OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Meeting of the Parliament

Tuesday 17 December 2024

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 17 December 2024

CONTENTS

Scottish Parliament

Tuesday 17 December 2024

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

Time for Reflection

The Presiding Officer (Alison Johnstone): Good afternoon. The first item of business is time for reflection. Our leader today is Dr Leslie Milton, minister, St Andrew's High parish church, Musselburgh.

Dr Leslie Milton (St Andrew's High Parish Church, Musselburgh): Presiding Officer and members of the Scottish Parliament, I thank you for the opportunity to address you this afternoon.

The question, "What are you doing for Christmas?" is one that you will often hear in the weeks leading up to the day itself. In part, at least, this question means, "Who will you be with?" Christmas holds a special place in our nation's life as a time when we think about family and friendship and the place that we have in the communities that we are part of.

A couple of years ago, our local churches group, with the homeless charity Cyrenians, set up a weekly cook club. The idea is simple: anyone who wishes comes along and, with excess food from supermarkets, we cook and eat a two-course meal together. Something wonderful happened almost immediately with cook club. Any idea that there was a difference between church volunteers and guests fell away, as everyone is simply a member. People come for all sorts of reasons. No one is ever asked, "What brings you here?" Through cook club, many of our members have grown in confidence and have made friendships around the simple pleasure of cooking and eating together.

It is not by chance that the central act of worship in most Christian traditions is gathering around a table to share the bread and wine of communion. Eating together forms bonds between people in a unique way: we find inclusion and sociability, as well as regard for the needs of others. Many religious traditions express those same values in different ways through the sharing of food.

Cook club is always a highlight in my week. I find in it what the celebration of Christmas might mean in a nation where Christian faith is but one tradition among many. The story that Christians tell at Christmas is about God's favour coming to those who are too often overlooked. It is about God's generosity coming to all without distinction. Cook club takes up those values and celebrates them throughout the year.

To all of you who are here, I wish joy at this Christmas time. It is my privilege to share just one local initiative as a reminder that the values of an inclusive society, which we look to our Parliament to provide, are embodied in the faith, commitment, and actions of ordinary folk all across our nation.

Business Motion

14:04

The Presiding Officer (Alison Johnstone): The next item of business is consideration of business motion S6M-15917, in the name of Jamie Hepburn, on behalf of the Parliamentary Bureau, on changes to the business programme.

Motion moved,

That the Parliament agrees to the following revisions to the programme of business for Tuesday 17 December 2024—

after	
followed by	Topical Questions (if selected)
insert	
followed by	Ministerial Statement: Scottish Government Response to the Martins Review on the Use of Mobile Messaging Apps and Non-corporate Technology
delete	
5.00 pm	Decision Time
and insert	
5.40 pm	Decision Time—[*Jamie Hepburn*].

Motion agreed to.

Topical Question Time

14:05

Scottish Information Commissioner (Decision 193/2024)

1. **Douglas Lumsden (North East Scotland) (Con):** To ask the Scottish Government what its response is to the Scottish Information Commissioner letter to it expressing "disappointment" in the way that it complied with decision 193/2024, regarding legal advice that it received. (S6T-02254)

The Minister for Parliamentary Business (Jamie Hepburn): These matters were the subject of a recent statement by the First Minister, in which he clearly set out that the Scottish Government had complied with the commissioner's decision within the required timescale and had taken the highly unusual step of releasing legal advice.

Douglas Lumsden: The Scottish Information Commissioner's letter to the Scottish National Party Government is absolutely damning. When a freedom of information request was submitted to the Government about the ministerial code investigation into Nicola Sturgeon's conduct, the Government refused to disclose it, saying that it did not hold that information.

The information commissioner disagreed with the Government, as did the courts, but, regardless, the Government wasted taxpayers' money on the legal fight. A subsequent request for information was sent to the Government, asking for the legal advice that it had received in relation to the case. After much delay, the Government finally released it.

The First Minister told the Parliament:

"The legal advice was unambiguous. It supported challenging the commissioner's decision".—[*Official Report*, 29 October 2024; c 10.]

However, the information commissioner states in his letter that the Scottish ministers' chances of success in the case were "substantially diminished". Can the minister tell us with a straight face that the First Minister was being fully candid when he told the Parliament that the legal advice was unambiguous?

Jamie Hepburn: Yes.

