



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Meeting of the Parliament

**Tuesday 27 June 2023**

**Session 6**



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# Scottish Parliament

*Tuesday 27 June 2023*

*[The Presiding Officer opened the meeting at 14:00]*

## Time for Reflection

### **The Presiding Officer (Alison Johnstone):**

The first item of business is time for reflection. Our time for reflection leader today is Rabbi Aharon Lemberger, who is assistant rabbi at Giffnock Newton Mearns synagogue and Jewish chaplain for the University of Glasgow and the University of the West of Scotland.

**Rabbi Aharon Lemberger (Giffnock Newton Mearns Synagogue and Jewish Chaplain for Glasgow and the West of Scotland Universities):** Presiding Officer and members of Parliament, thank you for allowing me to address you today, shortly before my family and I return to Israel, our home, after four wonderful years in Scotland.

What is reflection? It is engaging in serious and careful thought, usually looking inwards. In Hebrew, that is called "Hitbonenut". A reflection is also the image that one sees when looking at a reflective surface, such as a mirror or water. In Hebrew, that is called "Hishtakfut". Another Hebrew word that has the same root as "Hishtakfut"—reflection—is "Shakuf", which means "transparent". The same root gives us two total opposites. Looking at something transparent is to look right through it and not really see it, like focusing on rocks or fish at the bottom of the sea without noticing the clear water. Reflection is looking at something, seeing it and finding ourselves in it—like looking at the surface of the water and seeing our own image.

This past weekend, in synagogues around the world, Jewish people read the story of Korach, who was a cousin of Moses, from the same portion of the Torah that I read during my Bar Mitzvah, many years ago. Through this story, our sages teach us, in "The Ethics of the Fathers", that every dispute, argument or discussion that is not for the sake of Heaven, will not endure. Which dispute is not for the sake of Heaven? That was the controversy for Korach and all his congregation. When Korach and his followers challenged Moses about his leadership position and that of his brother, Aharon the High Priest, they might have been raising a legitimate point but did so out of disrespect and envy. Korach looked through Moses, who was transparent to him. He did not notice his own reflection in Moses, therefore he despised him.

That is an important lesson about the need to recognise the person in front of us when we argue or discuss issues on which we do not agree. Not seeing the reflection of that person can be the basis for hatred, racism and antisemitism. I know that, during recent discussions on battling against and defining antisemitism, some of our Jewish students have felt unseen and harmed by not being afforded the opportunity to define what makes them feel vulnerable. They felt transparent.

May we not be Korach. May we all remember to see our own reflection in others.

## Topical Question Time

14:04

### Scotland's 999 Emergency Telephone Service

1. **Jamie Greene (West Scotland) (Con):** To ask the Scottish Government what it can do to increase the resilience of Scotland's 999 emergency telephone service, in light of United Kingdom-wide technical issues over the weekend that rendered the service unusable for many users. (S6T-01482)

**The Cabinet Secretary for Justice and Home Affairs (Angela Constance):** The 999 call platform is a UK-wide system that is operated by BT as an integral part of the UK telecommunications network. Responsibility for all telecoms infrastructure is reserved to the UK Government.

Scotland was not disproportionately affected by the issue. Police Scotland, the Scottish Fire and Rescue Service and the Scottish Ambulance Service promptly implemented business continuity arrangements, which helped to manage call handling and reduce the likelihood of a substantial call-queue build-up or excessive wait times for callers.

Because of the scale of the incident, the Scottish Government's resilience room was activated for the incident's duration. We have made clear to BT our concerns about the incident, and we await the outcome of the formal inquiry that Ofcom initiated on 26 June. That should allow us to better understand the cause of the failure, the full impacts and any lessons that may be learned.

**Jamie Greene:** I thank the cabinet secretary for that helpful update, and I thank the call handlers and emergency service workers who responded so quickly to events.

On the outage and resilience, has the cabinet secretary had any direct conversations with BT or Police Scotland in the past 48 hours about initial thoughts on what the cause was? I understand that, for obvious reasons, there will be a full-scale inquiry into that.

As a result of the 999 outage, the 101 service stepped up to take and respond to emergency calls. That is a relief, because just nine months ago the Criminal Justice Committee took evidence from Police Scotland's deputy chief officer, David Page, who said that the service was under existential threat. Thankfully, the Government responded to that warning. Given the importance of the 101 service, will the cabinet secretary

commit to on-going investment in it and confirm that it will continue to exist in its current form?

**Angela Constance:** I reassure Mr Greene that, throughout Sunday, I had several conversations with my resilience officials, who also took part in the UK COBRA meetings to relay any concerns that we had in Scotland. Since then, we have had—by chance—a four-nations meeting yesterday, at which all ministers who deal with resilience were present. There is certainly a shared understanding of and shared support for Ofcom's inquiry into BT's activity.

As for specifics about the UK-wide outage, I draw to Mr Greene's attention the statement that BT made:

"We're nearing the end of a full, internal investigation and expect to share the findings with government, the emergency services and Ofcom ... by Thursday."

The internal review will examine

"the technical aspects of what triggered Sunday's incident, the process of moving over to the back-up system and the timings of communications to the emergency services, Ofcom and government. In the interests of transparency, we will share the key findings publicly at the same time, subject to the removal of any information that remains confidential for critical national infrastructure"

purposes.

I am glad that Mr Greene acknowledges the improvements in the 101 service. That certainly coincides with the views of His Majesty's Inspectorate of Constabulary in Scotland. The Scottish Government will continue to ensure that arrangements for the 101 service, as operated by Police Scotland and scrutinised by the Scottish Police Authority, work well.

**Jamie Greene:** I thank BT for the information that it has provided, which is now on the record. We cannot overstate the importance of our 999 and 101 services or the importance of the public having full confidence in them and getting through when they need to.

However, that trust has been eroded in many circumstances. Over the past five years, nearly 2 million calls to 101 have been abandoned by the caller, and waiting times for 999 and 101 calls have risen significantly. Last month, the longest wait for a 101 call to be answered was one hour and two minutes. That can be coupled with the recent unfortunate scandal in which we discovered that calls had been allocated fake call signs and had not been responded to at all. All of us in Parliament know the tragic consequences of call handling going wrong.

I seek reassurance that members of the public can have full confidence that all our blue-light services will be there for them when they are needed, and that robust infrastructure is in place—

from the technical and resource points of view—to deal with emergency calls.

**Angela Constance:** What is clear from Sunday's unfortunate events is that the Scottish Government's resilience arrangements worked well—as did the business continuity plans of all our emergency services, who deserve our grateful thanks for that.

I turn to Jamie Greene's specific points on Police Scotland's call-handling service, separate from the UK-wide outage for which BT is now being investigated. We continue to be hugely grateful to Police Scotland and its staff. It is worth remembering that it receives more than 2 million calls each year, and that it continues to prioritise 999 calls. The most recent figures, which are from April this year, show that Police Scotland has an average answer time of six seconds for 999 calls, which is in line with the times of other large forces across the UK. In this year, up to the end of March, the average time that was taken to answer non-emergency 101 calls was four minutes and 27 seconds. As I mentioned in my earlier answer, the SPA closely monitors Police Scotland's approach.

A number of improvements have been made. Police Scotland has highlighted that a number of actions on public-engagement system improvement and staff support have been adopted to strengthen performance further. However, it is a matter on which we will all continue to be vigilant. It is also one that has been helped by the increases that have been made in police funding, year on year, since 2016-17.

We can take further assurance from the HMICS review of the service's contact assessment model, which has highlighted a number of successes in that area.

**The Presiding Officer:** I would be grateful for concise questions and responses.

**Emma Harper (South Scotland) (SNP):** The downing of the phone line is a huge concern. I welcome the measures that the cabinet secretary has outlined to ensure that, in emergencies, access to care is always available. Will she outline what additional steps are being taken to raise awareness among members of the public of other means of accessing medical attention in non-emergency or non-urgent situations?

**Angela Constance:** Over the past three years, NHS 24 has been completely transformed from a predominantly out-of-hours primary care service to a 24/7 system-wide service that provides triage to patients who require either acute or primary care intervention, and ensures that they are signposted to the appropriate service. Public messaging regarding NHS 24 services runs on social media, along with communications campaigns on television, radio and digital platforms to promote

such services in the run-up to busy periods such as bank holidays. There is also the NHS Inform website and the NHS 24 online app.

### **Adult Disability Payments (Reported Delays)**

2. **Paul O'Kane (West Scotland) (Lab):** To ask the Scottish Government what its response is to the reported delays in processing times for adult disability payments. (S6T-01488)

**The Cabinet Secretary for Social Justice (Shirley-Anne Somerville):** We know that 53 per cent of adult disability payment decisions were made in under four months, but we also know that many other applicants are waiting for too long. Social Security Scotland is taking urgent and concerted action to speed up the process. The focus is on getting decisions right first time. Statistics show that that approach is working, with only 6 per cent of people asking for redeterminations.

People can also be assured that Social Security Scotland will backdate all payments to the date of application and will continue to deliver this benefit in a different way, through supporting people to apply and collecting information on their behalf. Under the previous system, people had to do that themselves before applying.

**Paul O'Kane:** Things are getting worse, not better. In Scotland, the average wait for processing adult disability payment applications more than doubled between September 2022 and April 2023. People have been waiting for an average of 19 weeks for a decision, which is more than double the average waiting time for people in England and Wales who are applying for personal independence payments through the Department for Work and Pensions.

That is an unacceptable position. We do not even have a full picture of the longest waits, and many members around the chamber will have mailbags full of stories of the inordinate waits that people are experiencing. We need granular data to be able to show the full picture of the situation in Scotland. Will the cabinet secretary agree to publish full data, so that we understand the scale of the problem and can measure her responses against it?

**Shirley-Anne Somerville:** There are recent statistics not long published that look at the adult disability payment processing times. I urge caution about making a comparison with the personal independence payment, because they have very different application processes. I made reference to those points in my original answer. There is an obligation for Social Security Scotland staff to work hard to ensure that they make the right decision first time, which is shown by the fact that only 6 per cent of people are going for redeterminations,

whereas, with PIP, for example, 25 per cent of people were going to mandatory reconsiderations and many were going to appeal. There are, of course, some people who are not able to go through that quite oppressive system. I therefore urge caution on that point, because many PIP decisions are overturned under reconsideration or appeal.

I point to the issue of supporting information, because there is an important difference between the systems. Under PIP, the client—or customer, as the DWP likes to call people—has to collect supporting information themselves. As we developed the Social Security Scotland agency and its processes, people told us that that is a very burdensome and onerous task, which is why it is the responsibility of the agency to gather supporting information. Sometimes, that takes time, but it is important, and I hope that Paul O’Kane is not suggesting that we change the process and put the burden back on the client, as with PIP. Social Security Scotland will endeavour to do that as quickly as possible, which is why it is taking concerted action to speed things up. Its staff will endeavour to get supporting information themselves, rather than it going through the client.

**Paul O’Kane:** The cabinet secretary speaks about concerted action in order to speed things up, and it is clear that that is what must happen. In recent months, a range of issues have been exposed relating to the ability of Social Security Scotland to deliver its core functions, including the soaring cost of the information technology budget, people waiting for more than an hour to have their call answered, people being cut off on the phone and people being unable to access the website. We were promised a better and fairer social security system by the Government through the creation of Social Security Scotland, five years ago, but people are still in need and should not have to wait so long. Will the cabinet secretary outline for members what direct action she will take to get a grip of the problem and bring the waiting times down? Will she commit to bringing a clear plan to the chamber to ensure that the processing times are sped up?

**Shirley-Anne Somerville:** I will give one example to explain why the cost of the IT budget has increased. If members compare it with our initial estimates, they will see that we were not, at that time, planning to deliver the Scottish child payment. The IT system has now been delivered to ensure that that payment is gaining traction across the country and making a difference to people’s lives.

I have been in the chamber on a number of occasions recently, talking through some of the points of change that are already being undertaken by the agency. There is an end-to-end

process review being undertaken, and some procedures have already been put in place. Again, I have spoken in the chamber about changes that have already been made to the application process. I have talked about the fact that the agency is drawing more on the expertise of in-house health and social care practitioners to support case discussions earlier, allowing people to have their decisions made earlier. In addition, a number of changes have been made to the way in which the agency handles calls, including through staff who can be deployed from elsewhere in the organisation to help to reduce processing times.

I believe that the chief executive of Social Security Scotland is due to appear before the Parliament to go into further detail on that. I have already discussed with him that it might be useful for him to provide an update to all members in the Scottish Parliament to reassure them of the work that is being undertaken and to ensure that we are open to suggestions about how this can be improved.

**Stephanie Callaghan (Uddingston and Bellshill) (SNP):** People who have experienced a delay when applying have understandable concerns about the prospect of losing out on payments while they are awaiting a decision. I have heard what the cabinet secretary has said today, but, to be crystal clear, can she confirm that in cases in which delays have been experienced, the Scottish Government will ensure that those who are eligible will be paid from the date on which they applied?

**Shirley-Anne Somerville:** I am happy to again give the reassurance that people’s payments will be backdated to the date of application.

**The Presiding Officer:** That concludes topical questions.



## Illegal Migration Bill

### **The Presiding Officer (Alison Johnstone):**

The next item of business is a debate on motion S6M-09710, in the name of Emma Roddick, on the Illegal Migration Bill, which is a piece of United Kingdom legislation. I would be grateful if members who wish to speak in the debate were to press their request-to-speak buttons.

I will allow a moment for members to organise themselves.

14:21

**The Minister for Equalities, Migration and Refugees (Emma Roddick):** The Scottish Government condemns the UK Government's abhorrent Illegal Migration Bill, as does this Parliament, which voted overwhelmingly to reject the bill on 25 April.

The Joint Committee on Human Rights at Westminster has stated that the bill is currently incompatible with the United Nations Convention on the Rights of the Child, the Council of Europe Convention on Action against Trafficking in Human Beings and the European convention on human rights.

The Scottish Government has written to the UK Government on multiple occasions to request that it withdraw the bill. We will continue to ask it to do so, including at the second meeting of the interministerial group for safety, security and migration, which the Cabinet Secretary for Social Justice and the UK Home Secretary will attend in July.

The Scottish Government's view is that the bill overreaches into devolved competencies by altering the Human Trafficking and Exploitation (Scotland) Act 2015, which was passed unanimously by this Parliament. Clauses 23 and 27 of the bill are a restriction on the power of the Scottish ministers under the 2015 act, as they alter the executive competence of ministers and impact our powers to support and assist people excluded as a result of the UK bill.

Therefore, the Scottish Government prepared a legislative consent memorandum, because we firmly believe that the Illegal Migration Bill is a relevant bill under rule 9B of the Scottish Parliament's standing orders. The Presiding Officer concluded that the bill does not meet the criteria in rule 9B, so the Scottish Government has not been permitted to lodge that LCM.

The Presiding Officer is, of course, entitled to reach the conclusion that she did, but I am disappointed by the decision, and that disappointment has been amplified, given that the Senedd voted just last week to refuse consent for

what it called a "callous" bill that could allow children to be removed from the care of Welsh social services.

The Scottish Government's view is that the consent of this Parliament should be required for clauses 23 and 27 of the UK bill. I will outline to Parliament the reasons for that. Clause 23 of the bill disapplies specific provisions of the 2015 act in relation to support and assistance for potential victims in Scotland. Clause 27 of the bill directly amends sections 9 and 10 of the 2015 act to make it clear that they are subject to clause 23.

The provisions are disapplied in respect of persons for whom the secretary of state is under a duty, in clause 2(1) of the UK bill, to make removal arrangements, and who are in receipt of a positive reasonable grounds decision—that the adult is a victim of an offence of human trafficking—or a competent authority is in the process of determining whether there are reasonable grounds.

The 2015 act requires the Scottish ministers to secure such support and assistance as they consider necessary for an adult where there are reasonable grounds to believe that the adult is a victim of an offence of human trafficking. That duty exists during what is described as the "relevant period", which begins on the date that it is determined that there are reasonable grounds to believe that the adult is a victim of human trafficking and ends on the earlier of the end of the period specified in regulations—currently up to 90 days—or the date on which there is a conclusive determination that the adult is or is not a victim of an offence of human trafficking.

The 2015 act also enables the Scottish ministers, via a discretionary power, to secure support and assistance for an adult trafficking victim in certain circumstances.

Scottish Government crisis support for potential victims of human trafficking is currently delivered through grant funding arrangements of more than £7.45 million from the victim-centred approach fund between 2022 and 2025. Those funds are shared between the Trafficking Awareness Raising Alliance, which supports women who have been trafficked for the purposes of commercial sexual exploitation, and Migrant Help, which supports all other adult victims. Support can include accommodation, assistance with day-to-day living, medical advice and treatment including psychological help, language translation and interpretation, counselling, legal advice, help accessing other services and, if the victim wishes, repatriation.

The UK Government's Illegal Migration Bill will prevent delivery of that support to people within scope other than in a very narrow selection of

cases in which there are compelling reasons for an individual to remain in the UK to provide co-operation with a public authority in connection with an investigation or criminal proceedings related to their exploitation. Indeed, the UK bill has been amended to ensure that the secretary of state must assume that it is not necessary for a person to be in the United Kingdom to provide that co-operation.

I hope that all of us in the chamber today will recognise that victims of trafficking are among the most vulnerable people in society, having suffered unimaginable trauma through the experiences of exploitation. They should be afforded the correct support and protection, not vilified for seeking safety.

Last Thursday, alongside the Cabinet Secretary for Social Justice, I hosted a summit with stakeholders across Scotland and beyond to assess the bill and discuss reasonable mitigations.

**Maggie Chapman (North East Scotland) (Green):** At the summit last Thursday, we heard very clearly from third sector and other stakeholders about their concerns, particularly about the non-derogable obligations that they and we have under international human rights laws, including the Council of Europe Convention on Action against Trafficking in Human Beings. Can the minister provide some comfort to those people by saying that we believe that they should continue to fulfil their non-derogable obligations under international human rights laws even if the bill is passed?

**Emma Roddick:** Nobody should be in any doubt that the Scottish Government is committed to continuing to do anything that we can to ensure that we meet our international human rights obligations. We encourage any public authority to do the same within the bounds of the law. Fundamentally, we simply think that the Westminster Parliament should remove its amendments to our trafficking legislation.

On the summit, which Maggie Chapman also attended, we are currently considering many of the views that stakeholders put forward. I will share key thoughts with relevant committees of the Scottish Parliament. The summit heard from the former Independent Anti-Slavery Commissioner, for example, and perhaps the most striking contribution was provided through a video that was created by the Trafficking Awareness Raising Alliance. The video was voiced by a female survivor of human trafficking for the purposes of commercial sexual exploitation, and it appealed to law makers to reconsider this horrific bill. That powerful statement starkly highlighted how vulnerable people will be consigned to a fate of exploitation, with no support entitlements or protections, thanks to the bill.

The UK Government's bill does not introduce any legal visa routes for people to claim asylum. There are no visa routes to enable people to claim asylum in the UK. That is why the bill will not stop the boats. What it will do is stop women across the UK who are victims of commercial sexual exploitation, who are being raped multiple times daily, seeking help and protection from authorities. It will negatively impact prosecutions, as victims will be fearful of engaging in the criminal justice process, and attempts to eliminate human trafficking in Scotland if victims actively avoid identification for fear of being removed from the UK. That is a shocking indictment of the UK Government's values, and it demonstrates the real impact of the bill.

As members have heard before, the bill also contains powers that seriously and significantly impinge on the rights and safety of unaccompanied asylum-seeking children. Make no mistake: the bill will force children into harm's way.

The Scottish Government, the Parliament and many in wider civic society are united in our stance that the bill has no place in Scotland.

