work back into work.

Our human rights are much better served by being clear about our policy positions and letting the people of this country decide who they want to have in Government and in charge of taking some of those difficult decisions. That is my position.

16:19

Christina McKelvie: I thank members for their contributions to the debate. On 10 December 1998, the United Nations adopted its declaration on human rights defenders. Having met several human rights defenders this year, including through the Scottish human rights defender fellowship, I have gained a new perspective on how critical the rights contained in the United Nations Universal Declaration of Human Rights are. John Finnie talked about doing more internationalisation, and I hope that the fellowship gives just a small indication of our commitment to our international obligation to advance human rights worldwide.

Particularly important is the fact that human rights belong to all of us in equal measure, no matter who we are, what we are or where we

come from. We have heard a lot about that this afternoon. In Scotland, we are fortunate to have a legal framework that provides safeguards against the abuse of human rights. It includes domestic legislation such as the Scotland Act 1998 and the Human Rights Act 1998 as well as a system of international human rights treaties that Scottish ministers have a duty to comply with under the Scottish ministerial code.

As Bill Kidd highlighted, the Government has taken action to make real progress on giving effect to its international human rights obligations in areas such as gender equality, disabled people's rights, tackling racial discrimination and promoting the rights of the child. More broadly, we are taking measures to encourage fair working practices and to combat violence against women.

Challenges still remain, and we have heard about many of them this afternoon. I have listened closely to members' contributions and have written down all the points that they have raised. Alex Cole-Hamilton asked about the timetable for incorporating the UNCRC, and I can tell him that the Scottish Government has said that it will consult on incorporating the principles of the UNCRC in 2019. Consultation is going on right now with stakeholders including the Children and Young People's Commissioner Scotland. I hope that it gives the member some comfort that 2019 is only a few short weeks away and that we will get on with that work.

A lot has been said about the need to protect human rights. Michelle Ballantyne, Annie Wells and John Finnie spoke about that. I want to make a point to Michelle Ballantyne and Annie Wells about the protection of human rights today. Section 5 of the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill committed the Scottish Parliament to retaining the EU charter of fundamental rights. That commitment was put in the bill that has now become the European Union (Withdrawal) Act 2018 at the House of Lords stage but, at the next stage, it was taken out. The Lord Advocate told us today that the Scottish Government will consider ways to give effect to the provisions contained in the charter. I ask the Scottish Tories to work with the Scottish Government to ensure that we give maximum effect to the provisions of the charter when we move forward with the continuity bill.

Mary Fee and Jeremy Balfour raised a number of issues about disability. I reassure Jeremy Balfour that, just in the past few days, the disability action plan has committed to halving the disability employment gap. We are fully committed to doing that, and there are a number of other issues on which we have some work to do. The Scottish Government's commitment to the principles of the UN Convention on the Rights of Persons with

Disabilities is set out in its disability action plan, which was published in December 2016, two years ago. We believe that a fairer Scotland can be realised only when we secure equal rights for everyone.

The barriers that disabled people face are not barriers caused by disabled people or by their disabilities; they are barriers caused by prejudice, ignorance and thoughtlessness, and they remain only because those of us without a disability allow them to be there. The time is well past for that work to begin, and we have begun it. A recent amendment to the Planning (Scotland) Bill has prompted Kevin Stewart to look at how we can increase the number of changing places toilets across Scotland, and that is something that I am committed to. There is, indeed, a way to go, as Jeremy Balfour said, because the Scottish Government has made those commitments.

Jeremy Balfour asked for action, so here are some actions that are being taken—and I hope that he will accept that they are being taken with the best of intentions. There are a number of policies that we have committed to since 2016 and have now achieved. We will extend free personal care to everybody under 65, starting in April 2019. We have published our social enterprise action plan, which seeks to increase the number of disabled entrepreneurs and explores ways in which social enterprises can employ more disabled people. We have launched a new independent living fund scheme for young disabled people between the ages of 16 and 21, and we have published the first ever British Sign Language national plan—the first in the UK. We have also launched the second phase of the national health service disabled graduate intern programme, and we extended modern apprenticeship funding to disabled people up to the age of 30. I hope that that will give some comfort to everyone who is a champion for people with disabilities across Scotland.