Douglas Lumsden: We are all too used to the secrecy and spin of the SNP Government, but the public are fed up of it. Judging by his letter, so is the commissioner. He highlights factual discrepancies submitted by SNP ministers in this case and says that there was a

“misrepresentation” of the facts about their “prospects of success”.

There is a running theme in the SNP Government’s handling of the Salmond saga and its fallout, and John Swinney’s fingerprints are all over it. The Government has consistently tried to dodge scrutiny, conceal information from public view and obfuscate when questions about its conduct have been asked. What is it about the scandal that the Government is trying to hide?

Jamie Hepburn: As I have already laid out, these matters were the subject of a recent statement by the First Minister. He has laid out the Scottish Government’s perspective. The commissioner is entitled to his perspective. We have always operated in line with the FOI law. As I said, the First Minister has made his statement and he has laid out the Government’s position.

Katy Clark (West Scotland) (Lab): The First Minister confirmed in his letter to me, dated 6 November, that there remain five extant FOI cases relating to the evidence to James Hamilton’s investigation. Does the minister accept that, although there has been significant improvement in reducing the backlog in FOI cases, it is in these highly political situations with ministerial involvement that requested information is being withheld?

Jamie Hepburn: We will respond to any request from the information commissioner in line with FOI law. I welcome the fact that Ms Clark at least acknowledges the part of the information commissioner’s letter in which he recognises the Government’s improved performance.

Willie Rennie (North East Fife) (LD): Despite what the minister says, and despite all that the First Minister said previously, the information commissioner is still angry. He is making some pretty strong statements about factual inaccuracies and the fact that it is

“not a true or transparent reflection”.

Does the minister understand that trust is at the heart of this? What lessons has he learned from this episode, and what will he change?

Jamie Hepburn: I have already made the point that we have released a significant volume of information—everything is available for people to look at. The First Minister made his statement, and our position stands as set out by the First Minister in the statement that he made on 29 October.

Fergus Ewing (Inverness and Nairn) (SNP): This case arose from a request for information that was made in April 2021, which is more than three and a half years ago. The Scottish Government believes profoundly in freedom of information, but that delay is surely tantamount to an abuse of process and a thwarting of the law to which the Government is subject. Therefore, will the material that has been requested be released forthwith, and will the minister agree that no further delay is conscionable?

Jamie Hepburn: I recognise that Mr Ewing has corresponded with the Scottish Government on some of these matters. He can look forward to a response in due course.

Nurses (Recruitment and Retention)

2. **Carol Mochan (South Scotland) (Lab):** To ask the Scottish Government what action it is taking to improve the recruitment and retention of nurses, in light of recent reports that the number of students accepted on to nursing courses remains below its targets. (S6T-02253)

The Cabinet Secretary for Health and Social Care (Neil Gray): I greatly value the contribution that our nurses make to Scotland’s national health service. The Scottish Government is committed to attracting more people to study nursing, which is why we continue to provide the highest student bursary for nursing degrees in the United Kingdom.

However, I recognise that there is more to do to make the role attractive to new entrants and to retain our current workforce. That is why I chair the nursing and midwifery task force, which will publish its report and recommended actions early in the new year.

Carol Mochan: This is the third year in a row in which Scotland has failed to fill places on nursing courses. There are currently 2,380 whole-time equivalent nursing and midwifery vacancies in Scotland and we know that there has been a reduction in the overall number of nursing posts advertised here. What is the Government doing specifically to ensure that those studying nursing are guaranteed a job when they qualify?

Neil Gray: Some of those issues have been explored by the nursing and midwifery task force. I am very grateful to all those who provide training, including the Royal College of Nursing, the Royal College of Midwives, the chair of the Council of Deans and a range of others who sit on the task force, for the recommendations that they are providing and for the report that will be published in the new year.

It is for health boards to determine the levels of employment that will meet the needs in their areas. I will continue encouraging them to ensure that they take up the nurses who come through training courses. I will also ensure that we all express the opportunities that are out there in our higher education institutes to take up nursing training places and to embark on fulfilling careers in nursing and midwifery that can help to change, and save, people’s lives.

Carol Mochan: The cabinet secretary is correct that the Government-led nursing and midwifery task force should play an important role in improving recruitment and retention of the workforce.