I move,

That the Parliament agrees that the UK Government's Illegal Migration Bill will negatively affect all those seeking asylum in the UK; notes that clauses 23 and 27 of the Bill together will amend the Human Trafficking and Exploitation (Scotland) Act 2015, by placing a restriction on the powers of the Scottish Ministers and removing the entitlement for victims of human trafficking and exploitation to access Scottish Government-funded support services if they have arrived in the UK through irregular means after 7 March 2023; further notes that the Bill's provisions are likely to impact on the ability to support potential victims of human trafficking and, therefore, will impact on the delivery of the Trafficking and Exploitation Strategy and efforts to eliminate human trafficking, as victims may actively avoid identification and associated risks of removal from the UK, and acknowledges that the Scottish Government has not been permitted to lodge a Legislative Consent Memorandum on the UK Government's Illegal Migration Bill in the Scottish Parliament.

14:29

**Donald Cameron (Highlands and Islands) (Con):** I will begin with a couple of important procedural points about how we got here. I make no apology for making these points.

This was meant to be a debate about legislative consent but, yesterday, the Scottish Government's motion revealed that this is not an LCM debate, which we are used to having, as it has not been permitted to lodge a legislative consent memorandum. The minister's motion says as much.

Let us be absolutely clear who has refused that permission: it is not the UK Government that has done so, as lodging a memorandum is nothing to

do with it; it is the Scottish Parliament. Here, I will address you directly, Presiding Officer.

**Emma Roddick:** I point out that at no point did I blame the UK Government regarding the LCM, but it is certainly the UK Government's fault that the bill includes clauses that alter our executive competence by amending the Human Trafficking and Exploitation (Scotland) Act 2015, which the Scottish Conservatives backed in 2015. Could the member perhaps explain the reason for the change?

**Donald Cameron:** I will, but first I will make the point that I was in the process of making. The bill does not affect devolved competence. The Presiding Officer, presumably having taken legal advice, has decided that the Illegal Migration Bill is not a relevant bill for the purpose of an LCM.

The Presiding Officer is a guardian of the processes of the Parliament. The legislative consent process of this Parliament does not apply, so legislative consent is not required. In short, the view of the Parliament is that the bill does not engage devolved competence. Migration is quintessentially a reserved matter.

That is a view that I have expounded in the chamber when speaking against a business motion and when speaking in the debate that we held a few months ago. During that debate, there was no indication of the Government's views on legislative consent, because no memorandum had been published. We had no formal documentation regarding its views on the competence of the bill. I made the point that we did not know whether the Government thought that devolved competence was engaged or whether it believed that legislative consent was necessary. If it believed that consent was necessary, we did not know why or in what way.

The Cabinet Secretary for Social Justice, who is sitting beside the Minister for Equalities, Migration and Refugees, said:

"I confirm to Parliament that we will shortly lodge a legislative consent memorandum on the bill and I will write to the UK Government today"—

**Alex Cole-Hamilton (Edinburgh Western) (LD):** Will Donald Cameron give way?

**Donald Cameron:** I will not.

The cabinet secretary said:

"I will write to the UK Government today to inform it of our intention to do so."—[*Official Report*, 25 April 2023; c 12.]

It would appear that the cabinet secretary was ill-advised to make such a pledge, as it turns out that the only people who think that devolved competence is engaged are those in the Scottish Government, not the UK Government and not—

**The Cabinet Secretary for Social Justice (Shirley-Anne Somerville):** Will the member give way on that point?

**Donald Cameron:** I will not.

**Shirley-Anne Somerville:** He mentioned me directly.

**Donald Cameron:** And not the officials in this very Parliament, who are of the same view. Again, the question is why we are here today debating the bill. The fact is that today's debate is simply an attempt—after a full debate on the bill on 25 April, when the substantive issues were exhaustively canvassed—to make another attack on UK Government migration policy. So far, so predictable.

As I said in that first debate, it would, of course, be better if the Government was using the time instead to debate the real issues facing Scots—issues where this Parliament actually does have competence, such as national health service waiting lists, drug deaths, the widening attainment gap in schools and numerous transport failures, including the mismanagement of the delivery of new ferries to Scotland.

**Shirley-Anne Somerville:** Will the member give way?

**Donald Cameron:** Yes.

**Shirley-Anne Somerville:** I am grateful for the opportunity.

Can the member say when he may wish to get on to discussing the very women whom the minister discussed in her opening speech, who are impacted by the bill and who were protected by devolved legislation—which the member's party voted for—and who are frightened? That is our responsibility, as a Government and as a Parliament: to protect the most vulnerable in our society. It is a shame that the member does not think so.

**Donald Cameron:** I look forward to the summing-up speeches, because that, frankly, is no answer to the question. The bill is not within the legislative competence of this Parliament.

I now turn to the issues that have been raised. The UK Government has introduced the bill to ensure that the only route to asylum in the UK is a safe and legal one. Since 2015, the UK has offered sanctuary—

**Maggie Chapman:** Will the member take an intervention?

**Donald Cameron:** No.

The UK has offered sanctuary to more than 580,000 men, women and children through safe routes such as refugee family reunion and the UK

resettlement scheme, as well as welcoming people through the country-specific routes for Ukraine, Hong Kong, Afghanistan and Syria.

**Emma Roddick:** Will the member take an intervention?

**Donald Cameron:** I have taken two interventions so far. I will not take another one.

The UK Government has made it clear, again and again, that the bill is focused on illegal migration. It seeks to address the growing number of instances of people smuggling and to reduce the incidence of unsafe migrant crossing. The number of people who arrived illegally in 2022 was more than 45,000, which represented a 60 per cent increase on 2021.

By restricting illegal migration, there will be greater capacity to provide a safe haven for those who are at risk of war and persecution. The bill provides for the UK Government to commit to resettling a specific number of the most vulnerable refugees from around the world every year.

The UK Government has been responsive to concerns that have been raised during the bill's progress in the Houses of Parliament. It has made a number of amendments at report stage, including enhancing the safeguards for unaccompanied children by setting out the limited circumstances in which removal of children will be exercised, such as for the purposes of family reunion or removal to a safe country of origin. Amendments were also made to the bill's detention powers for unaccompanied children, which will now be permitted only for purposes that are prescribed in regulations that are made by the secretary of state.

**The Presiding Officer:** I must ask you to conclude, Mr Cameron.

**Donald Cameron:** For those reasons, we will vote against the Scottish Government's motion at decision time.

14:35

**Paul O'Kane (West Scotland) (Lab):** I rise in support of the Scottish Government's motion and in opposition to the UK Government's Illegal Migration Bill.

My party has been steadfast in its opposition to the bill, voting against it in the House of Commons, and in April when we debated the bill in this Parliament, articulating clearly our opposition to it. Let us make no mistake: the Illegal Migration Bill is brutal, pernicious and totally ill considered. It challenges the fundamental human right to seek asylum, which is enshrined in the United Nations Convention relating to the Status of Refugees, which was adopted in 1951.

In conducting its legislative scrutiny of the bill, the Joint Committee on Human Rights, which comprises cross-party politicians from the House of Commons and the House of Lords, has, as we have heard, concluded that the bill breaches the UK's international human rights obligations, including those under the European convention on human rights. Indeed, even the Home Secretary has acknowledged that there is a more than 50 per cent chance that the legislation will break international human rights law.

Even today, we have seen that the UK Government does not even know how much its absurd and cruel plans will cost. It is clear that the legislation will, despite repeated warnings, remove the safeguards for victims of modern slavery and human trafficking, exposing people to a greater threat of harm or, as is too often the case, death.

Presiding Officer,

"The Modern Slavery Act gave hope to victims, but this Bill removes that hope. I genuinely believe that if enacted as it is currently proposed, it will leave more people—more men, women and children—in slavery in the UK."—[*Official Report, House of Commons*, 26 April 2023; Vol 731, c 809].

Those are not my words; they are the words of former Conservative Prime Minister Theresa May. That is emblematic of how far and how quickly the Conservative Party has lurched to the right on those issues.

I urge Conservative members in this chamber and its front-bench spokesperson—I believe him to be a man of integrity and to be a good man—to use their voices to oppose this immoral piece of legislation, even at this late stage as it concludes its parliamentary process at Westminster. How can they justify supporting a bill so lacking in such basic compassion, empathy and humanity?

Of course, as we have heard already, this debate is focused on the impact of the legislation in a devolved context, so I will turn to that issue in my remaining time.

The Government motion highlights that the bill will have a profound impact on devolved legislation, amending the Human Trafficking and Exploitation (Scotland) Act 2015, which was agreed by all parties in this Parliament. I accept that the Scottish Government cannot rewrite that legislation or, indeed, opt out of the worst clauses of the UK legislation. However, we have a responsibility to those who will be most impacted by the legislation to do everything in our power to find solutions to mitigate its worst aspects. I strongly urge the Government—and offer to work with it—in that vein to explore every avenue and to ensure that we are maximising our legislative competence to provide support for trafficking survivors and unaccompanied children.

There are ways in which that could be done. A greater focus could be placed on exploring how we enhance the monitoring, inspection and regulation of accommodation that is used in the asylum system to ensure that provision is of a good standard. We can work with various partners that have been briefing us and supplying us with important information throughout this process, not least the Scottish Refugee Council.

The legislation will also result in more people being destitute in Scotland, so it is imperative that the Scottish Government explores how it can provide additional resources to local authorities to ensure that we have the necessary resilience to cope with increased demand for support services.

In considering the various policy initiatives that could be explored further to mitigate aspects of the bill, we are calling on the Scottish Government to publish a comprehensive Scotland-wide mitigation plan by the autumn, and, as I have said, we would work with the Government on that. The plan should outline how Scotland will continue to remain compliant with international human rights law, including the European convention on human rights and the Council of Europe's convention on action against trafficking.

As legislators, elected representatives and human beings, we all have a responsibility to do everything that we can within our powers to defend, protect and enhance the rights of the most marginalised people in our society and our world, including those who come to our country. I am clear that the bill is cruel, inhumane and unjustifiable, and the reality is that it will not work in terms of what it seeks to do. It cannot be used as a cover or as an excuse for the UK Government's bigger agenda.

I urge the Scottish Government to work with partners to ensure that we do all that we can to mitigate the effects of the bill. For now, I add my support to the voices of those who are calling the bill out for what it is and opposing it clearly in Scotland.

14:40

**Alex Cole-Hamilton (Edinburgh Western) (LD):** I deeply regret the circumstances that have brought us together this afternoon. Before I start, I point out that it is regrettable that Donald Cameron was not able to take my intervention. I have known and liked him for seven years, and I know his values, so I struggle to see how the bill is compatible with them or, indeed, the values of most of the members of his party in the chamber. I am happy for him to intervene on me to tell me why that is not the case.

When we discussed the matter only two months ago, I very much hoped that sense would prevail

and that this appalling excuse for a bill would be prevented from making it on to our statute book. However, today, we stand on the precipice of that happening, with the Conservatives making our country a far less kind and a darker place.

I ardently agree with colleagues from across the chamber that the bill will do far more harm than good. There are so many reasons why it should not be passed into law. I very much echo the sentiment of the Archbishop of Canterbury, Justin Welby, who put it best when he said:

"There are too many problems in this Bill for one speech."—[*Official Report, House of Lords*, 10 May 2023; Vol 829, c 1793.]

However, the biggest and the overarching problem with the bill is that it will do nothing but hurt the most vulnerable who are seeking safe harbour on our shores—those who have fled the most unimaginable atrocities, are in desperate need and are utterly deserving of our compassion and protection. This country has a proud history of offering sanctuary to those escaping such horror. It is because of refugees and migrants that our society is far stronger and our tapestry is far richer and more vibrant. However, the Conservative Party seems to be intent on trashing all of that and that legacy.

I will set out just some of the effects of the bill. It gives the Government the power to detain adults and children indefinitely, it will restrict victims of modern slavery from accessing life-saving support and it will make it impossible for families that have been torn apart to reunite easily, leaving children and young people alone and exposed. The United Nations has stated that, if it is passed, the bill will breach the 1951 refugee convention, so it is likely to be in contravention of international law. There are basic standards of governance in our society that must be adhered to. Surely, breaking international law falls well beneath those standards. However, as we are increasingly learning from recent events, the current Conservative Government does not appear to know much about those standards.

Furthermore, as well as the bill posing a huge risk to some of the most vulnerable people on our planet, the Liberal Democrats remain very concerned about the risk that the bill poses to our democracy. It takes power away from the courts, stripping them of their ability to review and intervene if a detention period or removal is unlawful. Instead, it places such decisions unfettered into the hands of ministers, potentially weakening our judiciary and upsetting that system of check and balance.

The bill panders to the ugliest form of our politics. It is a classic populist move straight from the playbook of the likes of Donald Trump. There is even an empty three-word slogan, delivered in

staccato terms, that is designed to incite anger and defensiveness—stop the boats—while very little is offered to actually solve the problem.

If I was feeling especially cynical, I would muse that that was a very deliberate tactic to distract from the fact that the Conservative Government is unfit and incapable of running this country and is looking to punch down once again on the vulnerable and the dispossessed—a fact that the British people are becoming increasingly aware of. It is therefore saddening that there are those in the chamber who support such cheap politics. When we last debated this issue in the Parliament, every single Conservative MSP in the chamber voted against the condemnation of the bill, once again showing that Douglas Ross and Rishi Sunak are one and the same, content with exploiting refugees who are fleeing death and victims of human trafficking to pander to the furthest extremes of their base.

Liberal Democrats have always believed that we have a moral duty to offer help to those who need it. That is why we condemn the bill in the strongest possible terms. It is also why we are calling for an expansion and proper funding of the refugee resettlement scheme, as well as for the establishment of a new dedicated unit for asylum that can establish safe routes to this country, so that decisions are made with compassion and fairness, not ignorance and malice. We must ensure that we honour the UK's long tradition of offering home and harbour to those who need it most.

14:46

**Emma Roddick:** We heard Donald Cameron talk about the real issues—the issues for which we have responsibility. Let me explain what I think about that. We have a responsibility to victims of human trafficking and to unaccompanied children in this country. As Paul O'Kane said, we have a responsibility to protect and enhance human rights for all. It would be lovely if we lived in a world where we could rely on safe and legal routes into the UK. We cannot do that, in large part due to the UK Government but also because of the human trafficking trade. We are talking about people who have undergone horrific treatment and unimaginable trauma and who often have no idea how they got here or where they are, let alone have any influence over what method of transport they use.

It is insincere and cruel to approach this debate with an assumption that everyone has control over their entry here. The bill will prevent people with legitimate claims to asylum from accessing it for the very same reasons that they need it. It will send a message to those under the control of

human traffickers that it is not safe for them to speak up and ask for help.

In Scotland, we are committed to upholding human rights and enshrining them, as far as possible, in Scots law. It has been incredibly frustrating, to say the least, that our voice on the bill has been ignored. It is no surprise that the UK Government is rushing the bill through to avoid scrutiny, because it does not stand up to scrutiny. We are extremely worried about what the bill will mean for vulnerable asylum-seeking children who flee to the UK for a place of safety. We agree with the UN Committee on the Rights of the Child that the UK Government must “repeal all draft provisions” that would violate children's rights.

Unlike the UK Government, the Scottish Government is committed to giving children's rights the highest possible protection in Scotland. We are clear that unaccompanied child asylum seekers should benefit from the same rights, protections and safety that are afforded to any other child in Scotland.

With some issues that are so important and fundamental to our humanity, people expect—and deserve—cross-party agreement when we deal with them. Human rights should be one of those issues. Scotland's human rights-based approach to supporting victims of human trafficking should be one of those issues. The Scottish Conservatives agreed with me on that when they voted, along with the rest of the Parliament, unanimously, for the Human Trafficking and Exploitation (Scotland) Act 2015. Back then, they agreed that the issue was bigger than party politics. I hope that, today, at least some Conservative members will consider standing up for what they know is right and backing our position that the Illegal Migration Bill should not amend the act or limit our ability to help victims, as laid out in the 2015 act, which they supported.

I will end by saying that I have been grateful for the engagement of stakeholders to date on the bill and its impacts. It is a sad and difficult truth that, under current constitutional arrangements, we do not have the power to stop, amend or fully mitigate the very dangerous impacts of the bill. However, we remain committed to doing what we can with the powers that we have. I will continue to work with those who have an interest to seek out any mitigations that we can implement to make sure that Scotland, if not the UK, is a place of safety and support for those who need that the most. In the meantime, I hope that colleagues across the chamber will join the Scottish Government and key human rights organisations in Scotland in supporting our motion and in telling the UK Government that its bill and its hostile environment have no place here.

## **United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill (Reconsideration)**

**The Deputy Presiding Officer (Liam McArthur):** The next item of business is a statement by Shirley-Anne Somerville on the reconsideration of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill. The cabinet secretary will take questions at the end of her statement. Therefore, there should be no interventions or interruptions.

14:50

**The Cabinet Secretary for Social Justice (Shirley-Anne Somerville):** I thank the Parliament for making the time for the statement in a busy week. It is important that I give an update on the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill before we break for the summer recess.

As the First Minister set out in the policy prospectus, we remain absolutely committed to Scotland being the first United Kingdom nation to incorporate the UNCRC into domestic law, ensuring that we are a country that respects, protects and fulfils children's rights. Members were last updated on progress with the bill in February and March. At that stage, we made it clear that we intended to amend the bill to address the Supreme Court's judgment and that there was engagement about the amendments with UK Government lawyers in the Office of the Advocate General for Scotland. As we explained in those updates, that engagement has been focused on how the duty to act compatibly with the UNCRC can apply when a public authority is acting under powers conferred by UK acts in devolved areas.

In drafting amendments to the compatibility duty, we have tried to balance three important considerations: protecting children's rights to the maximum effect possible; minimising the risk of another Supreme Court referral; and making the law as accessible as possible for users. I will explain what that means for the powers in the bill that will be returned to Parliament.

With regard to the coverage for children's rights, it is clear from the Supreme Court judgment that the bill cannot require public authorities to act compatibly with the UNCRC when they are delivering duties and powers in a UK act in devolved areas and that act requires them to act incompatibly. However, our objective has been to ensure that the compatibility duty should apply both when public authorities are delivering duties under a UK act in a devolved area that requires

them to act compatibly with the UNCRC and when they are delivering duties under a UK act in a devolved area that gives them some discretion to act compatibly.

Our assessment has been that amendments to the bill could achieve that and comply with the Supreme Court judgment. We consider that one way that we could cover as much devolved legislation as possible would be to differentiate between existing and future UK acts in devolved areas so that the compatibility duty applies to existing legislation in those categories but not to future legislation. We also believe that we could bring in scope provisions in future UK acts in devolved areas by adding to the bill a regulation-making power that could, with the approval of the Scottish Parliament, extend the compatibility duty to devolved functions that were created under UK acts in the future, even if only case by case.

There has been engagement since September last year with UK lawyers in the Office of the Advocate General on our proposals for amending the bill. Although that has helped us to develop those proposals, the UK Government lawyers have continued to raise questions, and it has become clear to me that, no matter what is put to them, they cannot give us reassurance that would guarantee that there will not be another referral to the Supreme Court.

Alongside that engagement, we have been considering the need for clarity in the duties imposed by the bill. Our assessment is that clarity reduces, and complexity increases, as we seek to achieve greater coverage. That is the result of the legislative landscape within which we operate as a devolved Administration and the implications of the Supreme Court judgment.

Our analysis of the usability of the approach that I have outlined has revealed that, although it would give the greatest coverage, it would be extremely complex for users. That could arise because, for example, of the need to establish the legal source of a public authority's function and, if that source is a UK act in a devolved area, whether it is a function from an act that was passed before the commencement of the UNCRC bill or whether it has been modified by a UK enactment that was commenced post UNCRC bill commencement.

If the original act or modification was passed after the commencement of the UNCRC bill, the user would have to establish whether the legislation had been brought into the scope of the compatibility duty by the use of the regulation-making power. Complexities would become even more challenging where a UK act had been amended by an act of the Scottish Parliament. Our assessment is that, as we seek more coverage in the compatibility duty, the provisions become more

complex, uncertain and challenging for children and young people and their representatives, and for public authorities to work with.

We have discussed the options available with the children's commissioner's office, Together, the Scottish Human Rights Commission, UNICEF UK and members of the Scottish Youth Parliament, and we have reached the conclusion that the most effective route forward is to progress the option that minimises the risk of a further referral to the Supreme Court, and also minimises the complexity that users will need to navigate.