Mary Fee has shown unstinting commitment to the Gypsy Traveller community in Scotland, and I have travelled many of those journeys with her myself. We recognise that Gypsy Travellers are among the most marginalised people in Scotland. That is why we established the ministerial working group on the issue. I chaired the fourth meeting of the group just yesterday, and I will be able to give Mary Fee an update on that in the new year. The ministerial working group's position is firmly rooted in human rights, and we will take full account of the United Nations recommendation that we should

"ensure a systematic and coherent approach in addressing the challenges"

that members of those communities face. I hope to update the chamber on that work in the new year.

We have talked about embedding human rights. Ruth Maguire was absolutely right that best practice should be standard practice. We are committed to embedding human rights, dignity and equality at the heart of everything that we do. I hope that that reassures Ruth Maguire.

That commitment to embed human rights drove the First Minister to set up the advisory group on human rights leadership, which brought together experts on different aspects of human rights and reached out to hear the direct and lived experiences of people from across Scotland.

I will take just a moment to commend Fulton MacGregor's constituent Ryan McShane, who, on Monday, stood right there at the front of the chamber, eyeballed the First Minister and asked her to do more for care-experienced young people. I was proud to hear her give him that commitment.

Anas Sarwar: I welcome all the comments that the minister has made so far. I welcome the report of the advisory group, but I note that the stakeholders that were engaged in the production of the report did not include a single faith organisation. Will the minister give a commitment that the consultation on the new legislation will engage with all faith communities?

Christina McKelvie: I can heartily give a commitment that all stakeholders who have an interest will take part in that consultation. I will certainly encourage them to do so, and I hope that Mr Sarwar will do so, too. Given all his networks and connections, I would be keen for that to happen.

The advisory group's recommendations overlap with the findings of the Equalities and Human Rights Committee. There is an interest in how we can work closely with that committee. I am delighted that it is being steered with such capable hands, by Ruth Maguire. The human rights takeover, which happened in the chamber on Monday, was not just inspirational but motivational, and it has motivated me to do more.

It is clear that the landscape in Scotland is shifting. As we heard from Daniel Johnson, across the world, the landscape is shifting, although sometimes not in a positive way. People want to take hold of their human rights and see them increasingly realised in their lives rather than undermined. The Scottish Government is fully behind that shift. We will therefore work with the advisory group, the committee, the Parliament and wider society—anybody who should be making a contribution—on that. Gail Ross spoke about the commitment that the First Minister made to engage constructively with the recommendations in the reports from the advisory group and the committee.

In 1940, eight years before the Universal Declaration of Human Rights was adopted and while the world was still in the grip of war, HG Wells wrote the book "The Rights of Man", in which he posed the question:

"What are we fighting for?"

Anas Sarwar reminded us what we are fighting for. He reminded us that racism, Islamophobia and other types of discrimination are prevalent in the world. There is also a gendered issue, so maybe the rights of women merit some attention, too. HG Wells's question was aimed at drawing forth ideas from society about what kind of world should emerge and what is worth fighting for. As we debate human rights in Scotland today, it is useful to ask ourselves the same question. What are we fighting for? What is the vision of Scotland that we are working to bring about? Anas Sarwar gave us clear ideas about how we can end racism and discrimination. He said that there should be dialogue and not division, which was an absolutely perfect response to the question.

To respond to Jeremy Balfour, children educating their parents is very welcome, especially when it is daughters educating their fathers—I am sure that we all welcome that.

I am grateful for the contribution of Professor Alan Miller and the advisory group, and of the Equalities and Human Rights Committee through its human rights inquiry, in taking us forward and identifying practical steps that we need to take. I look forward to working with members from across the chamber to make that practical effort and to make it work.