However, there is little clarity in the proposed budget about how the task force's recommendations will be fully delivered. Does the cabinet secretary agree with me on that, and can he confirm that he is committed to fully resourcing the delivery of those important recommendations?

Neil Gray: Yes, I am. We have provided an increase in the proposed budget and I encourage colleagues across the chamber to support that because it will allow us to take steps such as implementing some of the recommendations in the task force report. We need support from across Parliament in order to pass the budget, which also provides increased resources for our health boards, gives a record level of funding to health and social care and gives us scope to improve the situation our staff are working in. They are currently working under pressure and we know that changing that will be a defining feature in making the role attractive. We want to improve performance for the people of Scotland and for those who seek to serve our communities in the nursing and midwifery professions.

Sandesh Gulhane (Glasgow) (Con): I make a declaration of interests, as I am a practising NHS general practitioner.

There is a staffing crisis in nursing and midwifery. We have heard of mothers and babies in Edinburgh being harmed by a shortage of staff. By submitting a freedom of information request, we have discovered that NHS health boards in Grampian, Highland and the Western Isles do not currently have midwifery workforce plans in place. Does the cabinet secretary find that lack of a plan acceptable?

Neil Gray: To answer the first point in Mr Gulhane's question, I note that, under the SNP, overall nursing and midwifery staffing is up by 18.1 per cent since September 2006. It has increased by 10,288 whole-time equivalents to 67,071 whole-time equivalents. There has been a substantial investment in the nursing and midwifery workforce under this Government, and that continues. Over the past year, there has been a 4 per cent increase in the number of whole-time equivalent nursing staff and midwives working in NHS Scotland, and there has been an 11.6 per cent increase in the past decade. We will of course work with the boards that Mr Gulhane referenced to ensure that they have robust plans in place so that we continue to have services that meet the needs of the communities that they seek to serve.

Jackie Dunbar (Aberdeen Donside) (SNP): I recognise that the nursing and midwifery task force is working to consider the attraction and retention of students in the sector. Will the cabinet secretary advise when the task force's recommendations will be published and what it is expected to advise?

Neil Gray: The task force has concluded the first phase of its work. We met last week to conclude the report and the recommendations that have been made, and the recommended actions and the report will be published early in the new year. The task force will recommend a number of actions based on the feedback from staff and the listening exercise that we embarked on, and it will include a number of measures to support staff wellbeing and improve attraction to the role and the alternative delivery routes, such as part-time distance learning and earn-as-you-learn programmes, that will increase and widen access to nursing studies.

I thank all the nursing and midwifery staff and all the other staff who work in our health and social care services for the work that they do, particularly at this time of year. We know the sacrifices that they make in order to serve us all during the festivities.

A96 Corridor Review

3. **Fergus Ewing (Inverness and Nairn) (SNP):** To ask the Scottish Government what its position is on whether the reported delay in the publication of the A96 corridor review document, three months after it was understood to be provided to the Cabinet Secretary for Transport, is acceptable. (S6T-02250)

The Cabinet Secretary for Transport (Fiona Hyslop): I received comprehensive advice on the outcomes from the review's appraisal in July 2024, and a hard copy of the review's main transport appraisal report at the end of August. I considered the findings over the following weeks and advised relevant cabinet secretaries and the First Minister of my intention to publish the review in draft for consultation. I subsequently met the First Minister to discuss the contents of the review and discussed it in a full meeting of the Scottish Government's Cabinet in November. I requested a parliamentary statement later the same month, on 28 November, in order to advise Parliament of the review's contents and provide an opportunity for members to question and comment on its findings.

That timeline represents the Government taking an appropriate time to consider a report before presenting it to Parliament. A failure to properly consider a report of such significance would not serve Parliament or the people of the north-east of Scotland well. They have a right to expect their Government to be considered and to do things in

good order. That is what I have done, and it is what this Government will always do.

Fergus Ewing: That consideration has extended for no less than 13 years since the pledge was made to dual the A96. Since then, a staggering £89 million has been spent, but not one centimetre of tarmac has been laid.

I ask the minister to be candid. Will she bring forward within a reasonable time period a detailed statement that sets out precisely when each remaining stage of the procurement of the section between Inverness and Auldearn, including the Nairn bypass, will be completed and when the road will be constructed? Will she bring that statement forward within, say, three months? Surely that is reasonable.