That option is for the compatibility duty to apply only when public authorities are delivering duties under powers in an act of the Scottish Parliament. That will, of course, entail a loss of coverage of the compatibility duty in respect of certain laws that relate to children's rights. There are many existing acts of the UK Parliament that set out duties that impact on children and young people in devolved areas, but I have time to give but two examples here.

The compatibility duty would not apply to services being delivered under the Education (Scotland) Act 1980. That covers the provision of education, including standards, special needs provision, and free school books and equipment. Another example of where the compatibility duty will not apply is when services are being delivered under the Children (Scotland) Act 1995. That will include, for example, local authorities' duties in relation to looked-after children and personal relations with their parents and brothers and sisters.

I am aware that some stakeholders have asked that the Scottish Government consider mitigating for that loss of coverage by commissioning an audit across UK acts in devolved areas and acts of the Scottish Parliament. The aim would be to maintain compatibility in devolved areas and to identify UK acts in devolved areas that impact on children's rights to the extent that it would be worth bringing them into the scope of the compatibility duty by their being converted into new acts of the Scottish Parliament. I reassure them that I will give that proposal due and proper consideration. Any audit would take time to complete, and any legislative change would need to be paced in a way that manages pressure on Parliament's legislative programme.

Despite their limitations, the proposals set out today will result in a bill that provides valuable protections for children's rights and does so in a way that is legally sound and is clear for users. That is what we consider will give us the greatest effective coverage for children's rights, given the legislative landscape within which we operate as a devolved Administration and the implications of the Supreme Court judgment.

It will also allow us to begin our journey to legislate for children's rights and wider human rights and provide a solid legal foundation on which to build in the future. We believe that the bill and the supports that we are already putting in place for its implementation are creating a wider cultural change that we can continue to foster. However, be in no doubt that that journey would become easier if there was political commitment in Whitehall to legislate for children's rights.

The simplest way to secure protection for children's rights in Scotland and across the UK, and to do so as fully as possible, is for the UK Government to incorporate the UNCRC into UK law. The concluding observations from the UK state party's recent examination by the UN Committee on the Rights of the Child, published this month, include a recommendation that the UNCRC should be incorporated into national legislation across the whole of the UK.

Although Scotland was commended by the committee for its efforts to incorporate the UNCRC into our domestic law, we have learned over the past few years that, without a similar legislative incorporation at the UK level, it is impossible to achieve that to deliver the breadth of protection that our children and young people deserve. I will therefore be writing to the Secretary of State for Scotland to confirm how we will amend the UNCRC bill and to urge the UK Government to bring forward its own legislation to incorporate the UNCRC.

The former Deputy First Minister was open about his attempts to engage with the Secretary of State for Scotland to address the issues with the devolution settlement. It is regrettable that the secretary of state was unwilling to do that. Once again, we find the democratic will of this Parliament being blocked by Westminster. With devolution under attack, we simply cannot afford to leave rights such as those in the UNCRC at the behest of a Tory Government. Surely the fact that we are seeing the UNCRC threatened by the repugnant Illegal Migration Bill is proof enough that the UNCRC bill is essential for protecting children in Scotland. As the First Minister set out last week, with independence, our nation would have the opportunity to right that wrong by incorporating the UNCRC into our written constitution.

In the meantime, I will now make arrangements to begin the process of parliamentary consideration of a revised United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill. The process that is agreed with the parliamentary authorities for the bill means that the next step is to confirm the admissibility of our proposed amendments with them. I will then lodge a motion so that Parliament



can confirm its willingness to reconsider the bill. We are confident that our proposals for amending will be within our legislative competence and will deliver a clear, coherent and workable bill that provides valuable protections for the rights of children in Scotland. I look forward to presenting the amendments to Parliament as soon as possible after the summer recess.

**The Deputy Presiding Officer:** The cabinet secretary will now take questions on the issues raised in her statement. I intend to allow around 20 minutes, after which we will need to move on to the next item of business.

We are tight for time this afternoon, so I would appreciate succinct questions and answers wherever possible.

**Meghan Gallacher (Central Scotland) (Con):** I am becoming increasingly annoyed by the Government and its inability to legislate. It has been 834 days since Parliament passed the UNCRC bill and 630 days since the Supreme Court ruled in favour of the UK Government's challenge to the bill. That means that the Scottish Government had 630 days to decide whether to write a letter to the UK Government about the UNCRC bill. No wonder nothing gets done in this place.

Instead of making the necessary changes to the bill, the Scottish National Party has deliberately provoked grievance, continued to politicise children's rights, played constitutional games and prioritised a debate on independence this afternoon. However, the SNP has been found out. If the Government really cared about children's rights, work would have progressed by now. If this was really about young people, members of the Scottish Parliament would have something to scrutinise today, but it appears that the Scottish Government has done nothing. We still do not know when the bill will come back to Parliament. What on earth has the Government been doing?

Why did the Scottish Government not do its homework before introducing the bill to Parliament? When will the bill finally be brought back to the chamber?

**Shirley-Anne Somerville:** I presume from some of that question that Meghan Gallacher does not understand the reconsideration process and what I said in my statement about how the bill must go through the parliamentary authorities. I am not in charge of that part. In response to the points for which I am responsible, we are determined to bring the bill back to the chamber at the earliest opportunity after the summer recess, once it has passed through the parliamentary authorities, the timetable for which I cannot fix.

When it comes to how we will move forward with the bill, I hope that we will see progress with

working through the bill before Christmas. Again, however, the parliamentary process and its timetable are not something for me.

I am becoming increasingly annoyed about our Parliament's inability to protect children's rights. That is what annoys me about this process. We have taken the time to look at the bill to see how we can have the maximum protection possible for our children and young people. I appreciate that my statement was quite technical in parts, but I hope that it showed that the ability for us to protect—*[Interruption.]*

I am sorry that Stephen Kerr thinks that it is funny that we have been working in Parliament to protect children's rights.

**Stephen Kerr (Central Scotland) (Con):** I find your answers funny.

**Shirley-Anne Somerville:** I laid out in my statement how, unfortunately, we have had to take out children's rights from what was in the bill to ensure that we are within our legislative competence and to respect the Supreme Court's judgment, which we do.

**The Deputy Presiding Officer:** I ask members to desist from shouting from a sedentary position. It will prolong proceedings and mean that everybody who wants to come in will not have the opportunity to speak.

**Pam Duncan-Glancy (Glasgow) (Lab):** I welcome the reintroduction of the bill, but today's announcement does not come without disappointment. The cabinet secretary has been clear that neither the Education (Scotland) Act 1980 nor the Children (Scotland) Act 1995 will be covered by the scope of the bill, which means that the provision of education standards, special needs provisions, local authority duties in relation to looked-after children and a host of other vital areas that children and young people were counting on will not have the protection of incorporation.

That is a damning indictment of 16 wasted years, during which the cabinet secretary led on education. Does the cabinet secretary accept that the SNP Government's failure to act on its self-proclaimed priority means that we still rely on an outdated piece of Thatcherite legislation that is older than me and that its inaction has led to a betrayal of children and young people?

**Shirley-Anne Somerville:** I am genuinely disappointed by Pam Duncan-Glancy's question. There is probably very little difference between us on the protection of human rights. The limitations that I discussed in my statement are a result of devolved competence and the Supreme Court judgment. That is why we have had to consider which acts are in scope and which acts cannot be

in scope. That is not because the SNP is bad or because we have not been doing anything; it is because of the way that the Scotland Act 1998 has developed.

As I say, I do not think that there is much between Pam Duncan-Glancy and me on how to take forward children's rights. In an attempt to find some sort of consensus, I look forward to working with her to see how we can have more protection of rights in the Parliament. However, we will not get it within the current devolved settlement.

**Ruth Maguire (Cunninghame South) (SNP):** The fact that the UK Government can block Scottish legislation that advances and furthers the rights of children is a stark illustration of the limitations of our place within the union and the urgency of regaining our independence. Can the minister provide assurance to the thousands of people who contributed to the passing of the original UNCRC bill—many of them children and young people—that, even with the limitations imposed by the UK Government, the Scottish Government remains ambitious for children's rights and committed to incorporation?

**Shirley-Anne Somerville:** Absolutely. As the First Minister has set out in the policy prospectus, we are absolutely committed to Scotland being the first UK nation to incorporate the UNCRC into domestic law. Despite the limitations, the proposals set out today will result in a bill that provides valuable protection for many children's rights in a way that is legally sound and clear for users. Although it is disappointing that we cannot do more, I believe that the proposals that I have discussed today will give us the greatest effective coverage for children's rights, given the legislative landscape that we are in and the implications of the Supreme Court judgment.

**Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con):** Despite what the cabinet secretary says, responsibility for the blockage lies firmly with the Scottish Government and its inability to deliver a modicum of competence in its work. The statement is disappointing because it gives some children rights but lets down other children who are already marginalised. The SNP Government should hang its head in shame. Will the cabinet secretary commit over the summer recess to putting in place an impact assessment of the proposals for the sake of the rights of the children and for all children across Scotland?

**Shirley-Anne Somerville:** I would be more than happy to assist Rachael Hamilton by lodging a publication with the Scottish Parliament information centre that contains a summary of the options for amending the compatibility duty that we have been considering and the impact that it will have on the acts that have to be removed to get to the point where we have a piece of legislation that

is effective but will not be threatened by another action in the Supreme Court. I hope that Rachael Hamilton would support the Government's work to include as much as we possibly can, which is exactly what we have been doing in the past few years.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** Like all children, unaccompanied asylum-seeking children should have access to the full care, support and protection of children's legislation. I am deeply concerned about what the UK Government's Illegal Migration Bill will mean for vulnerable children and victims of human trafficking who flee to the UK to seek a place of safety. Will the minister provide further detail on any engagement with UK Government lawyers to try to reduce the risk of another referral to the Supreme Court for a revised bill, which would cause further delays—[*Interruption.*]

**Shirley-Anne Somerville:** I cannot hear the question, Presiding Officer.

**The Deputy Presiding Officer:** Ms Mackay, please resume your seat. Mr Whittle, I have told members about sedentary interventions—you are less likely to get in if you make such interventions. Please continue, Ms Mackay.

**Rona Mackay:** Will the minister provide further detail on any engagement with UK Government lawyers to try to reduce the risk of another referral to the Supreme Court for a revised bill, which would cause further delays to the vital protections that incorporation of the UNCRC can provide?

**Shirley-Anne Somerville:** There is a limit to what I can put in the public domain, because engagement with the UK Government has been mainly confidential lawyer-to-lawyer engagement, the details of which, of course, cannot be shared in public. However, within that engagement, we have tried to get as much reassurance as possible that UK Government lawyers are broadly content with our amendments before we proceed to the reconsideration stage, in order to avoid another referral to the Supreme Court.

There is a great deal of discomfort, certainly among Scottish ministers, about where we have ended up, because, as the debate on the Illegal Migration Bill that we had just before this statement showed, there are many vulnerable children—and victims of human trafficking, as Rona Mackay discussed—who will not receive protection because of the settlement that we have and the decision of the Supreme Court, which we will respect. We will work with others to improve the bill to deal with that.

**Martin Whitfield (South Scotland) (Lab):** It is right to say that, if a young person—irrespective of where they are in the UK—thinks that their human rights have been breached, they should have

vehicles through which to pursue that and should be supported to do that. In essence, the statement—to cut through what is a very complex point—simply said that legislation that is passed in Scotland and is about Scotland would fall under the UNCRC. There has been discussion of reconsideration of the bill's rejected procedures. It is right that, for parliamentary authorities, the concern is that the new amendments will bring the bill under the auspices of devolved authority. That should be relatively straightforward, now that the Government has had those reassurances—

**The Deputy Presiding Officer:** Question.

**Martin Whitfield:** Can the cabinet secretary confirm that the bill will be legislatively competent and passed by Christmas this year?

**Shirley-Anne Somerville:** As I said in my statement, we believe that the UNCRC bill is legislatively competent. I certainly hope that it will be passed by Christmas. Of course, decisions about the parliamentary timetable are not for the Government, but, given that our intention is to move as speedily as we can, once the parliamentary authorities have opined on the amendments, we will bring the bill back as soon as possible, and we will work with Parliament to ensure that it goes through Parliament as quickly as possible.

**John Mason (Glasgow Shettleston) (SNP):** The cabinet secretary has made it obvious that this is an incredibly complicated area of legislation, and she has also made it clear that Westminster basically has a veto over human rights. Does she agree that people in both the UK and Scotland would benefit from a written constitution, so that our rights would be written down, as most sensible democracies' rights are?

**Shirley-Anne Somerville:** John Mason has raised a very important point. The UNCRC bill, which we will reconsider, is an important landmark bill to protect children's rights, but there are undoubtedly limitations to that, and the reconsideration stage is all about how we will deal with those limitations. The Government tried to work with the secretary of state, as I said in my statement, to find ways round those limitations, but he refused to do so.

Within the powers that we have, we will do what we can, but John Mason is quite right: the only way that we can protect all our human rights and all the UNCRC is through a written constitution, under independence.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** Parliament first considered incorporation of the UNCRC in the foothills of the Children and Young People (Scotland) Bill back in 2012, which was 11 years ago. Many tens of thousands of children will have since attained majority and will

be forever denied the protections that the legislation contains.

Given that so much time has passed, will the cabinet secretary instruct legislative drafters to make sure that commencement of the bill will happen when it receives royal assent and is not delayed further?

**Shirley-Anne Somerville:** The bill already has a short commencement period, which is that it will commence no later than six months after royal assent. If we can implement any of the provisions earlier than that, we will, but we need to work with representatives of public authorities, rights holders and the courts so that commencement is done in a logical and realistic way, with access to the necessary guidance being available.

To commence the public authority compatibility duty any earlier than six months after royal assent would be extremely challenging, given the statutory requirement that we allow a period of 12 weeks for consultation on the guidance that will accompany the duties, and given the fact that our consultation cannot begin until the bill receives royal assent.

**Karen Adam (Banffshire and Buchan Coast) (SNP):** Alan Miller, who was the founding chair of the Scottish Human Rights Commission has said:

"Scotland's human rights journey has ... been marked by an increasing ambition and internationalism ... as evidenced in the unanimous vote in the Parliament for the ... UNCRC ... Bill."

Scotland's progressive agenda, however, has been stifled by a hostile Tory Government at Westminster.

Will the cabinet secretary outline what discussions she has had with the UK Government to amend the devolution settlement in any way in order to allow us to incorporate the UNCRC better in Scotland?

**Shirley-Anne Somerville:** While I have been responsible for the bill, we have been looking at the amendments that I discussed in my statement. Before I was responsible, ministers were in touch with the UK Government about the issue.

Parliament will be aware, from letters that have been shared with the Equalities, Human Rights and Civil Justice Committee, that we engaged with the UK Government in early 2022 to explore routes through which to increase the effectiveness of incorporation. That engagement covered two areas: whether the devolution settlement might be altered to offer the Scottish Parliament additional routes to increase the effectiveness of incorporation and whether we could ensure that all devolved legislation is quickly brought within the scope of the UNCRC bill without altering the devolution settlement. The Secretary of State for

Scotland made it clear that he is unwilling to make changes to the devolution settlement. *[Interruption.]*

I hear Stephen Kerr saying, "Quite right!" He thinks that it is quite right that we should not change the devolution settlement to protect more children. What a sad indictment of him that is.

**Maggie Chapman (North East Scotland) (Green):** I thank the cabinet secretary for advance sight of her statement and for the conversations that we have had about the issue since she came into post. She has outlined the deeply regrettable loss of coverage of rights where the compatibility duty will not apply. What other mechanisms might be open to us to ensure that we extend coverage of rights in practice, if not in law, for all children in Scotland, including those who will be negatively affected by the Illegal Migration Bill?

**Shirley-Anne Somerville:** Members from across Parliament must continue to work on that issue to ensure that we are using our powers and our ability to support children and young people and their human rights.

Maggie Chapman will be aware of the work that has—even while the bill has been held in abeyance—been on-going to support implementation. For example, there is the skills and knowledge framework, the fund to test approaches to embedding children's rights and the work that is going on to develop tools to assist public bodies in evaluating their approach to children's rights. Those are just some examples. Maggie Chapman raises the important point that we must continue that work. I would be happy to work with her and with members from across the chamber to see what more can be done on that.

**Stephen Kerr (Central Scotland) (Con):** The cabinet secretary should know how fed up the people of Scotland are with the Scottish National Party's games. The reality is that the idea of opening up the devolution settlement is just another SNP ruse to create grievance.

Will the cabinet secretary tell us what measures the Scottish Government has put in place to monitor and evaluate the effectiveness of its efforts to incorporate the UNCRC into Scots law and what key indicators the Government is using to assess its progress in that area?

**Shirley-Anne Somerville:** I am really sorry that Stephen Kerr thinks that protecting children's rights is a game. It is not a game, which is exactly why we have been working very hard to try to protect as many rights as possible while we have been going through this process.

As I said to Maggie Chapman, a great deal of implementation work has been going on. We must work with children and young people, their

representatives and public bodies to ensure that the Government, public authorities and everyone who is responsible for the children's rights that will be taken up by the bill are working as effectively and quickly as possible. I gave some detail about that in my answer to Maggie Chapman, but there is more that we must do.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** A UN committee has called on UK Government ministers to

"Urgently amend the Illegal Migration Bill to repeal all draft provisions that would have the effect of violating children's rights under the Convention and the 1951 Refugee Convention, and bring the Bill in line with the State party's obligations under international human rights law to ensure children's right to nationality, to seek asylum and to have their best interests taken as a primary consideration, as well as to prevent their prolonged detention and removal"

Does the cabinet secretary share those incredibly serious concerns—in particular, in relation to the importance of UNCRC incorporation?

**Shirley-Anne Somerville:** It is extremely frustrating that our hands are tied in relation to UNCRC incorporation. I whole-heartedly agree with the concerns about the Illegal Migration Bill, which serves as a real-time example of just how urgent and important the UNCRC incorporation bill is in protecting rights.

As I set out to John Mason, an independent Scotland could provide constitutional safeguards for human rights and equality protections, including the rights under the UNCRC. That would mean not only that the UNCRC would have effect in domestic law, but that protection would extend to matters that are currently reserved, as well as those that are devolved, and without the limitations that Westminster has set. I agree with Fulton MacGregor that that would be the best thing for the very vulnerable children who will—unfortunately—be harmed by the Illegal Migration Bill that is going through Westminster.

**The Deputy Presiding Officer:** I ask Daniel Johnson to be very brief.

**Daniel Johnson (Edinburgh Southern) (Lab):** I will try my best. For campaigners against use of seclusion and restraint, the exclusion of the Education (Scotland) Act 1980 will be a disappointment. Given that the UN Committee on the Rights of the Child said that the guidance on use of restraint and seclusion should be put on a statutory footing, will the Government consider amending the bill to achieve that? Failing that, will the cabinet secretary, or her colleague the Cabinet Secretary for Education and Skills, meet me to discuss my proposal for a member's bill to achieve that?

**The Deputy Presiding Officer:** I ask the cabinet secretary to respond as briefly as possible.

**Shirley-Anne Somerville:** It is a disappointment that the 1980 act is not included. Daniel Johnson will be well aware that there has been a public consultation on restraint. When I was education secretary, I said that the Government would be happy to see whether more needed to be done on that. It would not be for me to undertake to have such a meeting, but I am sure that my colleague Jenny Gilruth would be delighted to meet the member at some point.

**The Deputy Presiding Officer:** That concludes the statement. There will be a brief pause to allow a change of front-bench members.

## Scottish Constitution

**The Deputy Presiding Officer (Liam McArthur):** The next item of business is a debate on motion S6M-09711, in the name of Angus Robertson, on building a new Scotland—the constitution of an independent country.

15:22

**The Cabinet Secretary for Constitution, External Affairs and Culture (Angus Robertson):** Normal countries have constitutions, and they have constitutions for very good reasons, which include constituting a state, setting out its institutions, giving them power and saying what they can and cannot do. However, a constitution is much more than that; it is about ambition, imagination, setting out the sort of country that we aspire to be, identifying and making real our values as a country, and protecting and promoting people's rights. A constitution reveals as much as it prescribes. It tells us what a country's priorities are and where power lies.