Pow of Inchaffray Drainage Commission (Scotland) Bill: Final Stage

16:30

The Deputy Presiding Officer (Christine Grahame): The next item of business is final stage proceedings on the Pow of Inchaffray Drainage Commission (Scotland) Bill. In dealing with the amendments, members should have the bill, SP Bill 9A, the marshalled list and the groupings of amendments. The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate. Members who wish to speak in the debate on any group of amendments should press their request-to-speak button as soon as possible after I call the group. Members should now refer to the marshalled list of amendments.

Schedule 3A—Preparation of annual budgets and heritors' rights to require review etc

The Deputy Presiding Officer: Group 1 is minor and technical amendments. Amendment 1, in the name of Tom Arthur, is grouped with amendments 2 to 4.

Tom Arthur (Renfrewshire South) (SNP): The amendments in this group are minor and technical. Amendments 1 to 3 refer to schedule 3A to the bill, which was inserted as the consequence of an amendment at consideration stage and makes provisions for an independent review of assessment. Amendments 1 and 2 make a change with regard to one of the review bodies, the Association of Drainage Authorities. In the bill, reference is made to "the Chairman". Amendments 1 and 2 remove that reference, future proofing the bill and allowing for any future restructuring that may occur.

Amendment 3 makes reference to another body to which reviews can be referred: the Royal Institution of Chartered Surveyors. The amendment allows for referrals to other bodies in the future. Again, that is a prudent and sensible measure, because of the need for future proofing.

To illustrate the need for future proofing, amendment 4 changes a reference to the original Pow of Inchaffray act, which dates back to 1696—it was an act of the pre-union Scottish Parliament. The amendment changes "the Act of Parliament" to "the Act of the Parliament of Scotland", as it is a convention that "act of Parliament" refers to an act of the United Kingdom Parliament.

The amendments are very minor and technical, and I am sure that they will be welcomed by the chamber.

I move amendment 1.

Amendment 1 agreed to.

Amendments 2 and 3 moved—[Tom Arthur]—and agreed to.

Schedule 4—Calculation of Chargeable Values

Amendment 4 moved—[Tom Arthur]—and agreed to.

The Deputy Presiding Officer: That ends consideration of amendments. As members will be aware, at this point in the proceedings, the Presiding Officer is required, under standing orders, to decide whether, in his view, any provision of the bill relates to protected subject matter—that is, whether it modifies the electoral system and franchise for the Scottish Parliament elections. In this case, the Presiding Officer's view is that no provision of the Pow of Inchaffray Drainage Commission (Scotland) Bill relates to protected subject matter. Therefore, the bill does not require a supermajority to be passed at this stage.

Pow of Inchaffray Drainage Commission (Scotland) Bill

The Deputy Presiding Officer (Christine Grahame): The next item of business is a debate on motion S5M-14447, in the name of Tom Arthur, on the final stage of the Pow of Inchaffray Drainage Commission (Scotland) Bill.

16:34

Tom Arthur (Renfrewshire South) (SNP): As convener of the committee, I am pleased to open the final stage debate on the Pow of Inchaffray Drainage Commission (Scotland) Bill. Before I comment on what has been an eventful and involving 18 months of work, I thank all those who have contributed to the process, including the promoters of the bill, some of whom join us in the public gallery today; those who objected to the bill and submitted written views; and my fellow committee members, Mary Fee and Alison Harris, whose hard work and commitment made my job as convener that bit easier. Last, but certainly by no means least, I thank the clerks and researchers for their hard work and support throughout the bill's rather longer than expected journey through Parliament. It has been, and remains, an honour and a privilege to work alongside all our brilliant Scottish parliamentary staff.

Anyone who read Philip Sim's recent article on the BBC website, which was titled "Dull as ditchwater? Inside Holyrood's forgotten committee", will know that what might have been expected to be something of a dry and technical subject has proved to be anything but. Ditch water it certainly is, but it has never been dull—I am sure that my committee colleagues will testify to that in their speeches.

I will give a brief reminder of the background, as we have been called the forgotten committee by some—of course, I made sure that no one in my group forgot that I am on the committee. The private bill was introduced on 17 March 2017, and it is promoted by the Pow of Inchaffray Drainage Commission, which has responsibility for the management, maintenance and improvement of the pow. I am sure that everyone knows what a pow is by now, but, for anyone who is still in the dark, "pow" is a Scots word meaning a ditch or slow-running stream or channel of water.