Fiona Hyslop: With the statutory process for the scheme being completed earlier this year, work has commenced to determine the most suitable procurement option—either design and build or the mutual investment model—for delivering the A96 Inverness to Nairn including Nairn bypass dualling scheme. Only thereafter can a timetable for progress be set out in line with available budgets. It is a complex exercise that looks at a number of factors including how the project can be delivered most efficiently by industry while minimising disruption to road users.

The use of the mutual investment model for the A96 Inverness to Nairn including Nairn bypass scheme would need to be considered alongside our current proposal for the A9. That consideration will come to a conclusion at the end of 2025. As part of that work, we will also consider the delivery options for the adjacent A9-A96 Inshes to Smithton scheme, which is part of the Inverness and Highland city region deal.

That is the orderly way to deliver a meaningful timetable, and a parliamentary statement would not change that. I give my commitment to Parliament that I will ensure that it is aware of the progress and developments on the vital first part of the dualling process, and I will come back to Parliament to advise of a timetable for doing that. Unfortunately, Fergus Ewing's timetable for a statement would not allow us to provide the orderly, considered position that Parliament might expect.

Fergus Ewing: We are nearly in the fourth year of this session of Parliament, and very little progress has been made. That is a fact. If the arguments that we have just heard from the cabinet secretary were accurate, there should not have been a statement on the A9 either, because the A96 and the A9 are in exactly the same position.

My constituents will be deeply depressed by the failure of the cabinet secretary today—and I know that she takes the issue very seriously, which makes it even more serious—to give the people of Nairn and the north-east the truth. Can we not have that, please? I, for one, will find it unacceptable if we do not have the truth. It is a red line for me. I cannot betray my constituents. That is what my party and the Government that I used to be part of are demanding that I do. I am not prepared to do it.

Fiona Hyslop: The truth is that the A96 Inverness to Nairn including Nairn bypass dualling scheme has been progressing. In my term as minister then Cabinet Secretary for Transport—which is not the full four years that Fergus Ewing referred to but the past 18 months—we have seen the completion of the statutory requirements of the made orders and the provision in the budget to buy and procure the land, which, he will know, is a part of that process and a part of how we commence the dualling activity.

I know that Mr Ewing is frustrated—I feel and understand his frustration. He will also know that the A9 statement and the comprehensive plan for the A9 dualling was seen as part of an overall package—activity has already started on building the Tomatin to Moy part. That package was taken to the Cabinet, along with the recommendations from the cabinet secretary for finance. In order to progress the A96, I am hopeful and confident that, should a mutual investment model—work on which has already started and must complete by the end of the year—be seen as attractive, I will be able to return to Parliament with the firm commitment of build that Fergus Ewing needs and that, at the end of the day, his constituents want, together with a full and comprehensive report.

Liam Kerr (North East Scotland) (Con): Plainly, it is not acceptable to keep secret the outcomes of a £6 million taxpayer-funded report. Will the cabinet secretary therefore apologise to the people of the north-east for the delay? How much will the new consultation cost? Will the cabinet secretary promise to publish it as soon as the ink is dry, regardless of whether it is good news for the Government?

Fiona Hyslop: In order to address Liam Kerr's questions, I point out that members of his party attacked me for publishing the review and its content. He now says that I was keeping it secret. How could I have been keeping it secret when I published it? I set out the orderly way in which Cabinet collective responsibility proceeds. He obviously does not understand that, which is probably one of the reasons why the Conservatives have no hope of ever forming a Cabinet in Scotland.

Mark Ruskell (Mid Scotland and Fife) (Green): The review showed that the cost of dualling the A96 is £5,000 million. That is the

equivalent of 200 years of the Scottish Government's road safety budget. If one of the key priorities for the A96 review was about safety, how can a package of measures to improve safety now be agreed that can be delivered quickly and include measures such as average-speed cameras, which have been so successful in reducing casualties on the A9?

The Presiding Officer: Cabinet Secretary, please respond in relation to the substantive question.

Fiona Hyslop: The substantive question is in relation to road safety, and I assure the member that we have a record amount of funding in this year's budget for road safety to address safety on the A96 and across our trunk road network.

If the member wants to help support the roll-out of more road safety measures, including speed cameras and all the different measures that our partners in local authorities, Police Scotland and so on want to see delivered, I remind him that that is part and parcel of what the budget sets out. We need to tackle road safety not only on the A96 but across our trunk road network.