What do we learn about the United Kingdom's priorities and where power lies from looking at its constitution? The UK has an unwritten constitution, which has only one immutable principle, to which everything else is subservient, and that is Westminster parliamentary sovereignty. The idea is abstract, but its effect is not abstract—it is very real.

I will give members some examples. The Human Rights Act 1998 is one of the greatest parliamentary achievements of the past 30 years. It has delivered justice for people across the whole of British society and has ensured that public authorities can be held properly to account, yet it has no more protection under Westminster sovereignty than any other law has. Successive UK Governments have threatened to repeal protections that the citizens of other modern democracies take for granted.

The Supreme Court has ruled that, under the Scotland Act 1998, this Parliament's children's rights bill cannot extend even across all of devolved law because, if it affected acts passed by the UK Parliament—although such laws would be entirely within devolved competence, in areas such as health and education—that would impugn Westminster's sovereignty.

As we saw with the Northern Ireland Protocol Bill, the UK Government considers itself able to seek to legislate contrary to its international obligations, because Westminster sovereignty sees international law not as a celebration of common humanity or as an essential tool in rising to the challenges of the 21st century, but as a

threat to Westminster's place as the ultimate source of legal authority.

That is true even in relation to the Scottish Parliament's powers and responsibilities, which all of us, regardless of our parties, were elected to exercise and to hold the Government accountable for using. Nine times—and counting—the UK Parliament has ignored the votes of members of the Scottish Parliament and passed laws within or about devolved competence without our consent.

The UK's unwritten constitution therefore reveals its priority to be the preservation of Westminster power; and that power elsewhere is held on sufferance, at Westminster's grace and favour.

**John Mason (Glasgow Shettleton) (SNP):** The cabinet secretary says that the UK has an unwritten constitution, but is the reality not that it has no constitution?

**Angus Robertson:** Presiding Officer, if you were to extend the period that I have to speak to the question, I would happily go into the highways and byways of the UK's unwritten constitution, but I see that you are shaking your head.

I suggest that we can do better than the situation in which we currently find ourselves in the United Kingdom. I believe that, in Scotland, we have aspirations and values in common and that we can organise ourselves around those. I am not talking only about the approach of this Government, or even those people in this country who support independence as our ultimate constitutional destination; I am also talking about something more fundamental and more long term, which reaches across the parties in this Parliament and across people who live and work in Scotland.

It is a belief in putting rights and equality at the heart of everything that we do. It is a belief in creating opportunity in a wellbeing economy that combines dynamism and entrepreneurship with fairness. It is a belief in being outward looking as a nation, as was reflected in our overwhelming vote to remain in the European Union, and recognising that we amplify our sovereignty and do not diminish it when we work together with our international partners as a sovereign state. It is also a belief—one that certainly used to be shared across the parties—that, as was set out in the claim of right for Scotland, the constitutional tradition in Scotland is that it is the people who are sovereign here.

In our first paper in the "Building a New Scotland" series, the Scottish Government has shown that countries that identify, pursue and organise around such common aims do best and are wealthier, happier and fairer. In the fourth paper in that series, we have set out how, with

independence, we could make real the promise of those shared values and common priorities. We say how we could put in place an ambitious interim constitution at the point of independence so that a newly independent Scotland would start benefiting from constitutional government from day 1. We say how we could come together as a nation, how the people who live and work here could contribute through a constitutional convention to the drafting of a permanent constitution for an independent Scotland, and how a Scottish constitution could put power where it belongs: in the hands of the people who live here.

That is what it means for there to be constitutional recognition of the national health service in Scotland and a right to access a system of healthcare that is free at the point of need. It puts power in the hands of the people. If ever a Government in Scotland sought to retreat from or compromise on that principle, the constitution would empower the people to stop it. It would empower the people with the fullest range of rights and give them the tools to enforce them.

We propose constitutionally embedding not just the rights in the Human Rights Act 1998—which are derived from the European convention on human rights—and the related protections that are built into the Scotland Act 1998, but the rights in the United Nations Convention on the Rights of the Child and all the rights in the proposed Scottish bill on human rights.

With independence, those rights would not be limited by Westminster sovereignty or by the devolution settlement. They would extend across matters that are devolved and matters that are currently reserved. It would not be possible for any Government simply to use a majority in the Scottish Parliament to repeal such rights, as is the case at Westminster. Those rights would belong to the people. It should be beyond the authority of any democratically elected legislature to violate the rights of the people whom it serves. Further, we could—finally—constitutionally prohibit nuclear weapons from ever again being based on Scottish soil.

Who could fail to be excited by the opportunities? Who, faced with the question "What sort of country would you like Scotland to be?", could answer, "One that organises itself around the sovereignty of the Westminster Parliament"?

I find it hugely encouraging that there are people beyond the independence-supporting voters of Scotland who agree. Many members in the chamber will know and, no doubt, hold in high regard, as I do, Baroness Helena Kennedy, who is one of the leading human rights lawyers and constitutional campaigners in this country. Although she does not support Scotland being independent, she said:

"If Scotland is thinking one day it is going to be independent, I happen not to be in that camp, but if that is the road Scotland is going down then people should be going to work on creating a written constitution for an independent Scotland, definitely. I would do it now if I were in that camp."

That camp is represented by a majority in this Parliament who were elected by the people of Scotland, and that is exactly what we are doing. We are doing what we have been asked to do by the electorate, and we have published what I think is a hugely exciting document.

I ask members, regardless of whether they wish Scotland to be independent, to imagine a future for this country in which its form, its rights and its obligations are represented through a written constitution, as is the case for pretty much every other country in the world. If it is good enough for them, it is good enough for us.

In the "Building a New Scotland" papers that we will go on to publish, we will set out what this Government sees as the opportunities of independence and how we would address the challenges of becoming independent. The next paper in the series, which will be published this summer, will set out what an inclusive and welcoming approach to Scottish citizenship could look like: one that would ultimately see the people of Scotland have their rights as European citizens—rights that they never voted to give up—returned to them. Future papers will go on to set out what we would do on culture, our extraordinary marine resources, the energy market and Scotland retaking its place in the European Union and the wider world.

Sitting behind all the papers will be the propositions and the possibilities of this paper. What could Scotland look like if we had the chance and the opportunity to put its future in the people's hands?

I move,

That the Parliament welcomes the publication of *Creating a modern constitution for an independent Scotland* and the opportunity that it sets out for the people of Scotland to directly shape a new, modern and more democratic country with constitutional safeguards for human rights and based on the constitutional tradition of the sovereignty of the people.

**The Deputy Presiding Officer:** I advise members that we have a little time in hand, so I should be able to give people their time back if they take interventions.

15:32

**Donald Cameron (Highlands and Islands) (Con):** Ordinarily, I welcome the opportunity for a robust debate, even if the subject choice is deeply questionable, but not today.

I will come to the paper that is the subject matter of this debate in a moment. However, it pales in comparison with what we witnessed over the weekend in Dundee, which very much set the context for the debate. We saw a First Minister—or "first activist", as he calls himself—announce that he wants to turn the next general election into another polarising and divisive vote on breaking up the United Kingdom. Let there be no doubt about this: the Scottish National Party has said, unequivocally, that it wants the next general election to be about independence. That will be "page one, line one", in the SNP's phrasing. The SNP will treat a victory, whatever that might be—it is a word that SNP members struggled to define at the weekend—as a mandate for independence. "Page one, line one." Every vote for the SNP in the election will be taken as a vote for separation.

**The Minister for Independence (Jamie Hepburn):** Does Mr Cameron recognise that we are perfectly entitled as a party—just as he is, in his party—to lay out what our manifesto should say? We will then put it to the people, just as the Conservatives will put their manifesto to the people. In them we trust, and they will decide.

**Donald Cameron:** I do not deny that for a second. However, I make the point that Jamie Hepburn has said that every vote for the SNP in the election will be taken as a vote for separation, just as every vote for the Scottish Conservatives will be taken as a vote to remain in the United Kingdom. That is why what was announced in Dundee is so serious. [*Interruption.*]

**The Deputy Presiding Officer:** Please resume your seat for a second, Mr Cameron. I detect that this is a debate where emotions will run high, but I encourage members to listen respectfully to whoever has the right to speak. If a member wants to intervene, they should get to their feet and ask for an intervention.

I will give you the time back for the intervention, Mr Cameron.

**Donald Cameron:** Thank you, Deputy Presiding Officer. I will try to remain good humoured throughout this.

The Scottish National Party has, in effect, come up with a turbocharged version of Nicola Sturgeon's de facto referendum, except that, this time, it seems that it has set the bar even lower by saying that it does not need to win a majority of votes or even a majority of seats. It says that it just needs to win more seats than any other party. That is a nonsense. The SNP knows that a majority of people in Scotland do not want another referendum in the next few years. That is why it has come up with a desperate, barrel-scraping strategy that plays to a narrow audience of

nationalists and ignores the wishes of a majority of Scots.

People across Scotland will have witnessed—

**Angus Robertson:** Will the member take an intervention?

**Donald Cameron:** I will.

**Angus Robertson:** For the record, it would be really helpful to understand the Conservative Party's position on Scotland being able to determine its future. What do voters in Scotland have to do to be able to have a referendum about their future?

**Donald Cameron:** People in Scotland had a referendum about their future in 2014, and they voted in that historic referendum to keep the United Kingdom together.

People across Scotland will have witnessed the events in Dundee last weekend and will be horrified that the SNP is trying to make the future of the union the one and only issue at the general election that is expected next year. Instead, people in Scotland want the Government to deal with the problems that affect them in their everyday lives. That means a focus on cutting the NHS waiting list backlog and recruiting more doctors, nurses and dentists. It means a focus on narrowing the educational attainment gap across all age groups, investing in additional support needs and cutting class sizes. It means a focus on supporting victims of crime and making sure that criminals serve proper sentences. However, none of those things is important to the Scottish Government—they are not its top priorities. That is a tragedy, but it is also a scandal.

I turn to the paper, "Creating a modern constitution for an independent Scotland". In doing so, I note the sincere pledge that the Minister for Independence gave to *The National's* "Holyrood Weekly" podcast, which I listen to with great interest most weeks, on 12 May. He said:

"Given government is accountable and responsible to parliament, and that's a responsibility I take seriously, it's incumbent on me to recognise we should say to parliament what the next subject material of the forthcoming prospectus papers will be."

Evidently, his words were lost on the First Minister, because the paper was announced with great fanfare at a press conference last week and it was debated in Dundee, with just a Government-inspired question to let MSPs know that it had been published.

**Jamie Hepburn:** Will the member give way?

**Donald Cameron:** I will not. I will carry on.

I love talking about the law, history and the constitution, but I will not take the bait today, tempted though I am to point out that the

devolution settlement already enshrines the European convention on human rights. Acts of this Parliament and of Scottish ministers must, of course, comply with that convention.

The paper argues a hypothetical of a hypothetical. It concerns an issue that is entirely academic. It prioritises a referendum on the monarchy and the weakening of Scotland's defences. How depressing is it that, after 16 years of SNP rule, that is all that it has to offer Scotland? We have long known that this Government has run out of ideas and ambition, and today's debate is further proof of that.

There is one point in the paper that I will cover as a Highlands and Islands MSP. I take a keen interest in how this Government might prioritise the region that I represent, but the paper does none of that. Its proposals for island communities are glib and vague. It argues that a future constitution could place

"a duty on the Scottish Government to take the needs and unique geographical character"—

**Jamie Hepburn:** Will the member give way?

**Donald Cameron:** I am sorry but I do not have enough time.

The paper says that a future constitution could place

"a duty on the Scottish Government to take the needs and unique geographical character of island communities into consideration when it conducts its functions."

That is precisely what the Islands (Scotland) Act 2018, which became law in the previous session of Parliament, was meant to do. "Island proofing" is the phrase that was used. However, rather like island proofing, this is likely to be no more than warm words. What about a right to a ferry? What about actually providing a ferry?

There was a moment a few months ago when I thought that, perhaps, a hint of realism was occurring in the SNP. During the SNP leadership election, Humza Yousaf said that independence was not yet the

"settled will of the Scottish people"

and Mike Russell, the president of the SNP, said that independence could not "be secured right now". There was a moment, temporary though it was, when a realistic and honest appraisal was being made by senior figures in the SNP. That is why the announcement in Dundee showed such absence of judgment, and that is why, in launching the paper, with all its myths and theories, the SNP has completely misread the mood and temperament of people in Scotland.

I do not expect a nationalist to stop believing in independence any more than I expect a unionist to give up their faith in the United Kingdom. Those



views are sincerely and genuinely held. However, I expect nationalists to read the room and to understand what truly matters to people in Scotland right now and what they expect us, as their representatives, to debate.

For all those reasons, we encourage others to back our amendment, to reject the fantasy and to focus on what the people of Scotland put us in Parliament to do.

I move amendment S6M-09711.3, to leave out from “welcomes” to end and insert:

“recognises that the people of Scotland voted decisively to remain within the United Kingdom in 2014 and that any discussion on a written constitution in an independent Scotland is both academic and hypothetical; deplores the announcement by the First Minister that the Scottish National Party will use the next General Election campaign as an attempt to hold another polarising vote on breaking up the United Kingdom; agrees that another divisive independence referendum is not a priority and is simply an attempt by the Scottish National Party to divert attention away from its poor record in government, and calls on the Scottish Government to focus its time on addressing the pressing issues that Scotland faces day to day, including growing the economy and rebuilding vital public services.”

15:40

**Neil Bibby (West Scotland) (Lab):** Today, thousands of our fellow Scots are worrying about their mortgage payments, our junior doctors are considering three days of strike action because of low pay, and every one of our public services is creaking because of a lack of investment. Those are just some of the very real and pressing issues that the people of Scotland face right now.

People who are watching today will therefore be wondering why Scotland’s parliamentarians are not talking about their priorities. Instead, here we are discussing a fantasy constitution for an independent Scotland that the people do not want. Why is that the most pressing topic when every other part of Scottish life, from health to education, the economy and transport, is in dire need of attention?

**Jamie Hepburn:** Will the member give way?

**Neil Bibby:** No, thank you. Not just now.

Let us be honest and clear to anyone who is watching about why we are having this debate today. We are having this debate today because of the SNP convention in Dundee at the weekend and the need for the SNP leadership to kid on to the grass roots that it is making progress when it is not. Therefore, we are having to indulge in an exercise in SNP internal party management as well as a desperate attempt by the SNP to try to be relevant at the next general election.

At the weekend, SNP members were asked to ignore the blue police tents, the opinion polls and

other minor issues such as the currency, borders and the promised referendum date in October, and instead to take their imagination for a walk up to the top of the hill once again, to imagine a world in which Scotland is free, everyone agrees with one another, and the scary problems of the outside world dare not intrude.

**Jamie Hepburn:** Will the member give way?

**Neil Bibby:** Okay. I will take an intervention from the minister.

**Jamie Hepburn:** I am glad that Mr Bibby has chosen to give way. He talks about imagination. I would like to hear what the imagination of the Labour Party is in relation to these matters. Does the Labour Party believe fundamentally that people’s rights should be set out in a codified written constitution, or does it believe in the philosophy of the supremacy of the sovereignty of the Westminster Parliament by which people’s rights can be changed at the whim of a Government?

**The Deputy Presiding Officer:** Neil Bibby, I can give you the time back.

**Neil Bibby:** We believe that there should be a change in the Government at Westminster and that we need a Labour Government to bring about the social, economic and political change that Scotland and the rest of the UK need. We look forward to setting out our plans for the general election in the coming weeks and months.

SNP members are being asked not to ask any hard questions about an abysmal record in public services and a failure to make a credible case for Scottish independence that can command the support of fellow Scots. I presume that the Government knows that it is failing to make that case.

At the weekend, Humza Yousaf shifted the goalposts—so much so that independence can, apparently, now be achieved without a majority of people voting for it or the SNP. The previous plans for a de facto referendum lacked credibility with the public and many inside the SNP, but the new plans are, frankly, ludicrous, and the Government knows it. The paper is not a game changer, and the strategy has not been thought through. For example, a special envoy to the EU was announced at the weekend, but the EU has already indicated that it will not speak to them. There are many other questions that I could ask about the inconsistencies on thresholds, which a bowling club’s constitution would not have, and other issues, but doing so would be completely pointless.

Back in the real world, in its document, the Government is promising people basic rights in the future, but it is failing to get the basics right for

people today. Scots are no longer falling for the SNP's empty promises and just accepting what it says.

We already have legislation on climate change targets and on homelessness, but climate progress is off track and homelessness is at a high. The SNP claims that it wants to protect the rights of islanders, but the Government cannot even sort out the ferries. The SNP says that it wants to defend and enshrine local government, but it and the Greens have cut a combined total of £6 billion from council budgets over the past decade. The SNP says that it wants to protect a right to healthcare, but it has broken the treatment time guarantee—a law that it passed—more than 500,000 times. We do not need Police Scotland to tell us whether this is a Government of lawbreakers.

The cabinet secretary tells us today that we need a written constitution for an independent Scotland to tackle such issues—when what people need is competent government, focused on their priorities. Let us contrast that with another announcement last week. While the First Minister, Humza Yousaf, was unveiling his imaginary constitution for an independent Scotland, there was another political speech in Scotland. Keir Starmer—*[Interruption.]* Keir Starmer, the man who most Scots—in fact, most people across the UK—want to be our next Prime Minister, was setting out a real plan to secure our energy supply, green our economy and create jobs here in Scotland. The SNP promised and abandoned plans for a publicly owned energy company, but Labour will create a publicly owned Great British energy company, headquartered here, in Scotland.

While the SNP manages a divided party and plays fantasy politics, wasting taxpayers' cash on papers described by the Minister for Independence as campaigning tools for SNP activists, Labour is getting down to the real business. We have a plan for real change—a plan to fix the mess that our country is in by tackling the everyday problems facing Scotland.

The next general election will not be a de facto referendum; it will be a general election. The latest poll suggests that Labour is gaining more and more support in Scotland. Whether people voted yes or no, the Tories need to go. While members of the SNP talk to themselves about themselves, we will seek to offer Scotland the economic, social and political change that it needs.

I move amendment S6M-09711.2, to delete from “welcomes” to end and insert:

“notes the publication of Creating a modern constitution for an independent Scotland; considers that, rather than theoretical future plans, the focus of the Scottish Government should be on the priorities of people living in

Scotland, and calls, therefore, on the Scottish Government to deliver a real recovery plan for the NHS to reduce long waits, fix lifeline services for Scotland's island communities, ensure a fair local government funding settlement, and take measures to improve living standards and tackle the cost of living, with a £100 water rebate, a freeze to rail fares and a revamped mortgage rescue scheme.”

15:47

**Willie Rennie (North East Fife) (LD):** Ten years ago, when Alex Salmond was sitting in the seat where Angus Robertson is now sitting, we could have cut the atmosphere with a knife. We could feel the anticipation on the SNP benches and the desire to get stuck into the independence referendum. To give the SNP credit, it built a quite phenomenal campaign; it was quite daunting.

Today, the more Angus Robertson said—and I am sure he said this several times—“Who could fail to be excited?” or said that he was hugely excited or hugely encouraged, and the more he implored people to be excited, the more SNP back benchers got stuck into their laptops or looked at their phones. There is no anticipation. There is no excitement about this.

I am somebody who does get excited about written constitutions, but even I have not read the paper. I would be surprised if more than 0.0001 per cent of the population have read the document that has been produced by the new Minister—

**Jamie Hepburn:** Would Mr Rennie give way?

**Willie Rennie:** No, not just now—I am sorry. I only have four minutes, and I have so much to say.

**The Cabinet Secretary for Wellbeing Economy, Fair Work and Energy (Neil Gray):** On a paper that you have not read?

**Willie Rennie:** Indeed. I have not read it, I am not going to read it, and I will tell the cabinet secretary why I am not going to read the paper. This week, I have been dealing with constituents who are facing cuts to fire services in their constituency; I have been dealing with the victims of Professor Eljamel at Dundee, who have been scarred for life by that professor, because of a failed system; I have been dealing with a family—now SNP members are looking at their phones, because they are not interested. The only thing that gets them interested is the constitution. When they face the hard reality of life that my constituents are facing, they are not interested any more. That is the harsh reality. I am dealing with patients in Newburgh who are about to have their NHS dentist's close. I am dealing with the family of a pupil in my constituency who was beaten up because of the violence and behaviour in our schools. I have been dealing with a constituent who has been waiting for months to get their adult

disability payment, because Scotland now has longer waits than the Department for Work and Pensions—the evil DWP, according to the SNP.