The Pow of Inchaffray provides drainage to approximately 2,047 acres of surrounding land near Crieff, in Perth and Kinross. The pow and its tributaries have a total length of 13.7 miles. The land that it drains is defined as "benefited land" in the bill, and those who own that land or property are called "heritors", who must pay the commission a share of its annual budget. The bill

seeks to modernise the arrangements for managing the pow to reflect changing circumstances, including the building of many new houses on benefited land.

The focus of the committee's scrutiny remained consistent throughout: is the bill proportionate, reasonable and fair to the commission and to heritors, and does it make the commission transparent, accessible and accountable? From the start, it was clear that there were concerns about some of those issues, and about who actually benefits from the drainage that the pow provides. There was obviously a great deal of interest from local people about who should pay and how much they should pay. It was clear to us that there was a division between some agricultural and residential heritors. We had a great deal to wrestle with to try to resolve those issues.

The previous time that the bill was debated in the chamber—at preliminary stage, more than a year ago—we knew that there were three objections to it. We knew that there were some complex issues to be grappled with, but the committee was confident in saying that the bill was generally to be supported as an improvement on the Pow of Inchaffray Drainage Act 1846.

The consideration stage was lengthier and more complicated than we expected, because, thanks to the endeavours of an interested member of the public, it came to light that the land plans, which are fundamental to the bill, were not accurate. Acknowledging that to be case, the promoters commissioned surveyors to draw up new plans, using more robust methodology.

The new plans had some significant differences from those that were submitted originally. The acreage of the benefited land increased by almost 100 acres, all heritors' estimated annual assessments changed, several new residential and agricultural heritors were identified and one previously identified heritor was removed from the schedule of assessments.

Once the land plans were finally settled, we considered the three objections to the bill. All objectors were invited to attend a quasi-judicial hearing, and one objector took up that opportunity. During the meeting, the objector and the promoters made their respective cases, and they cross-examined each other. The committee rejected two of the objections in full, because we were not convinced of the arguments that were put forward on why the objectors should not be heritors. We upheld part of the third objection, which related to the lack of any rights for heritors to appeal the level of the annual budget.

We then moved to the amending part of the process. The promoters responded to issues that

were raised throughout the scrutiny process and proposed amendments to address them. That resulted in 15 amendments being lodged, all by me, as convener, on behalf of the promoters.

I will briefly comment on the most substantive amendments. One concern that was raised with us was that there was to be only one commissioner for the Balgowan section, where many new houses have been built in recent years, and where more than 70 per cent of all heritors live. The promoter responded by proposing an amendment to increase the number of Balgowan commissioners to three. The committee agreed that that was a much fairer position.

Another group of amendments sought to improve accountability by ensuring that commissioners could not continue in their role if they cease to be heritors and, crucially, if a majority of heritors from a particular section agree that a commissioner for that section should be dismissed.

In response to part of an objection that was upheld, and to concerns that were expressed by many throughout the process, there were amendments that introduced new appeals processes. Those important amendments improved accountability and the balance of power between the commission and the heritors. The bill now has two possible routes for heritors to appeal the amount of the annual budget: a single heritor can appeal if the annual budget exceeds a threshold, which is set initially at £60,000; and ten or more heritors can appeal the annual budget, whatever the level at which it is set. In both cases, appeals will be considered by an independent body.

There were amendments that improved transparency and accessibility by requiring the commission to publish the land plans and the register of heritors electronically, making them freely accessible to anyone who wishes to see them. The pow may date back centuries, but it is important that it operates in a way that is fit for the 21st century.

There was also an amendment that gave effect to the new land plans. That amendment led to a parliamentary first: using new procedures introduced in 2016, we became the first private bill committee to determine that an amendment adversely affected private interests. As a result, the consideration stage was put on hold to allow objections to be made to the amendment.

We received two objections to the amendment and heard from the objectors and the promoters, again in a quasi-judicial setting. We partially upheld one objection and rejected the other before going on to agree all 15 amendments.