Martins Review

The Deputy Presiding Officer (Annabelle Ewing): The next item of business is a statement by Kate Forbes on the Scottish Government's response to the—

Jamie Greene (West Scotland) (Con): On a point of order, Deputy Presiding Officer. I apologise for not giving advance notice of this point of order—I appreciate that you have just taken the chair.

The statement that we are about to hear from the Deputy First Minister relates to a report that members have not seen. Indeed, the report appeared on the Scottish Government's website only at 20 minutes past 2 this afternoon, during topical question time, which is precisely the time that this item of business was due to commence. I raise the issue because it is a 94-page report that contains 20 very specific and quite serious recommendations that I think we should debate properly. The problem is that the minister's statement will relate to the content of the report, but no member has had the opportunity to read it and, therefore, to scrutinise its content.

The irony is not lost that the report is about the Government's lack of transparency, yet we are to debate the content of it without having seen it. The practice is far too common, I am afraid. I request that the item of business be postponed to allow members to analyse and scrutinise the content of the report, which would put us in a better position to have a sensible and constructive conversation with the Deputy First Minister about its content.

The Deputy Presiding Officer: I thank Mr Greene for his point of order. Of course, the information that it puts into the public domain in advance of ministerial statements is a matter for the Government. I would always encourage the Government to maximise the sharing of information, when that is possible, in order to facilitate proper parliamentary—[*Interruption.*]

Excuse me—I am speaking and I do not want any cross-bench chat. That is very discourteous.

As I was saying, I would always encourage the Government to maximise the sharing of information, wherever possible, in order to facilitate proper parliamentary scrutiny.

The member will be aware that the Parliament has agreed to the statement taking place, so we will now proceed with the statement by Kate Forbes on the Scottish Government's response to the Martins review on the use of mobile messaging applications and non-corporate technology. The Deputy First Minister will take questions at the end of her statement, so there should be no interventions or interruptions.

14:28

The Deputy First Minister and Cabinet Secretary for Economy and Gaelic (Kate Forbes): The purpose of my statement today is to respond, on behalf of the Scottish Government, to the publication of the Martins report on the use of mobile messaging applications and non-corporate technology in the Scottish Government. I thank the reviewer, Emma Martins, for undertaking that significant and important piece of work for us, and Scottish Government staff for participating in the review with integrity and candour.

The use of WhatsApp in Government and the subsequent management of those messages were scrutinised heavily during module 2A of the United Kingdom Covid-19 inquiry, and thereafter in the chamber.

To be clear, the use of mobile messaging applications during the pandemic—a time of unprecedented and particularly difficult circumstances, which required quick decisions and actions to support the response and protect the people of Scotland—was understandable in such pressing times. As in many workplaces, ministers and staff adapted at rapid pace to deliver what was required during an emergency response. At that time, a national lockdown had been declared, which restricted in-person contact.

The Scottish Government's policy on mobile messaging applications states that any material that is relevant to decisions has to be recorded in the corporate record, as all ministerial decisions are. Scottish Government staff were acting within that policy, but, with hindsight, we have reflected, and I will set out a revised position today.

In January of this year, the former First Minister commissioned an externally led review of the Scottish Government's use of mobile messaging applications and non-corporate technology. I am absolutely committed to the highest standards of transparency, accountability and openness in the way that we govern on behalf of the people of Scotland. I welcome the report and commend it to the Parliament. The report highlights that everything that we do should be underpinned by our service to the people of Scotland and commends the vision of the Scottish civil service, which is entitled, "In the service of Scotland".

The report contains recommendations that are far-reaching across many aspects of how the Scottish Government operates. Many of those recommendations are specifically for the independent, non-partisan civil service, while others are for ministers. I will address both categories in this statement. The Government is committed to ensuring that the highest standards of transparency, integrity, accountability and honesty are adhered to at every level of leadership.

The Martins report emphasises the positive work that the Scottish Government has done to support our relationship with the people of Scotland, such as its comprehensive information management strategy. Such work will increase trust over time, and our response to the report provides opportunities to further build on that trust.

Specifically for ministers, the First Minister published his updated ministerial code earlier today. The code sets out the standards that are expected of all ministers—standards that the people of Scotland deserve of their leaders. It enshrines the commitment that we all make to uphold the seven principles of public life and to adhere to the values and the principles of service.