Those are the harsh realities of life. It is not about a written constitution for a fantasy independence campaign that nobody on the SNP benches is at all excited about because they simply do not believe that it will happen. We are wasting our time.

Last week, we were debating the Children (Care and Justice) (Scotland) Bill, and whether people should go through the children's hearings system and whether they should go to secure units rather than to young offenders institutions. I had four minutes in which to make my speech. We had a whole range of issues to discuss on a bill that has enormous consequences. It is a good bill, but it is potentially being mismanaged, so that is why we needed to spend more time on it. I was given four minutes to discuss that phenomenally important bill.

Today, we have a fantasy debate just to keep SNP members united behind the First Minister, who is failing. We need to be focusing on the harsh reality that my constituents are facing and that I know all members' constituents are facing as well. Let us get real.

Today, of all days, the Government chooses to have this debate. We have the longest delayed discharges of all time. Such delays were supposed to have been eradicated. We are not debating cancer waiting times, which are the worst on record—again. Why are we not debating those issues rather than this fantasy paper? I would be surprised if even SNP back benchers have read it, it is so bloody boring.

Let us get focused on what matters in people's lives rather than waste our time with this debate.

I move amendment S6M-09711.1, to leave out from “welcomes” to end and insert:

“believes that the Scottish Government's priorities should be on tackling the cost of living crisis, reducing the number of those waiting on NHS lists, ensuring that councils have sufficient funds to run public services, and working to reduce emissions in order to meet net zero; further believes that there should be no deviation from these priorities, as doing so can have a devastating impact on people's livelihoods and the services that people rely on; calls on the Scottish Government to focus on these priorities rather than on separation, and acknowledges that the best way to secure change for people in Scotland is through a full programme of constitutional reform enshrining the partnership of the United Kingdom.”

15:51

**Kevin Stewart (Aberdeen Central) (SNP):** To put it simply, the UK's current constitutional arrangements are not good enough. There is nothing to protect our health service or workers

and citizens' rights, which we have seen the Westminster Government take advantage of, with creeping NHS privatisation and the ripping away of the right to strike. It seems that we will be offered nothing different from Labour. Mr Bibby has admitted so today: Sir Keir Starmer will carry on in the same old vein, saying, “You'll have had your rights, and we'll keep the House of Lords to boot.” That is Labour's way, too.

In terms of dealing with constituents, which Mr Rennie just mentioned, all of us are dealing with the problems of the cost of living, Brexit, the Ukraine war and, of course, Tory austerity, which has been driven on us by a Westminster Parliament that is sovereign.

Independence offers the people of Scotland the chance to create a permanent, modern written constitution that puts their rights at the heart of Scotland's democracy. In my opinion, the first line of Scotland's interim constitution should make clear that Scotland is an independent country in which the people, not the Parliament, are sovereign.

The new paper, “Creating a modern constitution for an independent Scotland”, sets out how people in Scotland can shape their newly independent country. It tells us how independence could radically shift where power lies, replacing Westminster sovereignty with the sovereignty of the people who live in Scotland. It explains how a written constitution could put rights and equality at its heart, including by protecting the right to strike and by giving constitutional recognition to the NHS in Scotland. It also lays out how a permanent written constitution could be developed by the people of Scotland and their elected Parliament, giving Scotland a constitution and enabling it to be ready to take on the challenges of the future.

I share the view of the First Minister that the constitution should very clearly and explicitly state that Scotland should not have or host nuclear weapons. As I have stated in this Parliament before, the hundreds of billions of pounds spent on weapons of mass destruction would be much better spent on our public services and on supporting our people. Nurses, not nukes. Teachers, not Trident. Bairns, not bombs.

Our constitution must be for all the people of Scotland, enshrining human rights and ensuring progress and aspiration. In the past couple of decades, we have seen progress in areas such as LGBT rights, with the likes of the passing of equal marriage legislation. However, in the past couple of years, we have also seen an effort by some, including politicians, to roll back on the progress that has been made. In my opinion, these hard-won rights should be embedded in the constitution of an independent Scotland. We need to ensure that the voices of minorities are heard in the

formulation of our constitution and that we create a system that serves all.

The words “dignity”, “fairness” and “respect” are now used a great deal in the Parliament by MSPs from all sides of the chamber. I am very proud that those three words that mean so much—dignity, fairness and respect—were first enshrined in law through an amendment that I lodged to the Welfare Funds (Scotland) Bill. In my opinion, dignity, fairness and respect should be at the very heart of the constitution of an independent Scotland. For far too long, many people with physical disabilities or learning disabilities, autistic folk and those who are neurodiverse have not been listened to to the degree that they should have been. Let us change that in our written constitution.

**The Deputy Presiding Officer:** You need to conclude, Mr Stewart.

**Kevin Stewart:** If we do all of that, we will create the fairer, wealthier, aspirational independent Scotland that we so desperately need. I hope to see all MSPs backing today’s proposals, which will put the values of the people at the heart of our society.

15:56

**Sharon Dowey (South Scotland) (Con):** This Parliament was set up to improve the lives of people in Scotland by creating more highly skilled jobs, generating exciting new opportunities for young people and improving public services such as our NHS, our education system and our roads. We should be spending all our time on those key issues—the things that really matter to local people. We could be increasing the number of subjects that pupils get to experience in schools. We could be investing to improve vital roads such as the A77 and the A75. We could be overhauling the justice system so that it puts victims first. That is the Scotland that I want to build—one where victims get justice, schools provide more opportunities, motorists have good roads to travel on, vulnerable people get mental health treatment, islanders can get a ferry and everyone can access vital NHS treatment quickly.

However, nothing that the SNP is talking about today will help to build that better Scotland. It is not focused on those top priorities; it is focused only on its endless constitutional obsession. This debate is a total waste of everybody’s time and effort. It is a disgrace that the SNP has come here to talk about some fantasy constitution when people in Scotland desperately need better public services now. However, that shows what the SNP Government has become. It is not really a Government any more; it is nothing more than a constitutional campaign group. It now exists solely

to create grievances with the UK Government, to divide people in Scotland and to promote division above everything else, no matter the cost.

The SNP Government has somehow convinced itself that a Minister for Independence is a necessity. It is now in the ridiculous position of insisting that it is good value for taxpayers to divert Government resources and a team of civil servants away from front-line issues.

Just look at what the SNP announced over the weekend. It has said that the next general election will be fought on the issue of independence and that every seat that it wins will count towards a mandate. Humza Yousaf has taken Nicola Sturgeon’s reckless referendum plan and put it on steroids. He has decided that the de facto referendum is not extreme enough. Now, the SNP genuinely seems to be claiming that it will try to break away from the United Kingdom if it gets one more vote than any other party in Scotland.

**The Minister for Housing (Paul McLennan):** We are told by Labour and Tory politicians that this is a voluntary union. What route do the Scottish people have—right here, right now—to express their views on that?

**Sharon Dowey:** We already had a referendum in 2014; we already voted on that.

**Paul McLennan:** Right here, right now.

**Sharon Dowey:** Normally, when we have debates in the chamber about things that actually matter, there is not a minister to be seen. Today, when we are talking about the constitution, everybody is here. Everybody is here to discuss the constitution instead of what matters. *[Interruption.]* I would much rather see the Minister for Public Health and Women’s Health finding dentists.

**The Deputy Presiding Officer:** Will you resume your seat for a second, Ms Dowey?

I made a plea earlier in the debate that members who had the floor should be listened to with respect. The member has taken an intervention, and her response should be listened to with respect.

You need to conclude fairly shortly, Ms Dowey.

**Sharon Dowey:** The ministers are all here to speak about the constitution. I would much rather that the public health minister was looking to find out why we do not have any dentists and why my constituents cannot get dental appointments, and to find a solution to that. The social care minister should be looking at bed blocking and why people are stuck in hospital. If the community safety minister looked at the Scottish Fire and Rescue Service, I would be able to clear my inbox, which

is absolutely jam-packed with emails about the service asking what is happening with the cuts.

I note that I can look forward to a future paper in the summer as part of the “Building a New Scotland” series. I would much rather see a paper on building the new national treatment centre at Carrick Glen in Ayr, which seems to have come to a standstill. Having the ability to have orthopaedic surgery there would greatly help my constituents.

People across Scotland, including many SNP supporters, can see that the Government is out of touch.

**The Deputy Presiding Officer:** You need to conclude now, Ms Dowey.

16:01

**Ruth Maguire (Cunninghame South) (SNP):** I welcome the publication of “Creating a modern constitution for an independent Scotland”. The opportunity that it sets out for the people of Scotland to directly shape a new, modern and more democratic country with constitutional safeguards for democracy and human rights provides hope in what can feel like pretty desperate times—times when important values are under attack by the Westminster Government. That Government has introduced laws that stripped rights from asylum seekers and other vulnerable people; encouraged voter disenfranchisement; limited judicial oversight of Government actions; and placed new draconian restrictions on the right to peaceful protest. It should be noted that none of the UK parties appears to be interested in reversing those attacks as they appeal to general election voters outwith Scotland.

On the Opposition amendments, in summary, I would say three things. Number 1 is that democracy is not a one-off event. Number 2 is that debate and disagreement are normal and healthy and do not have to be divisive. Politicians can take responsibility in displaying that and not fuelling bad feeling and fear among those with different views, beliefs and aspirations. Thirdly, and further to that, as for the point about our not discussing “theoretical ... plans”, at first I smiled at that phrase, because I thought that that is surely how all political policy ideas start out, but then I actually felt a bit sad for whoever wrote it—the misery of it. Goodness me, can we not raise our eyes a bit and imagine a better way of doing things and a better Scotland? If not, I do not know what we are here for.

With no written constitution, the UK is an outlier. It is one of the very few countries in the world that does not have a single written document that could be called a constitution. The issue with the series of laws, conventions and precedents that

form how the UK works is that at its heart is the idea that the Westminster Parliament is sovereign and requires a simple majority to legislate on any matter. That means that, no matter how central any law is to our society—such as those on a publicly owned NHS, workers’ rights or even devolution itself—a simple majority vote at Westminster could change or overturn that.

Perhaps the thought of a first line of a Scottish constitution stating “Scotland is an independent country in which the people are sovereign” will not spark as much joy in those for whom sustaining the union is a priority as it does in me and others who want Scotland to regain her independence. However, I hope that, when we get to that point and when the people of Scotland make it clear via the ballot box that independence is the destination that they want, all colleagues in the chamber—as democrats and as people of principle—will see that the chance to create a permanent and modern written constitution that puts rights at the heart of Scotland’s democracy is above party politics. I hope that they will participate fully and positively in a written constitution that the people of Scotland believe in and that has the collective authority of our nation, so that those in power accept that, under the constitution, they are accountable to the people. In a modern, more democratic country, surely we can all get behind that.

16:04

**Carol Mochan (South Scotland) (Lab):** Usually, I would welcome the contents of a debate at the start of my remarks, but it is worrying and frustrating in equal measure that, yet again, we find ourselves debating the SNP’s confusing and incoherent plans for a referendum. Those plans are, by the admission of independence supporters, at best unclear.

It often seems that, when scrutiny of the Government’s performance on issues such as the deposit return scheme—

**Jamie Hepburn:** Will the member take an intervention?

**Carol Mochan:** Not at the moment, thank you.

When scrutiny on issues such as the DRS, the NHS or the Government’s general inertia becomes too prevalent, we can guarantee that the next item on the agenda will be independence. Here we go again.

For many members of the public, a debate such as this afternoon’s looks like navel gazing during a continuing cost of living crisis and an increasingly unstable geopolitical situation. It is verging on fantasy that the Government considers discussion about a written constitution to be a priority during

these difficult times. I implore the Government to get its act together and work on things that are important to the communities in Scotland.

**Jamie Hepburn:** Will the member take an intervention?

**Emma Harper (South Scotland) (SNP):** Will the member take an intervention?

**Carol Mochan:** Not at the moment, thank you.

Why not use the time to produce a real recovery plan for the NHS that will have an immediate impact on staff morale, pay and patient capacity or to fix lifeline services for Scotland's constantly underappreciated island communities? What about the ferries?

**Emma Harper:** Will the member take an intervention on that point?

**Carol Mochan:** Not at the moment, thank you.

Why do we not address the crisis in local government funding in Scotland, which has meant that many of our towns and villages are without key services? SNP members will have that in their inboxes. They will know it to be true.

Perhaps, most importantly of all, we could maximise assistance to families across Scotland who are struggling with the surging cost of living, which is rapidly eating up their pay packets.

Any one of those matters is of much more immediate importance than a sitting Government acting like a debating society.

**Jamie Hepburn:** Will the member take an intervention on that point?

**Carol Mochan:** Absolutely not, thank you.

The Government is looking to consider hypotheticals rather than the wolf at the door. The debate is clearly and blatantly an attempt to play to the crowd because the First Minister is on the ropes in his own party and voters are turning away from the Government. Let us not pretend otherwise.

On the notion of a constitution, although I have no issue with a clearer statement of rights or with protecting such important ones as the right to strike, there are plenty of positive steps that the Government could take right now simply through its own actions. We can give people more power in their workplaces and communities with the powers that are available to us currently, so why is that not being pursued? The Government does not need another mandate to implement such measures.

Jamie Hepburn and Angus Robertson are quick to tell us that they have a mandate to deliver a referendum on independence, but they are equally quick to forget the commitments to abolish council

tax or reduce primary class sizes. Who can forget, as we have heard before, the treatment time guarantee? Only the SNP Government can do that.

The SNP's talk of a mandate suits it only when it comes to independence, not when it comes to delivering on the real priorities of the Scottish people. In short, the public want the Government to deliver on what it has already secured votes for before it starts to construct the next promise that it will break.

I do not think that that is too much to ask. All that it takes is accepting the obvious reality that the Government should appreciate what the communities of Scotland want. They are not looking for independence and, certainly, at the moment, none of them is looking for another referendum. That is the hard political reality that faces the Government. A mature Government would consider accepting that point. It is not the time to discuss this paper.

16:08

**Keith Brown (Clackmannanshire and Dunblane) (SNP):** I was going to talk about the virtues of a written constitution, as many of my colleagues have done, but it is important for the chamber to realise exactly what the Opposition members, who are all looking at their phones just now, support when they support the current unwritten constitution. Rather than quoting Dicey, Edmund Burke, Montesquieu or any of the other thinkers they would normally cite in defence of an unwritten constitution, they have just made a puerile attack on the SNP. I do not know how many times Neil Bibby mentioned the term "SNP" in his speech.

Let us look at what those members support. What do we get with an unwritten constitution? First of all, we get the proroguing of a Parliament when it becomes inconvenient—just stopping the Parliament, and then lying to the head of state about the proroguing of Parliament. The proroguing of Parliament stopped it working altogether. What the Opposition members are doing in the empty benches that we see in the chamber is walking away because they have no arguments to counter our proposals for a written constitution.

We also have the situation in which you can make international agreements and then break them immediately once you have made them—it may only be in a "specific and limited way", but you have lied to people you have made an agreement with and trashed the reputation of the state that you support in the process of doing that.

Or, of course, you can stuff to the gunnels the House of Lords—that paragon, that mother of

Parliaments, where there are 800-plus cronies of the Labour and Tory parties and people who have donated to those parties—and then call that a democracy. It must be the only legislature in the world where the majority are unelected, yet there is not a word of condemnation from any of members of those parties in this Parliament.

You can also lie to Parliament without a word of condemnation being said by the people on those benches in this place about the liar himself, Boris Johnson.

For years, we had the fiction that we had a separation of powers within the UK Parliament but, of course, there was a person with the title of Lord Chancellor who was a member of the executive and the judiciary, as well as the legislature—the embodiment of the fact that there was no separation of powers, with all the attendant problems that that brought, as well.

When we put all those flaws together with the fact that we have an unwritten constitution, and with the presence of the constitutional vandals that we see in Westminster just now, that is where we get some of the major breaches of that constitution. It would have been much more difficult for those constitutional vandals to have done that had there been a written constitution with protections for individuals and groups within society. However, it is easy to go through that constitution and make those breaches if there is the thin veneer of respectability of an unwritten constitution.

It has been a source of shame to me for many years, having studied political science, to see some people put the unwritten constitution up on a pedestal as some fantastic, almost mythical, virtue of the UK state. It is anything but.

An unwritten constitution also allows for democratic denial—a rewriting of what most people understand as the basic principles of democracy such as the idea that, if you win an election, you get to implement your manifesto. That has been ditched. The idea of the mandate, a cornerstone of democracy, has been ditched by the Opposition parties in this chamber, and, of course, there is the devolution mess that we are seeing just now, whereby parties that simply do not like our party can change their mind and act with caprice to stop our legitimate aims of exercising devolved powers within the devolved settlement.

Before Labour gets too comfortable, I point out that there can be illegal wars as well—you can consign many people to death in those wars at the same time as going straight past their normal democratic processes.

There is also the point that Paul McLennan made—we can have an Act of Union that we are

told is voluntary, but you just make sure there is no way that people can exercise their right to leave that union, even if that was the deal that they signed up to in the first place.

Therefore, it is quite clear to me that the virtues of a written constitution will appeal to people. Despite what others say about fantasy, I think that it will appeal to the people of Scotland, not least because the curtain has been pulled back from the unwritten constitution. I think that the idea of a rights-respecting Scotland that looks after the rights of individuals in the way that we have heard will prove to be very effective in making sure that people vote for independence for Scotland.

16:12

**Ross Greer (West Scotland) (Green):** Independence is a worthy goal in and of itself. Greens believe that bringing power closer to people is worth while, and we certainly believe that we want the powers of independence for a purpose, as I am sure that SNP colleagues do, as well. We believe that our nation can do and achieve so much more with the powers of a normal, independent nation. We can be fairer, greener and more democratic.

The process of establishing that new nation is a hugely exciting opportunity. It is an opportunity to discuss, decide on and enshrine our founding values. Who do we aspire to be, as a nation? In Scotland, the sovereignty lies with the people, not with Parliament. That is a radical and ancient tradition and it is one that we will honour with a process that allows the people to write the constitution, not just the politicians. Too often, for people across the UK, politics feels like something that is done to them, not something that we all do together. To me, that is what Westminster is—a politics that is done to people. An independent Scotland is our opportunity to do politics differently—to do politics together as a people.

Greens see a huge opportunity in the fundamental questions of democracy, such as who our head of state should be. We are told, of course, that the British monarchy is an appropriate head of state because it is neutral and does not interfere in our politics, but that is not the case. The royal family is exempt from police searches, so we cannot search their properties for the loot of centuries of British imperialism. They are exempt from equalities legislation, so their staff cannot take them to court if they are mistreated. They are exempt from inheritance tax. Now, we have the ludicrous spectacle of the heir to the throne claiming to dedicate himself to ending homelessness while committing to that cause only a fraction of what his family should have paid in tax.

His dad claims that he is committed to tackling the climate crisis, but their family's lands in Scotland are exempt from various bits of climate legislation such as the Heat Networks (Scotland) Act 2021. An independent Scotland can follow the wave of Commonwealth nations that are switching to an elected head of state. We just need to look to our nearest neighbour in Ireland for examples of how astounding individuals can come forward for that position—Mary McAleese, Mary Robinson and the incumbent, Michael D Higgins, who gave the greatest speech ever heard in this Parliament.

Independence is about democracy above all else. We will root our new nation in that principle from top to bottom. We can also enshrine the powers that are exercised at the local level. This is not just about creating another sovereign Parliament like Westminster here at Holyrood, it is about empowering our communities. We need democratic renewal.