The bill before us today, as amended at consideration stage, is improved in terms of transparency, accessibility and accountability. It is fairer and it more appropriately balances the rights and needs of the commission and heritors, while ensuring that the valuable work undertaken by the commission can continue effectively.

I conclude by returning to Philip Sim's article for the BBC. He observed that although the pow may not attract wide interest, it involves the complex administration of a communal resource, and that

"This is precisely what elected representatives are for. It's textbook stuff."

I move,

That the Parliament agrees that the Pow of Inchaffray Drainage Commission (Scotland) Bill be passed.

16:42

Mary Fee (West Scotland) (Lab): I begin by thanking the convener, Tom Arthur, and add my thanks to his to all the people who have contributed so valuably to our work over the past 18 months: those who have appeared before us, sent us their views—including drawings, maps and plans—and everyone who was involved in the interesting and informative visit that we made to the pow last September.

I also thank the clerks for their diligence and support throughout the process, and I welcome the promoters of the bill to the gallery.

When I look back over the past 18 months, I see that it became clear to us very early in the process that the bill is important to many people. It is important to the commissioners who give up their time, without recompense, to manage and maintain the pow for the benefit of surrounding land and property owners, because no other body wants the responsibility. It matters to the heritors—agricultural, residential and commercial—who live and work on the land that benefits from the pow, and who are required to pay annual contributions to the commission.

Furthermore, we discovered that beyond those who are directly impacted, the bill also seemed to strike a chord with people whose interest is piqued by community issues that can fall between the cracks, or who are familiar with either the local area or the issues that the bill highlighted.

As the convener said, we had many issues to grapple with and to try to resolve to ensure that the bill that is before Parliament now was fit for approval at the final stage. It was a fascinating and challenging experience that we all took very seriously, and to which we gave our full commitment. We learned more along the way than we might ever have expected to know about ditches and drainage.

As the convener said, much of our work involved listening, on one hand, to the views of the promoters, and on the other, to the views of the objectors and people who sent in critical written comments, as well as trying to facilitate and encourage exchanges of views and compromises that addressed concerns on both sides.

It is evident that there are different views among those who live on the benefited land—in particular, there are differences between the views of agricultural heritors and those of residential heritors. One argument was that the bill benefits agricultural heritors more than it benefits residential heritors. Another argument was that it benefits some residential heritors more than it benefits others. Some heritors also told us that the bill does not, in fact, benefit them at all. Although the process provides for all sides to be heard, it is, of course, always possible—and perhaps even inevitable—that some of the people involved will not agree with or be happy about the outcome. It is difficult to please all of the people all of the time.

However, I believe that the bill that is before Parliament today is a testament to the parliamentary process. Although perhaps not everyone with an interest is happy with the bill, it is a significant improvement on the bill as introduced. It is also preferable to there being no bill at all, in which case the 1846 act would continue to be in force and be enforceable, and the majority of heritors would not have the rights that are being extended by the bill. There would be no representation on the commission for new home owners. There would be no right to dismiss commissioners and no requirements for land plans and lists of heritors to be published. There would be no clarification of what constitutes benefited land, and there would be no right to appeal the annual budget to an independent expert.

I also take this opportunity to comment on the promoter—the Pow of Inchaffray commissioners. I am sure that this has not been the easiest process for them. It has been time consuming, costly and, at times, very challenging. The committee has, at times, been critical of the commission, and stressed the need for it to engage more effectively with all heritors, and to take a little more care in some aspects of its affairs. However, I commend the efforts that the commissioners have made to listen to, to understand and to take on board concerns, and to propose and support reasonable solutions.

As the process continued, the commission showed a growing awareness of the perspective of heritors and others who raised concerns. The commission needs, and will need in the future, dedicated commissioners who are generous with their time and efforts. Should Parliament pass the bill today, I truly hope that the commission and

heritors—we should not forget that the commissioners are heritors, too—can put past disagreements behind them and move forward as positively and collaboratively as possible.