The changes that the First Minister has introduced in his edition of the code mark the most fundamental developments to the code since the introduction of independent advisers on the code in 2008. Those developments are furthered by the appointment of three new advisers, as announced on 6 December. In publishing this edition of the code, the Government has also published the terms of reference for the advisers for the first time. That sets out the detail of their strengthened role and the process of independent scrutiny and advice that they can provide to the First Minister.

The new code has also been restructured into three distinct sections: ministers' standards of conduct; ministers' interests; and ministers and the procedures of Government. That structure brings ethical standards and public service values to the forefront of the new code and ensures that the code reflects the governing rules and procedures that underpin guidance to ministers, including, for the first time, an explicit commitment on the use of corporate communications channels.

The Scottish ministerial code is only one aspect of the standards that are required in relation to public life that Ms Martins' report mentions. She also addresses the civil service code. That is not within the power of Scottish Government ministers, so I am writing to the United Kingdom Government to draw its attention to the report and to ask for its assistance on recommendations that relate to the civil service code, which is within its powers.

Civil servants in the Scottish Government have undertaken work to develop a clear vision and a set of values for the organisation. The vision, "In the service of Scotland", and the underpinning values of integrity, inclusivity, collaboration, innovation and kindness are promoted internally to all staff, through all communications and leadership, and targeted externally towards those

who wish to work for the Scottish Government and serve the people of Scotland.

We are leading with our ambition to be an ethical digital nation. The vision is for a society where people can trust public services and businesses to respect privacy and to be open and honest in the way that data is used, and for a place where children and vulnerable people are protected from harm and where digital technologies adopt the principles of privacy, resilience and harm reduction by design and are inclusive, fair and useful.

We recognise that access to information is a key pillar of enabling democratic scrutiny and participation. The freedom of information improvement plan is already making improvements. It has developed comprehensive training programmes and detailed guidance, and it supports staff to respond more quickly and more effectively to requests.

The Scottish Information Commissioner has highlighted the response rate of the Scottish Government's current level of performance, which has been maintained in the context of a continued increase in request numbers. We are now responding to more than 95 per cent of FOI requests on time, which reflects the Government's commitment to transparency.

We have also made progress when it comes to the productive outcome of the progress update review that was undertaken in 2023 by National Records of Scotland in relation to the records management plan. The outcome of the 2024 review, which we have submitted, is expected early in the new year, and we will publish it on the Scottish Government's website, as we have done in previous years. One of the key questions that was asked in the review was about the use of mobile messaging apps such as WhatsApp. The report provides a clear recommendation in that regard. We have taken the decision to end the use of mobile messaging applications across the Scottish Government. That will happen by spring 2025.

Government business should happen on Government systems, which are secure and searchable, and which allow the appropriate sharing of information, in line with our statutory duties. Scottish Government ministers and staff will not be permitted to use WhatsApp or any other non-corporate communications channel to conduct Government business. To give effect to that, non-corporate mobile messaging applications will, by spring, be removed from devices, and our technical environment will be configured so that they cannot be used.

Clearly, in our modern world, we need to ensure that we have robust business continuity arrangements in place, including the ability to communicate in the event of a cyberattack removing access to corporate technology. For those circumstances, very clear guidelines will be produced to ensure that every person in the Government knows what is permitted. We will take time to put the arrangements in place to ensure that all the necessary actions that are required to give effect to the decision are achieved.

The United Kingdom and Scottish Covid-19 inquiries are on-going. They are of vital importance to ensure that we learn lessons from the Covid-19 pandemic that will enhance our preparations for any future health emergencies. We have already received the UK Covid inquiry's module 1 report, and we will provide detailed responses to its recommendations in due course, within the timescales set out by the chair. We will of course engage fully with the UK and Scottish inquiries' future reports.

This review is part of our commitment to learning from our response to the pandemic and improving our practices. Our decision aligns secure, open and transparent governance, underpinned by sound records management policy and practice and the wellbeing of staff, with the values and vision of the Scottish Government.

I believe that the review will contribute to public services being improved, as the recommendations—on which we have already taken tangible actions—will improve records management practice and processes and improve trust in Government.

The report will be available on the Scottish Government's website from this afternoon.