We certainly need to get rid of the House of Lords. If it was not thoroughly discredited before this week, the revelation that MI5 officers had to warn Boris Johnson not to appoint Evgeny Lebedev to the Lords only for him to ignore that warning should surely destroy any credibility that that institution still has, and that was hardly the first scandal. There has been cash for honours and the appointment of donors and hangers-on for decades and centuries.

Writing a constitution can be an opportunity for us to be bold in guaranteeing the rights that are needed by people and the planet. We can enshrine the right to healthcare and protect the status of our NHS. We can enshrine the right to strike and to protest, which are fundamental rights that are required for any group of people to be genuinely free but which are under attack from the UK Government. The party of government in the UK is attacking those rights and the other party is either supporting that attack or, at best, committing not to repeal the legislation once it has been passed.

Through our constitution, the people will constrain the power of Parliament and Government in an independent Scotland. Parliament's role in relation to the Government will be made clear. Major decisions, such as declarations of war, should be passed by Parliament rather than taken by the executive power of a Government.

Few inequalities in Scotland have lasted as long or are as unequal as the concentration of land ownership in few hands. That is exactly the kind of issue that we could tackle with our constitution. We only need to look to international examples such as Brazil, whose constitution requires land and property to fulfil a social function, or New Zealand's ban on nuclear weapons or the Swiss

model of direct democracy. There are so many inspiring and exciting examples of the kind of nation that an independent Scotland could be, and I am excited for us to take the first steps on that journey.

16:17

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** The Conservative and Labour amendments allude to or promulgate the proposition that a written constitution is an abstract that displaces the real and current issues for the people of Scotland such as the economy, the cost of living crisis, free access to healthcare at the point of need, a warm affordable home, a decent living wage, the right to withdraw labour, the right to be free of weapons of mass destruction and the ability to provide a sanctuary to those who are fleeing from persecution. A written constitution is the framework and foundation of a just society in which human rights, the rights of our children, the rights of the vulnerable, the rights that I have just referred to and—I say to Willie Rennie, who is not here—the rights of my constituents are fundamental and protected. It is a contract with the people, who are sovereign and have remained so despite the union in 1707. In 1953, *MacCormick v Lord Advocate*, session case 396, on appeal to the Inner House, Lord President Cooper, obiter dictum, said that

“The principle of the unlimited sovereignty of Parliament is a distinctively English principle”,

and this was restated in the claim of right, which was signed on 30 March 1989 and said:

“We, gathered as the Scottish Constitutional Convention, do hereby acknowledge the sovereign right of the Scottish people to determine the form of Government best suited to their needs, and do hereby declare and pledge that in all our actions and deliberations their interests shall be paramount.”

Yet the UK Parliament has placed what is, to all intents and purposes, a permanent veto on the Scots exercising their sovereign right through a referendum.

I remind the unionists in here that, in 2014, the Scottish people were told that, if they voted yes to independence, they would be thrown out of the EU. We voted 62 per cent to remain and we were dragged out against our will.

Given that there is no written UK constitution, Westminster has free rein to undermine and even erode basic human rights, especially those of the vulnerable: the rape clause; the bedroom tax; providing a haven in Scotland for nuclear weapons; and, for those seeking sanctuary, the irony, given its imperial past, of a reverse slave trade, involving paying for the shipping of



desperate migrants to Rwanda, whose own breach of human rights the UK has questioned. We, in this Parliament, find that our protection of those rights is restricted and is being eroded in the context not only of a majority of members whose parties' manifestos are committed to an independent Scotland but of a majority of Scottish MPs: 45 SNP to six Tory, one Labour and four Liberal Democrat.

Independence with a written constitution would mean that no Scottish Parliament could unilaterally remove or amend the rights of the Scottish people that were embedded in that constitution. To do so would require the consent of the people, who are sovereign. That is not what the Westminster Parliament does, day in and day out. Such a constitution would be pragmatic in its implementation, giving rights and remedies to the people of Scotland should any Scottish Government default. Those rights are the stuff of fact, not fiction.

16:21

**Maurice Golden (North East Scotland) (Con):**

Of all the issues on which we could spend precious parliamentary time, we are here today to debate the "constitution for an independent Scotland". We could have spent today focusing on the NHS waiting times crisis, which includes the cancer treatment target that has been missed for almost a decade. We could have focused on coming up with a plan to reduce Scotland's shockingly high drug deaths rate, which the SNP is unable to get a grip of. We could have addressed falling education standards and closing the attainment gap, which continues to widen under the SNP; tackling violent crime, which is at its highest level since 2014; or tackling climate change—for example, by exploring how the SNP and Greens can stop missing their emissions targets or rescue their botched deposit return scheme.

Instead of dealing with the real issues that affect people across Scotland, the SNP and Greens would rather use up the time of the Parliament discussing their ever more convoluted independence fantasy—a fantasy constitution, triggered by a fantasy independence referendum, which triggers another fantasy referendum to adopt the fantasy constitution. That is all the latest independence paper is—more fantasy, released in time to placate the party faithful at the SNP's weekend conference on independence.

What is not a fantasy is the £1.5 million a year that the Scottish Government is paying 24 civil servants in its constitutional futures division to work on the "prospectus for independence" papers and similar projects.

**Ross Greer:** Will the member take an intervention?

**Maurice Golden:** No.

Until recently, the First Minister was suggesting that those prospectus for independence papers were a waste of time.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** Will the member take an intervention?

**Maurice Golden:** I am happy to do so.

**Stuart McMillan:** Is Maurice Golden able to tell members how much the UK Government spent on civil servants to deal with Brexit?

**Maurice Golden:** I am neither responsible for nor accountable to the UK Government—*[Interruption.]*

**The Presiding Officer (Alison Johnstone):** Thank you.

**Maurice Golden:** However, if Stuart McMillan would like to question the UK Government, a general election is coming up, in which he might want to consider standing.

The First Minister suggested that the prospectus for independence papers were a waste of time because they were being ignored by the general public. However, according to the First Minister, it will be different with him, because he wants to be known as the "first activist", and it would be his job as First Minister to get those fantasy documents into the hands of activists.

That begs a number of worrying questions. Does he really think that that is what the role of First Minister entails? More alarmingly, how can it be appropriate to have 24 civil servants, at a cost of £1.5 million a year, producing documents to be used by SNP activists? I know that £1.5 million might seem like a drop in the ocean compared with the hundreds of millions of pounds that this Government wastes, but try explaining that to the families up and down the country who are struggling every day with the cost of living crisis.

**Michelle Thomson (Falkirk East) (SNP):** Will the member give way on that point?

**Maurice Golden:** I need to make progress. I am in my last 23 seconds.

The SNP acts as if it alone knows what is best for Scotland, but the Scottish people rejected independence. In a free and fair referendum, Scotland told it no, but the SNP has never come to terms with that.

16:25

**Michael Marra (North East Scotland) (Lab):** To state that an independent Scotland would have a written constitution is an exercise in stating the

obvious. In a fine and eloquent speech, Christine Grahame took that very straightforward statement and turned it into something more like poetry. Now, no new state that is formed does not develop and adopt a written constitution, so it was a statement of the obvious.

The lack of a codified constitution in the UK is a historical oddity and anomaly that is maintained by institutions that have, in relative terms globally, been stable over centuries.

**Jamie Hepburn:** Will Michael Marra give way?

**Michael Marra:** I will not right now, but I will certainly come back to Jamie Hepburn.

The debate that has been brought to the chamber, which is based on the suggestion that there is a benefit to codification above flexibility, has offered very little insight so far into the trade-offs between those two things, although Keith Brown gave a good speech in that regard.

I have to say that it is not a debate that greatly animates me or my party. We are, and always have been, more animated by delivery of social protection and progress than by the writing down of those aspirations on parchment.

**Jamie Hepburn:** Will Mr Marra give way?

**Michael Marra:** No, thank you. I am just getting started.

The paper in question suggests that the NHS will be written into our constitution, but the reality is that the protection of our NHS will not be achieved in prose or by plebiscite. As Bevan made clear,

“The NHS will last as long as there are folk left with faith to fight for it.”

It is a political question of having the will and means to raise the resources and having a competent Government to channel them appropriately. It is the incompetent SNP Government that has driven our NHS to its knees and to the brink of collapse.

Professionals who have dedicated their lives to our citizens through our NHS are now openly asking whether it can survive. As was quoted this weekend in *The Herald*, 7,000 Scots have been awaiting treatment for more than two years, compared with 600 people in England—a country that is 11 times our size. There has been the complete failure of the NHS recovery plan, and there are the longest waiting times ever and a plethora of waiting times guarantees that have not been met. The SNP is making an unholy mess of protecting our NHS.

We are invited, today, to welcome the NHS's protection by a fictional document in some undetermined future. That should be a worry to all

of us. None of it addresses the fact that no comparable small nation has an NHS or that the weight of such committed expenditure is not normally borne by a more limited tax base. None of it recognises the immediate loss of over £10 billion in revenue in the event of secession, which we are being asked to believe would have no adverse effect on our ability to retain and improve our NHS. None of it recognises the cost of establishing a new state and building exchange reserves to defend a pegged currency from a foreign power—which would, at that point, be setting interest rates for our separate country. None of that is my proposition—it is this Government's policy platform.

That brings us to this weekend's headline performance at the great Caird hall in Dundee. The reviews are rolling in, and they do not make for pretty reading. It is extraordinarily difficult for anyone to genuinely know what to make of the whole thing—SNP MPs included, apparently. “Maybe it's just dreadful writing,” they say. “Surely it could not have been purposely ambiguous.” Well, the First Minister is certainly trying to get good value from his money for his new spin doctor. The First Minister appears to be telling the country—taking Nicola Sturgeon's widely discredited proposal and going even further—that independence can be decided by 33 per cent of the vote. Will the vote be monitored by a slightly smaller independence thermometer? Ash Regan might let us know. It is not a serious plan, but that is no surprise, because he is not a serious First Minister. He is attempting to reframe an election and to manage party expectations in a desperate attempt to hold on to his job.

All of that is at a time of NHS distress, a cost of living crisis and mortgage rate meltdown. Would that we could talk about all of that instead.

16:29

**Karen Adam (Banffshire and Buchan Coast) (SNP):** In preparation for the debate, I have been reading the words of James Madison, who was the father of the constitution of the United States of America. One quote in particular really struck me. I will share it with the chamber. It is this:

“The people are the only legitimate fountain of power, and it is from them that the constitutional charter, under which the several branches of government hold their power, is derived.”

For centuries, sovereignty here, in Scotland, was said to lie with the people, so it should come as no surprise that such an absolute should have been instilled within James Madison, because he was educated by a Scottish tutor, Donald Robertson.

When the United States of America declared independence from the United Kingdom, one of

the first lines of the declaration of independence said:

“We hold these truths to be self-evident, that all men are created equal”

When Scotland regains her independence, we too should put equality—although not only for men—in the opening lines of our written constitution.

The declaration of independence goes on to say:

“let Facts be submitted to a candid world”.

In that list of facts, the document outlines why independence is needed. It says, of the then leader of the United Kingdom:

“He has refused his Assent to Laws, the most wholesome and necessary for the public good ... He has dissolved Representative Houses repeatedly ... He has refused to pass other Laws for the Accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature”

and the king is condemned

“For cutting off our Trade with all parts of the world ... For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments”.

Does that sound familiar to anyone?

Since 1939, 62 countries have become independent from the United Kingdom and, to date, none has asked to return. Almost all those countries have codified a constitution. It took three centuries for Scotland to regain her Parliament but just a few short decades for the UK Government to overrule and undermine it.

Without a written constitution, the UK is an outlier, and, although the Scottish Government is enshrining rights, the UK Government is trying to take them away. The first line of Scotland’s interim constitution should make it clear that Scotland is an independent country in which the people are sovereign. Never again should powers that are so far away—both geographically and democratically—from the people of Scotland be able to undermine our sovereign will.

The publication “Creating a modern constitution for an independent Scotland” lays out a vision for our constitutional future—one that embraces the principles of democracy, human rights and the sovereignty of the people. It is a document that reflects the aspirations and values of our nation.

In recent years, we have witnessed the UK Government, and the Conservative Party as a whole, persistently restricting the democratic will of the Scottish people. Time and again, our voices have been undermined and our choices disregarded. The power imbalance is evident, with decisions that directly affect Scotland being made without our consent or our consideration.

Here are just a few ideas that are close to my heart. The constitution could protect workers’ rights and could protect the NHS, which would be free at the point of use.

I will finish my remarks with a plea to Scots across the country to dwell on, and to articulate, our vision for Scotland. We do not have to imagine a better country. This is not a fantasy—we can build it and should not let anyone think that we cannot. A written constitution is absolutely the opportunity to create the foundation of a society in which every citizen is valued, rights are protected and the interests of the people take precedence over narrow political considerations. [*Interruption.*]

**The Presiding Officer:** I must ask you to conclude.

**Karen Adam:** I heard a voice from across the chamber say, “Aren’t we looking to the wolves at the door?” We absolutely are, and I do not know about anyone else—

**The Presiding Officer:** I must ask you to conclude, Ms Adam.

**Karen Adam:** —but I am fed up of the wolves at the door. Let us stop the wolves of Westminster coming to Scotland, and let us become independent.

**The Presiding Officer:** We move to closing speeches.

16:34

**Foysoil Choudhury (Lothian) (Lab):** The debate could have been used to discuss the crisis in our NHS and how children are having to wait months for routine medical tests or to discuss how to help students who are threatened with homelessness because of rising energy costs and housing supply issues. We could have discussed education reform, which is much needed, or local government budget cuts. Instead, we are debating independence again. The document brings nothing new to the table; in fact, it is the fourth of its kind.

**Jamie Hepburn:** Will the member take an intervention?

**Foysoil Choudhury:** No.

The SNP has said time and again that devolution is being undermined but, in fact, devolution is being trumped by two Governments that refuse to work together. It is being undermined by the Tories at Westminster and by the SNP here, at Holyrood, refusing to communicate and co-operate. While the two Governments cannot reach agreement, Scotland suffers.

The Scottish Government should be spending its time on the real problems that Scotland faces.

**The Minister for Green Skills, Circular Economy and Biodiversity (Lorna Slater):** Will the member take an intervention?

**Foyso Choudhury:** No.

The Scottish Government could be tackling waiting times in the NHS, helping the people of Scotland to pay their bills or addressing social and health inequalities. However, as Willie Rennie mentioned, the SNP does not want to face the hard reality of the issues that people in Scotland face. That is why, as Sharon Dowey pointed out, we often struggle to get ministers to the chamber to address such issues.

Instead, the SNP is doubling down on the politics of division. Scottish Labour's constitutional offer would strengthen devolution, not weaken or undermine it. It would ensure that the Government focused on the principle that power should be based as near as possible to the place in which it is exercised. It would focus on moving power into the hands of local authorities and communities.

Neil Bibby spoke about the £6 billion in cuts to local government budgets. Scottish Labour would ensure fairer funding for communities. That is the reality that Scottish Labour offers—not an ideological pipe dream of independence, which has little more support than it had in 2014.

**Kevin Stewart:** Will Mr Choudhury give way?

**Foyso Choudhury:** No—I have a long list to go through.

Scotland is not a colony. At the SNP convention at the weekend, Mhairi Black MP referred to Scotland becoming the 63rd country to gain independence from the UK. Such rhetoric followed an SNP MSP commenting in the chamber last year that it was “beyond belief” that a Labour MSP would support a motion celebrating Indian independence but not support Scottish independence.

In Kenya, during the Mau Mau uprising in 1952, there were widespread reports of detention camps, torture, sexual assault and brutal bodily harm. During colonial rule in India, the Amritsar massacre of 1919 saw protesters against colonial rule brought inside a walled garden and fired on until the guns ran out of ammunition. British rule also saw widespread famine and poverty. In 1943, up to 4 million Bengalis starved to death while millions of tonnes of wheat were exported to Britain. Are we actually comparing that to Scotland's relationship with the UK?

**Jamie Hepburn:** Will the member take an intervention?

**Foyso Choudhury:** No—sorry.

Those countries were fighting for independence from Scotland—*[Interruption.]*

**The Presiding Officer:** Let us hear Mr Choudhury.

**Foyso Choudhury:** To compare the experience of British rule in those countries to Scotland's relationship with the rest of the UK is insulting. We must stop the rhetoric of Scotland as a colony and address the legacy of Scotland as a coloniser.

While SNP members talk to themselves about themselves, hide behind their ill-founded arguments and continue to fail to make the case for independence, Labour is focused on strengthening devolution and being the change that Scotland needs.

16:40

**Jackson Carlaw (Eastwood) (Con):** I suppose that this afternoon's debate fits neatly into the traditional BBC summer schedule of repeats.

I apologise to members in advance of making my remarks. Unfortunately, I am suffering from a chronic migraine this afternoon. Although I can see you, Presiding Officer, I cannot see anyone else around the chamber—members are all just in a fog. I hope that they will take that into account.

A couple of weeks ago, I attended an event at Eaglesham primary school, in my constituency, which had gone into partnership with Scottish Opera to put on a marvellous production. The kids were in fantastic costumes and they were singing. It was altogether more coherent, joyful and original and better rehearsed than any speech that I have heard from members who have been advocating the motion.

I understand the importance of the games industry to Scotland. I have never played one, but when my sons were younger they used to play something called “The Sims”. It is a video game in which players can construct a completely artificial little world by using ideas from their own heads. They can construct buildings, put in police stations and write constitutions. *[Interruption.]*

**Jackson Carlaw:** I see that Mr Robertson knows more about the game than I do—it has inspired him in making his contribution.

I never expected a video game to be the hallmark and the centre of Scottish Government policy. Mr Robertson, who is indulging in that fantasy, in what must be regarded as the high watermark of his contribution to public office, has otherwise written some really rather nice books. He wrote an excellent one on Vienna, which I recommend that members read. He would be far better applying himself to that task rather than to

the ridiculous nonsense and fantasy that he has brought before the chamber this afternoon.

I do not know how many SNP or Green members who are sitting behind Mr Robertson were in the Parliament in 2007—a smattering, perhaps. That Government, which was led by Alex Salmond, with no record to defend, was actually quite impressive. In the 2011 election it won an absolute majority and the right to fight a referendum on Scottish independence. It fought that referendum and it lost despite the highest turnout for any public vote that there has ever been in any contest at any time in the entire history of the United Kingdom.

**Angus Robertson:** Will the member give way?

**Jackson Carlaw:** I will, in just a second.

In no election since has the separatist movement come close to achieving anything like the poll in favour of independence that it achieved then.

**Angus Robertson:** I am grateful to Jackson Carlaw for taking my intervention. Earlier, I intervened on his front-bench colleague Donald Cameron to ask what the position of the Scottish Conservative and Unionist Party is on Scotland's being able to make a decision about its democratic future. Mr Cameron failed to answer that. Could Jackson Carlaw tell members what Scots need to do to enable them to secure a vote on their own independent future?

**Jackson Carlaw:** In the referendum campaign in 2014, which the separatists lost, they said that the vote would be a once-in-a-generation event. What genuinely surprises me is that, in the years since, there has been no attempt whatsoever from the SNP to define what a generation is and say when another referendum might reasonably take place. *[Interruption.]*

**The Presiding Officer:** Let us hear Mr Carlaw.

**Jackson Carlaw:** Pardon, Presiding Officer?

**The Presiding Officer:** I was calling for quiet so that we might hear you, Mr Carlaw.

**Jackson Carlaw:** Oh, I see. Some people have defined a generation as being 25 years, and others as 40. By the end of this parliamentary session it will be 12 years since the date of the last referendum. Surely a far better purpose in engaging on Scotland's constitutional future would have been to work with others to say when another referendum might reasonably take place.

If it was two Parliaments before now, we will have covered that 25 years by the end of two Parliaments from now. But no, instead—

**Keith Brown:** Will Jackson Carlaw give way?

**Jackson Carlaw:** I think that Mr Brown and I had all of this out in a television programme once, and I am afraid that he failed lamentably. I happened to notice that, since he accused other members of looking at their phones, he has done nothing but look at his own phone, which I find deeply ironic.