I hope that the new powers that are afforded by the bill will make a real difference to the people who are directly affected, and that Balgowan residents will take up the three commissioner posts that will be available. I hope that the new-look commission works well together, for the benefit of all heritors, where possible, and that the commission operates more openly than it has perhaps done in the past.

Finally, I hope that this piece of legislation will stand the test of time and allow the pow to flow effectively for generations to come. I support the motion in the convener's name.

16:48

Andy Wightman (Lothian) (Green): I am delighted to speak in this final stage debate on the Pow of Inchaffray Drainage Commission (Scotland) Bill. First of all, I thank Tom Arthur, Mary Fee, Alison Harris and the committee clerks for their diligent work. As someone who has a long-standing interest in land governance, I have followed the bill closely. Following Tom Arthur's comments, I also pay special thanks to Philip Sim of the BBC for his work in publicising the subject effectively, and for illuminating work that Parliament undertakes that perhaps does not receive the attention that it should receive.

If it is passed this evening, the bill will be the 17th private bill to have been enacted by the Scottish Parliament. About half the 16 bills to date have dealt with major infrastructure projects—such projects can now be dealt with in other ways following the Transport and Works (Scotland) Act 2007. Two of the previous private bills dealt with land issues: the National Galleries of Scotland Bill, which authorised use of common good land, and the City of Edinburgh Council (Portobello Park) Bill, which also dealt with common good land. Those bills are reminders that the law on common good is archaic, with its origins going almost as far back as the Pow of Inchaffray, in the Common Good Act 1491. Private bills are unavoidable where the intention is to review, update or amend older private acts.

According to work that was undertaken by the Scottish Law Commission and the Law Commission in England and Wales, there were, as of 1974, 26,000 local acts and 11,000 private acts still on the statute books across Great Britain. Local and private acts passed in the same year as the Pow of Inchaffray Drainage Act 1846 included an act for “Burdening or Selling the Estate of Cumbernauld (Dumbarton) for payment of debt”

and the Airdrie and Bathgate Junction Railway Act 1846.

Historically, the most voluminous enactments were, of course, acts for works to build Britain's railways, canals and other infrastructure. Since the 2007 act, the vast majority of infrastructure in Scotland no longer requires private acts, but where drainage schemes such as the pow, with its ancient origins and governance, are still extant, there is obviously still a need for such legislation.

Throughout the middle ages, the abbey of Inchaffray was known as *Insula Missarum*, or the Isle of Masses. It was one of a number of islands rising above the flooded marshland. As early as 1218, the monks had reclaimed parts of the marsh and, following the battle of Bannockburn, when the abbot reportedly led mass for the Scottish army, further work was undertaken as a mark of appreciation and thanks by Robert Bruce.

At one level, this is a fascinating story of how private enterprise has, over an area of 2,000 acres, secured drainage of valuable land under a governance scheme that makes it clear where the benefits and liabilities fall. That function is being updated through the bill. As Mary Fee correctly pointed out, such bills are balancing acts that will not always be agreeable to all parties. However, that illustrates Parliament's importance in balancing competing interests that always arise with bills, whether private or public.

I once again thank the committee for its work. I hope that the Pow of Inchaffray will be well governed in the future, and that there will be no need for the promoters to come to Parliament again for at least another 150 years.

The Scottish Greens will support the bill at decision time.

16:52

Alison Harris (Central Scotland) (Con): I thank the convener, Tom Arthur, and Mary Fee for their contributions and, like them, I thank the many people who have assisted with the committee's deliberations. This has very much felt like a community endeavour, with the committee learning about the pow and those whom it affects, listening to the varied views of commissioners, heritors and interested other parties, and proposing possible solutions to areas of disagreement.

From the start of our work, we were keenly aware that the pow and the commission are historic and unique aspects of Scottish life, but not many of us would have been aware of them before the bill was introduced. I was certainly one of those people—I knew nothing about the Pow of Inchaffray until I joined the committee.