The Deputy Presiding Officer: The Deputy First Minister will now take questions on the issues raised in her statement. I intend to allow around 20 minutes for that, after which we will move on to the next item of business. It would be helpful if those members who wish to ask a question could press their request-to-speak buttons.

Sandesh Gulhane (Glasgow) (Con): In accordance with section 10.7(h) of the Scottish ministerial code, we should have received Ms Martins's report with the statement. The ministerial code was breached today, and no apology has come.

I make a declaration of interests as a practising general practitioner in the national health service.

How many First Ministers does it take to work out that conducting Government business on WhatsApp is wrong? The statement is a clear admission by the Scottish Government that what it has been doing is wrong and what it did over the Covid pandemic—not just the use of messaging

apps, but the predetermined deletion of messages—was wrong.

Jason Leitch said that it was his pre-bedtime ritual to delete all WhatsApp messages, and a senior civil servant reminded everyone that WhatsApp messages are FOI-able and to delete them. What were they hiding? We will never know.

Given that the Deputy First Minister retained all of her WhatsApp messages, does she think that it was morally correct for others to delete their messages? Why is the Scottish Government not banning the use of WhatsApp for Government business with immediate effect in the ministerial code? Does the ban include all personal devices?

Kate Forbes: I refer Sandesh Gulhane to the statement that I just made about our decision to ensure that WhatsApp and other messaging applications will not just not be permitted, but that the environment will be configured so that they cannot be accessed on Government devices.

On the further points that Sandesh Gulhane makes, the reason why we have come to this decision is precisely because we value openness and transparency, and we want to ensure that Parliament is given the opportunity to scrutinise all the decisions that are made. As he knows, all Government decisions are recorded, and they are available to be scrutinised by the Parliament.

My final point is that in order to ensure that the change, which we will implement by spring 2025, is done appropriately and effectively, it will be accompanied by robust internal training in Government, so that everybody understands the policy.

The Deputy Presiding Officer: Before I call the next speaker, I remind all members who wish to speak in the debate to please ensure that their request-to-speak buttons are pressed.

Daniel Johnson (Edinburgh Southern) (Lab): I begin by apologising for my previous comments.

I associate myself with Jamie Greene's point of order and Sandesh Gulhane's question about the ministerial code. It is certainly a question. Given that the report is dated November, the Government has had plenty of time to publish it. Most importantly, the principle is not just about electronic communications or freedom of information requests. It is about ensuring that all dialogue and deliberation, as well as the decisions themselves, are captured, so that we have a full public record. The Government has been editing and removing critical information that should be part of the public record.

Given that the statement refers to non-corporate messaging apps, presumably there will be corporate apps that are sanctioned by the Government, either in whole or in part, such as Microsoft Teams or SMS text messaging apps. If so, will the Deputy First Minister state what steps will be taken to record all such messages? Can she guarantee that no personal devices are being or will be used to conduct Government business or carry out Government discussions? Finally, does she agree with my framing of the issue? This is not just about Government business; it is about capturing discussion, dialogue and deliberation between ministers, civil servants and special advisers in the round.

Kate Forbes: First, all ministers have a corporate phone and are encouraged to use it. It will be made clear through guidance and training that mobile messaging on personal phones should not be used for official business. All staff who require one will be offered a corporate phone. As with the changes that I set out to Sandesh Gulhane, a period of time will be provided to support staff through that change. Thereafter, any usage that is not in line with guidance will be dealt with under existing policies.

The member asked what platforms will be permitted. All staff are advised to use corporately provided platforms such as Teams to communicate. My understanding is that MSPs also use Teams and are familiar with that platform. Corporate-controlled channels can be used and, as has been the case for many years, that includes email on corporate phones.

I hope that that answers the member's question.

Rona Mackay (Strathkelvin and Bearsden) (SNP): The Scottish Government's commitment to continually maintain and improve performance and openness and transparency is very welcome. Can the Deputy First Minister advise what steps are being taken to monitor performance so that momentum is kept up?

Kate Forbes: Rona Mackay refers to the Government's FOI compliance, which we monitor very carefully in order to maintain the exceptional 95 per cent delivery rate. I highlight again that we have maintained that rate despite there being a significant increase in the number of FOI requests.

Brian Whittle (South Scotland) (Con): I can almost—almost—recognise why, in an emergency, the Scottish Government went and used WhatsApp messages such as it did. However, the trust that the cabinet secretary spoke about has been eroded, because there was a consistent denial from the Government that these messages were sent by WhatsApp, and a denial that they were deleted, until it was found out. The only conclusion that we can come to is that the Scottish Government was hiding something.