We heard Christine Grahame talk about the European Union. It is true that Scotland voted to remain in the EU referendum in 2016; I was one of those who voted to remain. The fact that we voted to remain has been trumpeted by the SNP, but it has not changed the opinion polls in favour of independence.

Mr Brown likes to pop to his feet and talk—sometimes, not even from his feet—about Liz Truss and the dreadful economic catastrophe, as he sees it, that was brought about by the UK Government last year. It was certainly an inglorious period in the history of Conservative government, but that has not changed the opinion polls in favour of Scottish independence. Nothing has changed the opinion polls in favour of Scottish independence. Nicola Sturgeon repeatedly said on television after the independence referendum that she would not call for another until there was a sustained, substantial and consistent majority in opinion polls in favour of independence, but that has never happened.

We have this wheeze, which is a little backroom exercise in how to keep the conversation on independence alive—“What can we pretend to say differently?”—when, as other members have said, that is not the real issue. No constituent of mine in Eastwood has ever knocked on my door and said, “Mr Carlaw, what I want is a new constitution to be thought up for an imaginary, post-independent Scotland.” What they have said to me is, “Why is it four years before I can get my gallbladder operation?” when, 20 years ago, when I had mine, the wait was four months. They have asked why it is that they cannot get a ferry to and from the Isle of Arran, why it is that schools are unable to provide qualifications and an education of a standard that we had before this Government came to office and why it is that firefighters are queuing up to complain about the SNP Government.

Those are the real issues, and Sharon Dowey was quite right to say that, in the debates that we have in the Parliament on those issues, the SNP benches are largely empty. Where are SNP members today? *[Interruption.]* We turn out to discuss the real issues that affect Scotland—*[Interruption.]*

**The Presiding Officer:** Let us hear Mr Carlaw.

**Jackson Carlaw:** —while SNP members turn out to discuss nothing but fantasy.

At the climax of it all, we heard from that would-be international revisionist historian, Ross Greer, with his usual backdoor attack on the monarchy. I say to him and the serried SNP ranks beside him that I am confident that the majority of people in this country look forward to the reign of King Charles III, King William IV and, long after we are all dead and gone, King George VII.

I conclude with two simple statements that sum up the mood of the unionist majority in Scotland: advance Britannia, and God save the King!

16:47

**The Minister for Independence (Jamie Hepburn):** I do not intend to make the monarchy the central focus of my speech. However, I noticed a little discomfort from Mr Cameron during that ovation for the current monarchy. Mr Cameron understands his family history; Mr Carlaw might need to read the history of the Cameron family to understand the reference that I have just made.

On the debate at hand, I thank members for their speeches. I begin by thanking Mr Rennie, who confirmed what many of us have long suspected, which is that, in advance of debates in the chamber, he undertakes no form of reading or research to inform his contributions.

I will respond to Foysoyl Choudhury's speech. On the cases that he laid out, the historical experiences of the countries that were colonised by the United Kingdom do not bear any comparison with the modern Scotland in which we live now. No SNP member would have the insensitivity to suggest—

**Foysoyl Choudhury:** Will the minister give way?

**Jamie Hepburn:** There is no chance that I am giving way to Mr Choudhury. He did not give way once.

No SNP member would make such an insensitive comparison. Surely, that is not the standard by which it should be determined whether any country should become independent.

Let me begin with some of the critique that has been—

**The Presiding Officer:** Sorry, Mr Hepburn. I am conscious of an echo. I ask that you direct your microphone over to yourself. Thank you.

**Jamie Hepburn:** I was not conscious that it was not directed towards myself. I hope that it is better directed now.

I will again direct my remarks to members, starting with the criticism about holding the debate. The first critique was that we should not hold it at all and that the issue is not important. I remind members that the Scottish Government secured a

mandate in the 2021 election. We stood in that election on the basis of seeking to advance the case for independence, and we won that election. Mr Cameron suggested that we should read the room in the context of what should be debated. I suggest that he look around the chamber and look at those who constitute the members of this Parliament. His party is in the minority and this party is in government and has every right to advance its case.

Secondly, it is perfectly legitimate—and necessary—for us to bring forward this debate. Mr Cameron suggested that we did not announce the publication of the document to Parliament, but we did. We answered the Government-inspired question, I wrote to the relevant committee conveners and now we have brought forward a debate on the Government paper to enable Parliament to hold the Government to account. I take that matter very seriously indeed, and I find it odd that we routinely hear from other parties, wrongly and inaccurately, that we do not open ourselves up to scrutiny, but, when we seek to do so, we are criticised for doing it in the first place.

Thirdly, I want to talk about the idea that we are not concentrating on the priorities of the people of Scotland. This Government has lifted 90,000 children out of poverty through its policies. Over the course of its lifetime, it has built 122,000 affordable homes. It has put in place a just transition fund to help people move into opportunities in the renewable energy sector. It has tripled the fuel insecurity fund. It has promoted the real living wage, and Scotland has the highest percentage of working-age population of any UK country paid at that level at least. This Government is mitigating the Tory bedroom tax. That is some of what this Scottish Government has done, and it is nonsense to suggest that we are not focused on the people's needs.

Donald Cameron is mistaken if he thinks that we are directing attention away from our record in government, as his amendment suggests. Let us focus on his party's record in government. It was telling that Carol Mochan talked about

“the wolf at the door.”

Let us talk about the wolf at the door. Let us talk about a UK Government that is attempting to roll back the Human Rights Act 1998. Let us talk about a Tory Government that put in place the pernicious Trade Union Act 2016. Let us talk about a Tory Government that is taking forward the creeping privatisation of our national health service. Let us talk about a Tory Government that is taking a draconian approach to asylum policy.

All of that is happening in the “real world” that Mr Bibby spoke of but which he appears to be letting pass him by. All of that is made possible

because of the UK Government's uncodified constitution, which is anachronistic. It is an outlier, as Karen Adam suggested, because it enables the sovereignty of Parliament. The UK Government is able to pursue that agenda unfettered because it is able to do so under the precepts of the primacy of the sovereignty of Parliament.

On where we are and the contrast with our proposition, we want to see—

**Neil Bibby:** Will the member take an intervention?

**Jamie Hepburn:** Mr Bibby was kind enough, unlike other members, to let me intervene, so of course I will give way.

**Neil Bibby:** The minister mentions creeping privatisation in the UK. We have seen more and more people having to go private for medical treatment in Scotland, and 500,000 people have been failed by the treatment time guarantee. Why is that happening in Scotland under the SNP?

**Jamie Hepburn:** No one is suggesting for a moment that there are not challenges in the national health service. The Cabinet Secretary for NHS Recovery, Health and Social Care is pursuing an agenda to make sure that we can rebuild from the challenges that we experienced during Covid. We believe in the fundamental proposition that we should have a health service free at the point of need, but that is under attack from the Tory Party, and the Labour Party should have its eyes open to that.

A written constitution is how we can best defend that principle. One of our propositions is to have a written codified constitution that would have a constitutional right to a healthcare system that is free at the point of need. A written codified constitution is perfectly normal. The overwhelming majority of countries in the world have such a constitution; indeed, fewer than 10 countries do not, of which the United Kingdom is one.

There are other rights that we could secure in a written constitution. We could include in a written constitution some of the fundamental human rights that are laid out in the European convention on human rights. Unlike the UK Government, which is abolishing the Human Rights Act 1998, we could put in place the United Nations Convention on the Rights of the Child. Earlier today, we heard a statement from Shirley-Anne Somerville in which she showed some of the limitations that we have faced in being able to put that into legislation.

We could have in our constitution a right to an adequate standard of living. That should be contrasted with research that was published just yesterday by the Institute for Fiscal Studies, which shows that, while housing benefit has remained frozen since 2020, rents have gone upwards, with

only one in 20 private rental properties advertised on Zoopla now able to be covered by housing benefit. That hardly speaks to an adequate standard of living. We would, of course, ensure that workers' rights were in our codified written constitution.

That is core to the approach that we would take. In that sense, the notion that the discussion is hypothetical or abstract is, frankly, nonsense. It matters. It is not, as Mr Carlaw suggested, an exercise in playing games.

**Michael Marra:** Will the minister give way?

**Jamie Hepburn:** There is absolutely no chance that I will give way to Mr Marra. Mr Marra pretended that he would let people intervene, but he did not take a single intervention.

What we are seeing is the casual erosion of rights and a narrowing of the scope of devolution under the current constitutional settlement. That is why the discussion matters. We should have a written constitution so that rights cannot be overturned on the whim of any Government at any given point in time.

Donald Cameron, Neil Bibby and others were wrong to suggest, as the amendments do, that the discussion is academic or theoretical. This is about a vision and ambition, and we aim to turn them into a reality.

At least Mr Marra accepted that the UK is anachronistic in not having a written constitution.

**Michael Marra:** Anomalous.

**Jamie Hepburn:** "Anomalous," I hear him say. Anomalous/anachronistic—it is a case of potato/potahto. Let us just focus on that. Mr Marra did not give any single commitment to change that state of affairs. When I put the point to Mr Bibby, he utterly dodged the question. It is clear that the Labour Party does not support the codification of people's rights in any way. That should be contrasted with the position of Helena Kennedy of the Labour Party, who said:

"people should be going to work on creating a written constitution for an independent Scotland, definitely. I would do it now if I were in that camp."

—[*Interruption.*]

**The Presiding Officer:** Let us hear Mr Hepburn.

**Jamie Hepburn:** I thought that the response from Mr Bibby was rather a meagre one. He talked about the way to deal with the matter being to change the Government. The Labour Party is U-turning and flip-flopping on various pledges, such as abolishing tuition fees in England and Brexit. Keir Starmer says that those in the Labour Party are the real conservatives. That does not really

sound like much of a change of Government to me. The real change is in securing independence and having a written constitution.

We want to do that with the participation of the people of Scotland. Unlike members of the other parties, we fundamentally trust the people of Scotland. We want to engage the population to ensure that we can first of all have an interim constitution from day 1 of independence and thereafter create a convention that is representative of the people of Scotland to bring back a proposition to the people of Scotland—

**Daniel Johnson (Edinburgh Southern) (Lab):** Will the minister give way?

**Jamie Hepburn:** No, I am afraid that I will not give way to Mr Johnson. He did not take part in the debate. He was not here.

We would create a constitutional convention to ensure that the people of this country can have their say. I trust them. They could come back. We would put the question to the people of this country.

Let me close. The cabinet secretary opened the debate by talking about the rhetorical power of an ambitious constitution. He was right to do so. However, I recognise that it takes more than just a written constitution to secure good government or to protect and advance people's rights. A written constitution is necessary but not sufficient. What is required is the right culture, and it takes commitment. After all, the world is full of countries with written constitutions whose Governments and way of governing fail to live up to their ideals.

However, I am convinced that we have what it takes to embrace a new constitution and that Scotland needs one if it is to embrace fully the opportunities of independence. We already have strong and highly trusted institutions. We have a Scottish Government, and we have shown over 25 years of devolution through coalition, minority, majority and co-operation models of government that we are innovative and responsive. We have a Government that, according to the Scottish social attitudes survey, three times as many people in Scotland trust to act in Scotland's best interests than trust the UK Government to do so.

We have a Parliament that is elected through a fair system of proportional representation, we have an independent judiciary and we have public bodies such as Social Security Scotland. We have the underpinning things that we need in order to be an independent state; what we do not have is a written constitution, which enables that lot over on the Tory side of the chamber to attack our rights and that lot over on the Labour side of the chamber to do absolutely nothing.

**The Presiding Officer:** Please conclude, minister.

**Jamie Hepburn:** We trust the people of Scotland. I know what future appeals to me: an independent Scotland with a written constitution.



## Electronic Trade Documents Bill

17:00

**The Presiding Officer (Alison Johnstone):** The next item of business is consideration of motion S6M-09709, in the name of Richard Lochhead, on the Electronic Trade Documents Bill, which is United Kingdom legislation.

*Motion moved,*

That the Parliament agrees that the relevant provisions of the Electronic Trade Documents Bill, introduced in the House of Lords on 12 October 2022 and subsequently amended, so far as these matters fall within the legislative competence of the Scottish Parliament or alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.—[Richard Lochhead]

**The Presiding Officer:** The question on the motion will be put at decision time.

## Business Motion

17:00

**The Presiding Officer (Alison Johnstone):** The next item of business is consideration of business motion S6M-09746, in the name of George Adam, on behalf of the Parliamentary Bureau, on changes to business.

*Motion moved,*

That the Parliament agrees to the following revisions to the programme of business for—

(a) Wednesday 28 June 2023—

delete

*followed by* Scottish Government Debate: Economic Crime and Corporate Transparency Bill - UK Legislation

after

*followed by* Stage 3 Proceedings: Charities (Regulation and Administration) (Scotland) Bill

insert

*followed by* Legislative Consent Motion: Economic Crime and Corporate Transparency Bill - UK Legislation

(b) Thursday 29 June 2023—

after

*followed by* Ministerial Statement: Leading Scotland's Journey to Becoming a Start-up Nation

insert

*followed by* Legislative Consent Motion: Online Safety Bill - UK Legislation.—[George Adam]

*Motion agreed to.*

## Decision Time

17:01

**The Presiding Officer (Alison Johnstone):**

There are five questions to be put as a result of today's business. The first question is, that motion S6M-09710, in the name of Emma Roddick, on the Illegal Migration Bill, which is United Kingdom legislation, be agreed to. Are we agreed?

**Members:** No.

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

There will be a short suspension to allow members to access the digital voting system.

17:01

*Meeting suspended.*

17:04

*On resuming—*

**The Presiding Officer:** The question is, that motion S6M-09710, in the name of Emma Roddick, on the Illegal Migration Bill, which is UK legislation, be agreed to. Members should cast their votes now.

### For

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Chapman, Maggie (North East Scotland) (Green)  
 Choudhury, Foysol (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (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, Neil (Airdrie and Shotts) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)

Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Marra, Michael (North East Scotland) (Lab)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 McNeill, Pauline (Glasgow) (Lab)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Mochan, Carol (South Scotland) (Lab)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 O'Kane, Paul (West Scotland) (Lab)  
 Regan, Ash (Edinburgh Eastern) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robertson, Angus (Edinburgh Central) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Slater, Lorna (Lothian) (Green)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Collette (East Kilbride) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sweeney, Paul (Glasgow) (Lab)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Villalba, Mercedes (North East Scotland) (Lab)  
 Whitfield, Martin (South Scotland) (Lab)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)  
 Wishart, Beatrice (Shetland Islands) (LD)

### Against

Balfour, Jeremy (Lothian) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Dowey, Sharon (South Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Gulhane, Sandesh (Glasgow) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Hoy, Craig (South Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)

Lumsden, Douglas (North East Scotland) (Con)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 83, Against 28, Abstentions 0.

*Motion agreed to,*

That the Parliament agrees that the UK Government's Illegal Migration Bill will negatively affect all those seeking asylum in the UK; notes that clauses 23 and 27 of the Bill together will amend the Human Trafficking and Exploitation (Scotland) Act 2015, by placing a restriction on the powers of the Scottish Ministers and removing the entitlement for victims of human trafficking and exploitation to access Scottish Government-funded support services if they have arrived in the UK through irregular means after 7 March 2023; further notes that the Bill's provisions are likely to impact on the ability to support potential victims of human trafficking and, therefore, will impact on the delivery of the Trafficking and Exploitation Strategy and efforts to eliminate human trafficking, as victims may actively avoid identification and associated risks of removal from the UK, and acknowledges that the Scottish Government has not been permitted to lodge a Legislative Consent Memorandum on the UK Government's Illegal Migration Bill in the Scottish Parliament.

**The Presiding Officer:** I remind members that, if the amendment in the name of Donald Cameron is agreed to, the amendment in the name of Neil Bibby will fall.

The next question is, that amendment S6M-09711.3, in the name of Donald Cameron, which seeks to amend motion S6M-09711, in the name of Angus Robertson, on building a new Scotland—the constitution of an independent country, be agreed to. Are we agreed?

**Members:** No.

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

**For**

Balfour, Jeremy (Lothian) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Dowey, Sharon (South Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Gulhane, Sandesh (Glasgow) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Hoy, Craig (South Scotland) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)

Lumsden, Douglas (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whittle, Brian (South Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD)

**Against**

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Chapman, Maggie (North East Scotland) (Green)  
 Choudhury, Foysol (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (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, Neil (Airdrie and Shotts) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Marra, Michael (North East Scotland) (Lab)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLennan, Paul (East Lothian) (SNP)

McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 McNeill, Pauline (Glasgow) (Lab)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Mochan, Carol (South Scotland) (Lab)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 O’Kane, Paul (West Scotland) (Lab)  
 Regan, Ash (Edinburgh Eastern) (SNP)  
 Robertson, Angus (Edinburgh Central) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Slater, Lorna (Lothian) (Green)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Collette (East Kilbride) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sweeney, Paul (Glasgow) (Lab)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Villalba, Mercedes (North East Scotland) (Lab)  
 Whitfield, Martin (South Scotland) (Lab)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

**The Presiding Officer:** The result of the division is: For 31, Against 80, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The next question is, that amendment S6M-09711.2, in the name of Neil Bibby, which seeks to amend motion S6M-09711, in the name of Angus Robertson, on building a new Scotland—the constitution of an independent country, be agreed to. Are we agreed?

**Members:** No.

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

#### For

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Choudhury, Foysol (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Dowey, Sharon (South Scotland) (Con)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Gulhane, Sandesh (Glasgow) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Hoy, Craig (South Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)

Leonard, Richard (Central Scotland) (Lab)  
 Lumsden, Douglas (North East Scotland) (Con)  
 Marra, Michael (North East Scotland) (Lab)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 O’Kane, Paul (West Scotland) (Lab)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Sweeney, Paul (Glasgow) (Lab)  
 Villalba, Mercedes (North East Scotland) (Lab)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whitfield, Martin (South Scotland) (Lab)  
 Whittle, Brian (South Scotland) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Chapman, Maggie (North East Scotland) (Green)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (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)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green)  
 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)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)

Regan, Ash (Edinburgh Eastern) (SNP)  
 Robertson, Angus (Edinburgh Central) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Slater, Lorna (Lothian) (Green)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Collette (East Kilbride) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

#### Abstentions

McArthur, Liam (Orkney Islands) (LD)  
 Rennie, Willie (North East Fife) (LD)  
 Wishart, Beatrice (Shetland Islands) (LD)

**The Presiding Officer:** The result of the division is: For 44, Against 64, Abstentions 3.

*Amendment disagreed to.*

**The Presiding Officer:** The next question is, that motion S6M-09711, in the name of Angus Robertson, on building a new Scotland—the constitution of an independent country, be agreed to. Are we agreed?

**Members:** No.

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

#### For

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Chapman, Maggie (North East Scotland) (Green)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (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)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)

MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green)  
 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)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 Regan, Ash (Edinburgh Eastern) (SNP)  
 Robertson, Angus (Edinburgh Central) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Slater, Lorna (Lothian) (Green)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Collette (East Kilbride) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

#### Against

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Choudhury, Foysol (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Dowe, Sharon (South Scotland) (Con)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Gulhane, Sandesh (Glasgow) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Hoy, Craig (South Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lumsden, Douglas (North East Scotland) (Con)  
 Marra, Michael (North East Scotland) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)

O’Kane, Paul (West Scotland) (Lab)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Sweeney, Paul (Glasgow) (Lab)  
 Villalba, Mercedes (North East Scotland) (Lab)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whitfield, Martin (South Scotland) (Lab)  
 Whittle, Brian (South Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD)

**The Presiding Officer:** The result of the division is: For 64, Against 47, Abstentions 0.

*Motion agreed to,*

That the Parliament welcomes the publication of *Creating a modern constitution for an independent Scotland* and the opportunity that it sets out for the people of Scotland to directly shape a new, modern and more democratic country with constitutional safeguards for human rights and based on the constitutional tradition of the sovereignty of the people.

**The Presiding Officer:** The final question is, that motion S6M-09709, in the name of Richard Lochhead, on the Electronic Trade Documents Bill, which is United Kingdom legislation, be agreed to.