The pow dates back many centuries and the commission has been subject to legislation since an act of the Parliament of Scotland in 1696. There is even a document from 1641 entitled "Ratification of the mutual bond amongst the heritors adjacent to the Pow of Inchaffray", which relates to the management and obligations involved in the upkeep of the pow. That document can be viewed via the University of St Andrews online archive of records of the Parliaments of Scotland to 1707. It seems that Parliaments have been considering and debating the pow for well over 300 years.

The fact that the most recent legislation was passed in 1846 highlights that history, but it also probably explains why the bill was deemed necessary by the promoters. The pow and the commissioners are being governed by legislation that is now 172 years old—and, as we know, much has changed in that time. The maps that were drawn up in the 19th century to confirm the land that benefited from the pow show fields, woodlands and farm holdings, but not many houses. Centuries of drainage via the pow have been so successful and have improved some of that land to such an extent that, in more recent times, many residential properties have been built on the benefited land. The promoters felt that, as the 1846 act predated the building of the majority of those properties, it was therefore no longer fit for purpose. They wanted powers to revalue the land and to spread the costs of maintaining the pow more fairly.

Because of outdated plans and methodology, some people who benefit from the pow are not contributing to its upkeep. They benefit from the pow because both foul and surface water from their properties drain into it, directly and indirectly. The bill allows the commission to ensure that people who are in that position, some of whom are not charged by the local authority for drainage, are appropriately charged for a proportionate contribution to the commission's annual budget.

As well as directly uncovering the errors in the original land plans, as detailed by my committee colleagues, the process helped draw attention to other historic anomalies that might otherwise have remained hidden. For example, there is a piece of land that has always benefited from the pow but whose owners have never been charged as a result of an agreement between the then owner and the then commissioners. One of the benefits of the scrutiny process is that it allows a light to be shone on such historic agreements and allows people to consider whether such arrangements are still appropriate. In this instance, the promoters agreed that applying the methodology for identifying benefited land consistently meant that the arrangement should not continue and that the owner of the land should now be charged.

At the preliminary stage, the committee agreed that a private bill was appropriate to modernise the arrangement of the pow commission. The focus of our work at the consideration stage, as set out by Tom Arthur and Mary Fee, was to consider objections to the bill as introduced and to respond to the other concerns that were raised. We did so by facilitating discussions and suggesting possible solutions.

It was good to see the process working as it should when objectors and the promoters attended public sessions that were managed by the committee to put their views and to cross-examine each other. The committee learned a great deal from those sessions and better understood both points of views and the possible solutions that might offer an appropriate compromise. Although most objections were eventually rejected, two were upheld in part and led to an amendment to the bill to include an appeals process and to the promoters making adjustments to the categorisation of some land. Even with the objections that we rejected in full, some of the issues that were raised led to debates that helped our understanding of the dynamics between the commission and the heritors and of how best to resolve some of the concerns. I commend the objectors who attended committee sessions—I recognise that it can be daunting, as a member of the public, to attend a public committee meeting to argue a case.

I am also pleased that, as Mary Fee said, the commissioners were receptive to the concerns raised and that the bill, as amended at consideration stage, addresses many of the concerns that were raised with the committee during its scrutiny. I support the motion in Tom Arthur's name.

Parliamentary Bureau Motions

16:58

The Presiding Officer (Ken Macintosh): The next item of business is consideration of two Parliamentary Bureau motions. I ask Graeme Dey, on behalf of the Parliamentary Bureau, to move motion S5M-15149, on committee membership, and motion S5M-15150, on a committee substitution.

Motions moved,

That the Parliament agrees that—

George Adam be appointed to replace Keith Brown as a member of the Health and Sport Committee;

Keith Brown be appointed to replace George Adam as a member of the Social Security Committee.

That the Parliament agrees that Richard Lyle be appointed to replace Joan McAlpine as Scottish National Party substitute on the Environment, Climate Change and Land Reform Committee.—[*Graeme Dey*]

The Presiding Officer: I will not suspend the meeting but we will pause until 5 o'clock, to allow members to get to the chamber for decision time.

Decision Time

17:00

The Presiding Officer (Ken Macintosh): The first question is, that amendment S5M-15126.1, in the name of Annie Wells, on demonstrating leadership in human rights, be agreed to.

Amendment agreed to.

The Presiding Officer: The next question is, that amendment S5M-15126.3, in the name of Mary Fee, on demonstrating leadership in human rights, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Lamont, Johann (Glasgow) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 McNeill, Pauline (Glasgow) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, David (Highlands and Islands) (Lab)
 Wightman, Andy (Lothian) (Green)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Chapman, Peter (North East Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)

Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (West Scotland) (Con)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greene, Jamie (West Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lindhurst, Gordon (Lothian) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mason, Tom (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Tomkins, Adam (Glasgow) (Con)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wells, Annie (Glasgow) (Con)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 30, Against 83, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The next question is, that amendment S5M-15126.2, in the name of Alex Cole-Hamilton, on demonstrating leadership in human rights, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

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

Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caitness, Sutherland and Ross) (SNP)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Abstentions

Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Mason, Tom (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)

The Presiding Officer: The result of the division is: For 88, Against 0, Abstentions 24.

Amendment agreed to.

The Presiding Officer: The next question is, that motion S5M-15126, in the name of Christina

McKelvie, on demonstrating leadership in human rights, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)

McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Abstentions

Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Mason, Tom (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)

The Presiding Officer: The result of the division is: For 89, Against 0, Abstentions 24.

Motion, as amended, agreed to,

That the Parliament reaffirms its long-standing commitment to human rights and human dignity and to the principles of equality, democracy and the rule of law; notes with approval that 2018 is the 70th anniversary of the adoption by the UN of the Universal Declaration of Human Rights; further notes similarly that Scotland has enjoyed 20 years of the vitally-important human rights safeguards that are contained in the Human Rights Act 1998 and the Scotland Act 1998; expresses its wish that all of Scotland should work in concert to promote and vindicate human

rights for all, keeping pace with progressive international standards and demonstrating global leadership; notes the publication on Human Rights Day 2018 of the report and recommendations of the First Minister's Advisory Group on Human Rights Leadership; welcomes the report and recommendations of the Equalities and Human Rights Committee, which was published on 26 November 2018, following the human rights inquiry that it carried out and notes the balance of support within the committee for the report's conclusions; agrees that the Scottish Government should now take action, in partnership with civil society, the Parliament and all parties, to ensure that Scotland continues to lead by example across the full spectrum of civil, political, economic, social, cultural and environmental rights, and welcomes the Scottish Government's commitment to incorporate the UN Convention on the Rights of the Child into law and its move to meet the minimum age of criminal responsibility specified by the UN Committee on the Rights of the Child, both of which are prerequisites in establishing Scotland as an international human rights leader.

The Presiding Officer: The next question is, that motion S5M-14447, in the name of Tom Arthur, on the Pow of Inchaffray Drainage Commission (Scotland) Bill, be agreed to. Because this is a bill, members need to cast their votes now.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Chapman, Peter (North East Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (West Scotland) (Con)

Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mason, Tom (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, Tavish (Shetland Islands) (LD)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Tomkins, Adam (Glasgow) (Con)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

Wells, Annie (Glasgow) (Con)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 112, Against 0, Abstentions 0.

Motion agreed to,

That the Parliament agrees that the Pow of Inchaffray Drainage Commission (Scotland) Bill be passed.

The Presiding Officer: The Pow of Inchaffray Drainage Commission (Scotland) Bill is passed. *[Applause.]*

The Presiding Officer: The next question is, that motion S5M-15149, in the name of Graeme Dey, on committee membership, be agreed to.

Motion agreed to,

That the Parliament agrees that—

George Adam be appointed to replace Keith Brown as a member of the Health and Sport Committee;

Keith Brown be appointed to replace George Adam as a member of the Social Security Committee.

The Presiding Officer: The final question is, that motion S5M-15150, in the name of Graeme Dey, on a committee substitution, be agreed to.

Motion agreed to,

That the Parliament agrees that Richard Lyle be appointed to replace Joan McAlpine as Scottish National Party substitute on the Environment, Climate Change and Land Reform Committee.

Meeting closed at 17:05.

This is the final edition of the *Official Report* for this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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