*Motion agreed to,*

That the Parliament agrees that the relevant provisions of the Electronic Trade Documents Bill, introduced in the House of Lords on 12 October 2022 and subsequently amended, so far as these matters fall within the legislative competence of the Scottish Parliament or alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.

**The Presiding Officer:** That concludes decision time.

## Epilepsy

**The Deputy Presiding Officer (Liam McArthur):** The final item of business is a members’ business debate on motion S6M-09507, in the name of Alasdair Allan, on the Epilepsy Scotland report “epilepsy on the mind”. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament recognises the findings of the Epilepsy Scotland report, Epilepsy on the Mind, on the impact of epilepsy on mental health, which was published on 16 June 2023; understands that epilepsy is a condition that it is estimated 58,000 people in Scotland, including people in Na h-Eileanan an Iar, are living with, making it one of the most common serious neurological conditions; recognises that this report, which followed a national survey undertaken by over 700 people with epilepsy in Scotland, highlights, in particular, that 54% of responses said that epilepsy has a “significant impact” on their mental health; further recognises that 46% of responses said that they have anxiety, and one in three have depression; notes the recommendation that there needs to be wider-reaching, epilepsy-specific mental health support available in Scotland, and for there to be greater societal understanding, including by employers and education establishments, of epilepsy and how it can affect a person’s life; commends Epilepsy Scotland for its work in conducting the survey and creating this significant report, and considers that the report’s recommendations can improve the lives of people with epilepsy.

17:13

**Alasdair Allan (Na h-Eileanan an Iar) (SNP):** I welcome this chance to highlight to Parliament the hugely important work that Epilepsy Scotland does as an organisation. Specifically, I want to mention the research and recommendations that it recently published on the impact of epilepsy on mental health.

Epilepsy is not an uncommon condition, and yet it continues to be very commonly misunderstood, and those misunderstandings often have a real impact on many people’s wellbeing. It is important, therefore, to make one distinction from the outset: epilepsy itself is not a mental illness. Much of the stigma that has, in the past, been applied to epilepsy has, in fact, been grounded in that very equation of those two things. It is a misunderstanding that, 150 years ago, stepped neatly into the space that was then just being vacated by earlier public assumptions that had placed epilepsy firmly in the supernatural realm.

Such widespread public ignorance of what epilepsy might be is complicated further by the fact that the condition takes so many widely varying forms. In any case, Epilepsy Scotland’s survey has shown us that 54 per cent of people with epilepsy feel that their condition has

“had a ‘significant impact’ on their mental health.”

One in three people reported depression and half described anxiety. A lack of awareness among the public is but one of the factors that lie behind those very concerning figures.

I will highlight just one of those issues, which is something that people in urban Scotland might recognise perhaps less than those in rural areas. Somebody losing their driving licence, which is a requirement for anyone whose symptoms are not controlled, means that their chances of finding employment, or at least employment that uses all their talents, decline very steeply. The survey found that 61 per cent of people described epilepsy as having had an impact on their employment.

Employment, or the lack of it, is, in turn, a factor that drives a sense of isolation. Again, the report bears that out, with 72 per cent of people reporting that epilepsy had affected their social life. One case study, Nicola in Orkney, had this to say:

"I really struggled with losing my driver's licence. I lost all my independence and really had to rely on other people to take me places because we weren't really on a bus route. So it was a case of making sure I had a lift from"

my

"partner ... or my mum or dad. They were really good ... but ... I hated asking all the time."

I developed epilepsy when I was 17. I hesitate to claim that epilepsy had any direct effect on my own mental health—I was possibly not even fully aware of the issue, because I do not recall mental health even being a widely understood concept in those days. However, it was probably because I was very fortunate. At the worst point of my condition, I generally had only about eight or nine seizures a year—far fewer than many other people—and, after a process of medical guesswork, medication eventually brought my symptoms completely under control after about 15 years.

I am not quite certain that, when I was young, I treated my condition with the respect that it deserved, which was probably due to the pretty limited information that was then available to me about it and the only very occasional opportunities that I ever had to meet anyone who might remedy my ignorance.

My own seizures included one that happened when I was working on a ship, while another seizure conveniently gave me just enough warning for me to jump off my bike. One happened in a pub, before I had even had time to order a pint. Another happened doing a job interview, in which—I am pleased to say—I gained employment. One took place in a student political meeting, in which, I understand, debate raged during the several minutes of my unconsciousness as to whether or not someone should raise my

hand to vote for me, there being quite a close vote at the time. One seizure occurred during some very misjudged hitchhiking through a war zone and resulted in my coming to in a Croatian military hospital, with no ill effects.

I am pleased to say that, since the days of my youth, the sources of information and support for people with epilepsy in Scotland have increased dramatically, in no small measure due to the work of Epilepsy Scotland, representatives and members of which are in the public gallery, as well as through the work of Scotland's national epilepsy centre.

Epilepsy Scotland has, for instance, a helpline service that includes check-in calls. Officers with counselling qualifications will call someone once a week for 10 weeks to let them talk about their worries and any issues related to their epilepsy. However, there remains a huge amount still to be done, as Epilepsy Scotland's report has now shown us.

The report concludes with some important recommendations, and I hope that the Minister for Public Health and Women's Health may be able to reflect on some of them in summing up, in the light of the Government's commitment to step up support for mental health services more widely.

Among those recommendations are the need to continue to grow

"the number of mental health-trained professionals (including counsellors) available to people ... with epilepsy and to increase the level of understanding of epilepsy amongst those working in mental health services ... To increase the number of in-person support groups for people living with epilepsy and their families ... For"

all agencies

"to work collaboratively to create a strategy to improve the mental health of people living with epilepsy ... to increase public awareness of epilepsy to the wider public for improved societal understanding"

and

"To ask health boards ... to consider steps for routine screening of mental health issues in epilepsy clinics with immediate referral to mental health support where required."

I take the opportunity again to commend the work of Epilepsy Scotland—a sentiment that I know will be shared by the cross-party group on epilepsy in this Parliament. In particular, I draw attention to the work that Epilepsy Scotland has done in its report. The report highlights effectively how epilepsy is a condition with a very human impact on very real people.

17:19

**Jeremy Balfour (Lothian) (Con):** I thank Alasdair Allan for bringing the debate to the

chamber, and I acknowledge the good work that he does as convener of the cross-party group on epilepsy.

Having this kind of conversation in the Parliament sends a clear message that we care, we are on your side and we are committed to working with you to improve the rights of those who are living with epilepsy.

I, too, thank Epilepsy Scotland for its work, and I welcome representatives of the organisation, and some of its members, to the public gallery. It is so important that we have active and motivated organisations to work on behalf of groups that can often feel that they are being left behind.

The report that we are discussing sheds light on the fact that it is crucial to recognise that the disabilities that individuals face are not the sole aspect requiring attention—the mental health of those individuals needs equal consideration. Disabled individuals often encounter significant emotional and psychological challenges as a result of the stigma, isolation and limited accessibility to services. The impact of those factors on their mental wellbeing should never be overlooked.

It is so important that we recognise and address the mental health challenges that are faced by individuals who are living with epilepsy. Although epilepsy is primarily a neurological condition, it also takes a toll on a person's emotional wellbeing. According to figures from the report, more than one in three people with epilepsy in my region of Lothian struggle with anxiety, and the same number report that they deal with depression. Those numbers are heartbreaking.

Despite the growing awareness of the importance of mental health, there remains a significant gap in the support and resources that are available for individuals with epilepsy. In order to truly address their mental health needs, we must prioritise specialised mental health services that are tailored to the unique challenges that are faced by this part of our population.

The report makes a number of excellent recommendations on how we can begin to close that gap in support. One such recommendation suggests implementing

“routine screening of mental health issues in epilepsy clinics”

and facilitating

“immediate referral to mental health support”.

That would be a simple, yet immensely positive, step for health boards across Scotland to take. Such an approach would ensure that mental health concerns were not left untreated or undetected, which would lead to improved overall

wellbeing and better management of epilepsy. Swifter referral to mental health support services would offer timely interventions, which would allow individuals to receive the necessary assistance and support tailored to their specific needs.

That easy and proactive measure has the potential to significantly enhance the holistic care that is provided to individuals with epilepsy, ultimately fostering better mental health outcomes and a higher quality of life for individuals.

All the recommendations in the report promise to make life better for those with epilepsy. I hope that we can get a commitment from the minister tonight, in her closing speech, that the Government will commit to rolling them out—not in a decade's time, but with urgency and in the current session of Parliament.

17:23

**David Torrance (Kirkcaldy) (SNP):** I, too, welcome members of Epilepsy Scotland to the public gallery. I am grateful to Alasdair Allan for bringing this important debate to the chamber and providing us with an opportunity to mark the publication of Epilepsy Scotland's report “epilepsy on the mind”. The report has laid bare the impact of epilepsy on mental health, marking a crucial milestone in our understanding of this complicated condition.

Epilepsy is one of the most common serious neurological conditions. It impacts on an estimated 58,000 individuals across Scotland, each of whom is living with a very complex condition that can strike unpredictably, and which carries immense implications for their daily lives. In my constituency of Kirkcaldy, there are more than 800 people living with epilepsy, and there are an estimated 4,000 people living with the condition across the whole of Fife.

The physical implications of epilepsy are well known. However, we must consider not only the physical manifestations of epilepsy, but its psychological impact. It is a matter of urgency that we recognise the intertwined relationship between epilepsy and mental health.

The “epilepsy on the mind” report, based on a comprehensive national survey involving more than 700 participants with epilepsy, reveals that 54 per cent of respondents reported

“a ‘significant impact’ on their mental health”.

Those are not insignificant numbers, and we must not treat them as such. Moreover, the report tells us that 46 per cent of those individuals struggle with anxiety and that one in three grapples with depression. We need to acknowledge that stark reality and do more than just sympathise; we need to take meaningful action. The mental health



repercussions of epilepsy are not a secondary condition but an integral part of a condition that deserves our attention as influential policymakers.

As deputy convener of the cross-party group on epilepsy, I have had the opportunity to meet and hear from organisations and stakeholders across Scotland about what we can do to better support those who live with epilepsy, including making sure that their mental health is prioritised. Those groups have made invaluable recommendations to the CPG, and I know that the Scottish Government takes those recommendations very seriously in its work to provide support for people throughout their experience of living with the condition, from the point of diagnosis onwards.

Epilepsy Scotland's recommendations on the need for wider-reaching epilepsy-specific mental health support in Scotland are crucial. We are being called to action to extend our understanding of epilepsy beyond the seizures, to comprehend how it can pervade all aspects of an individual's life. This is about not simply allocating more resources for mental health services but creating a mental health service that is tailored and specific to the needs of people with epilepsy.

We know that the pandemic and the cost of living crisis have had a significant impact on mental health and wellbeing across Scotland, and it is reassuring to know that improving mental health is a priority of the Scottish Government. I very much welcome the Scottish Government's significant boost to mental health spending, including thousands of grants to grass-roots community organisations that provide targeted support, including to people with epilepsy. That funding, combined with the Scottish Government's investment in epilepsy, including specialist diagnostic tests, treatment options and on-going care, is creating a landscape in which the mental health of people with epilepsy can be prioritised. The Scottish Government's support to Epilepsy Consortium Scotland is also invaluable, as it raises awareness about how we can best support people with epilepsy.

That brings us to another vital point in the report: the role of societal understanding, particularly among employers and educational establishments. Epilepsy should be neither a barrier to opportunities nor a cause for discrimination. We must work towards creating an inclusive society that not only accommodates but empathises with people with epilepsy and understands the challenges that they face. That means providing appropriate support in the workplace and educational institutions, to ensure that awareness and understanding are embedded in every aspect of our society.

We must commend Epilepsy Scotland for its work in conducting the survey and creating a

significant report. Its dedication and commitment to improving the lives of people with epilepsy are commendable, and we need to ensure that its findings and recommendations do not go unnoticed. The findings of the report cannot be just another statistic. They are a call to action—a call for a more comprehensive healthcare service, for greater societal understanding and for a renewed commitment from all of us to ensure that the lives of people with epilepsy in Scotland are not defined by their condition. This is an opportunity for us to reshape our approach and build a Scotland that not only recognises the impact of epilepsy on mental health but actively works towards providing comprehensive and personalised support for every person who lives with epilepsy.

17:28

**Carol Mochan (South Scotland) (Lab):** I, too, thank Alasdair Allan for bringing the debate to the chamber and Epilepsy Scotland for publishing the report and providing a briefing ahead of this evening's debate. I welcome representatives of Epilepsy Scotland to the gallery.

It is right that we debate this matter. The report shows the level of agreement among people from across Scotland who live with epilepsy that having the condition leads to detrimental impacts on mental health. They raise an important point. When reading some of the additional points that were made by those who participated in the survey, I found comments that suggest that even the strongest people can still be suffering inside.

The challenges that come with epilepsy are faced not just by the individual but by the whole family. Although there is a recognition that epilepsy is much more than a seizure, the constant fear of having seizures can be very challenging for individuals and their families.

The fact that 85 per cent of people feel that epilepsy impacts their mental health in a small or significant way should be a concern for us all, as members across the chamber have said. I am confident that the minister recognises the seriousness of the issue and will look to improve specific areas that the Scottish Government can work on to address it.

As we heard, one in three people with epilepsy say that they have depression, almost half have anxiety and a quarter have both. Each figure represents an individual with a family and a life. Those figures are quite stark, and they highlight the debilitating nature of the condition, which affects the mental health and wellbeing of individuals and their families and causes them to suffer.

At this juncture, it would be remiss of me not to remind members that there have been calls to increase mental health spending to 10 per cent of the national health service budget and that commitments have been made. We accept that there are budgetary pressures, but it has been evident for some time that the crisis in mental health and wellbeing will be the next significant challenge to face our population. Clearly, those impacts are already being felt across the country, especially, as has been highlighted, among groups of people with particular conditions, one of which is epilepsy. Not meeting those targets would be a major failing on the part of this Government. The request to reprioritise funding allocation is well intentioned, but it is urgent, so we ask the minister to make that point.

I note with interest the very apt and reasonable recommendations in Epilepsy Scotland's report. I think that everybody has mentioned that all those recommendations are very reasonable. As we have heard, the calls include asking the Government to increase the number of mental health-trained professionals, including counsellors, who are available to people living with epilepsy; to increase the level of understanding of epilepsy among those working in mental health services; to increase the number of in-person support groups for people living with epilepsy and their families across Scotland; and to have collaborative working between mental health and epilepsy charities to develop key policies in that area. Those asks are timely and, in my view, reasonable, and I hope that they will be reflected in the minister's comments.

I am pleased that we have been able to have this debate. Much of the data from the report is concerning and the situation is critical. As my colleague David Torrance mentioned, it is important that we have an opportunity to discuss it. People living with epilepsy have spoken loudly and clearly, based on their lived experience. It is our responsibility as legislators to take that seriously, bring it to the Parliament and ask the Government to act.

17:32

**The Minister for Public Health and Women's Health (Jenni Minto):** It is a privilege to be asked to close today's debate. I extend my thanks to all members who have spoken for their thoughtful contributions, and to Alasdair Allan for raising this important issue and sharing his personal experiences. I welcome members of the public to the gallery, as well as representatives from Epilepsy Scotland. I also note the important work that the cross-party group does.

The findings of Epilepsy Scotland's "epilepsy on the mind" report are stark. The report, along with

the experiences and stories of constituents that members have shared in the debate today, really emphasise the impact that epilepsy has on the mental health of those who live with it and, as Carol Mochan rightly commented, on their wider families.

It is sobering to hear that one in three respondents to Epilepsy Scotland's survey has depression. I was particularly struck by the fact that 62 per cent of respondents thought that having epilepsy had impacted their employment prospects. I recognise the example that Alasdair Allan gave of someone losing their driving licence in a more rural constituency, and I will reflect on that.

Tackling the disability employment gap is an integral part of our vision for Scotland to be a leading fair work nation by 2025, where fair work drives success, wellbeing and prosperity for individuals, businesses, organisations and society. Improving the employment prospects of those with epilepsy is very much part of that approach, and Epilepsy Scotland's report shows us why that is very much needed.

As others have said, an estimated 58,000 people in Scotland are living with epilepsy, making it one of Scotland's most common neurological conditions. Alasdair Allan's motion acknowledges that the condition affects people across Scotland, including in his constituency of the Western Isles. When considered alongside Epilepsy Scotland's striking statistics about the impact of epilepsy on the mental health of those living with the condition, those facts starkly illustrate just how much work there is to be done and how urgent and important that work is, as Jeremy Balfour highlighted.

The actions that are recommended by Epilepsy Scotland in "epilepsy on the mind" are well thought through, and I agree with Carol Mochan that they are reasonable and can improve the lives of people with epilepsy. The recommendations give me, officials and the third sector much to think about, which I commit to doing.

I am pleased that we are already taking action to improve the lives of people in Scotland with epilepsy and other neurological conditions. We are doing that by delivering the improvements that are set out in "Neurological Care and Support in Scotland: A Framework for Action 2020–2025". The aims include improving the provision of co-ordinated health and social care and support, developing sustainable workforce models and ensuring high standards of person-centred care for those with neurological conditions. We are investing £4.5 million over the course of the framework to achieve that vision.

Since October 2020, we have invested nearly £325,000 in projects that improve the health and

wellbeing of people with epilepsy in Scotland. Those projects include establishing an epilepsy register in NHS Greater Glasgow and Clyde, NHS Lanarkshire and NHS Tayside, with the ambition to scale up nationally to drive up standards of care. Another crucial element is a programme developed by Quarriers to improve the capacity of people with complex epilepsy to self-manage their condition and increase their resilience and confidence.

I know that members will need no reminder of the challenges faced by projects across Government and the third sector that have been posed by the pandemic and the cost of living crisis but, despite that, we are making substantial progress. The projects that we have funded in the first two and a half years of the neurological framework have made a significant contribution to improving services for people in Scotland with neurological conditions. We have made particular progress on our commitments to improve patient and carer information, to ensure better integration of services and care pathways and to provide practical tools for workforce capacity planning. With the right commitment, as our NHS continues to recover, I believe that our progress in those areas will bring about lasting changes to neurological services across Scotland, making care better for everyone with a neurological condition.

Now, in the latter two and a half years of the framework, we need to consolidate and build on those new approaches. We need to build networks to facilitate improvement locally and regionally and remain receptive to local need while ensuring that we have a consistent national picture of how services are performing.

I take this opportunity to put on record my thanks to Epilepsy Scotland for the valuable work that it does in supporting people in Scotland who live with epilepsy. Epilepsy Scotland and other third sector organisations continue to work tirelessly to support people with neurological conditions, despite unprecedented challenges and uncertainty.

Third sector organisations are a vital part of the healthcare landscape. It was my privilege recently to meet the Neurological Alliance of Scotland and hear first hand from member charities about the issues that their organisations face and the people they support. Attendees advocated for people with many different neurological conditions, but there was clear unanimity on themes such as the need for people who live with neurological conditions to have access to better integrated and person-centred care, concerns about waiting times and the need for pathway and service development. I was hugely impressed by the breadth of experience in that virtual room, by the clear

passion and sense of vocation for improving the lives of people with neurological conditions and, importantly, by the willingness to collaborate across the third sector and with the Scottish Government to achieve lasting and meaningful change.

The Scottish Government will, in that vein, work collaboratively with Epilepsy Scotland and other third sector organisations to support them through the difficult times and ensure that they are on a strong and sustainable footing that will enable them to continue their work that benefits so many people in the years to come.

In closing, I once again commend Epilepsy Scotland for producing “epilepsy on the mind”. I recommend that all members read the report and absorb its findings. I give a commitment that the Scottish Government will continue to listen to the experiences and human stories of those with epilepsy. We will continue working with people with lived experience, third sector partners such as Epilepsy Scotland, and clinicians to achieve real and lasting changes that improve the lives of people in Scotland with epilepsy and, as David Torrance said, to make Scotland an inclusive society.

*Meeting closed at 17:40.*



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