Why does it require an independent review to finally get the Scottish Government to accept that

its use of social media platforms to perform Government business was inappropriate and—to go back to Sandesh Gulhane's point—was not morally correct?

Kate Forbes: I emphasise again, as I did in my statement, that, at the time of the pandemic, which hugely decreased in-person contact, Scottish Government ministers and civil servants adapted to respond at rapid pace in order to deliver services and facilities for the safety and security of the people of Scotland. At the time, in using WhatsApp and other channels, they were operating within policies.

With the Covid inquiries, we are reviewing and learning the lessons, and today I have announced that we will no longer use messaging apps.

Jackie Dunbar (Aberdeen Donside) (SNP): Can the Deputy First Minister give any further detail in relation to the improvements that are being implemented through the FOI improvement plan and any continued assessment that is taking place?

Kate Forbes: The FOI improvement plan was drawn up in response to the Scottish Information Commissioner's fourth progress report. It was published in January 2024 and has informed operational decisions that we have taken. We have concentrated on the areas of concern that the commissioner identified, and those measures have ensured that we focus work on driving improvements across FOI quality, the case files, monitoring and handling and clearance policies.

As a result of the improvement plan, a number of changes have been introduced to enhance processes and systems. That explains why we have been able to maintain the 95 per cent delivery rate, despite a significant increase in the number of requests.

Paul O'Kane (West Scotland) (Lab): A substantial amount of the statement is not actually about the Martins report, perhaps because nobody has had a chance to see it, but about revisions to the ministerial code. I note that the First Minister, despite being the gatekeeper and final arbiter of the code, is not making the statement—rather, he has delegated it to a minister who did not delete WhatsApp messages during the pandemic.

The position of gatekeeper and final arbiter of the code has been a problem in the past, so I note the changes that have been announced so that independent advisers can launch investigations into alleged breaches without referral from the First Minister. However, can the Deputy First Minister confirm that a complainer can go directly to an independent adviser and what the mechanisms for that would be?

Kate Forbes: The First Minister has set out the details of the ministerial code. The new code will strengthen all processes to support transparency, accountability and independent scrutiny, and it includes an enhanced role for the independent advisers that allows them to initiate investigations into alleged breaches of the code when they feel that it is warranted and without a direct referral from the First Minister.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): It is welcome that the updated ministerial code includes, for the first time, an explicit commitment around the use of corporate communication channels. Can the Deputy First Minister provide any further details on that commitment and how it was developed?

Kate Forbes: I have set out today the Government's position on our response to the Martins review, and specifically on the use of messaging apps. With regard to communication channels and the ministerial code, the First Minister has published the updated ministerial code, which includes clear commitments around what is expected.

Gillian Mackay (Central Scotland) (Green): A key part of the Martins review was an examination of the value of instant messaging apps to ministers in emergency situations and to draw on best practice in other countries across the world. In its response to the review, how has the Scottish Government considered its preparedness for communicating during future emergencies?

Kate Forbes: Gillian Mackay raises an important point. We will set out our response to the recommendations that the Covid-19 inquiry has made in module 1 on the question of preparedness. Within the Government, there is a ministerial group looking at how we can learn lessons, including on matters such as effective communication, particularly with the public.

Audrey Nicoll (Aberdeen South and North Kincardine) (SNP): As the cabinet secretary referenced in her statement, Ms Martins's report also addresses the civil service code. Will the cabinet secretary say more about her engagement with the UK Government to ensure that the recommendations that lie within its responsibilities are properly addressed?

Kate Forbes: I said in my statement that we expect these standards to be adhered to by all levels of leadership. Where there are recommendations for the Scottish ministers, we have responded in the statement. Where there are recommendations for the civil service, we are conscious that the civil service code is within the responsibilities of the UK Government. I will write to the UK Government to draw its attention to

those recommendations, and I will also write to the other devolved Governments.

Alex Cole-Hamilton (Edinburgh Western) (LD): Nothing in today's statements will retrieve the WhatsApp messages that we know were being deleted wholesale throughout the Scottish Government's handling of the pandemic. Nothing in today's statement will offer closure or answers to the families of the Covid bereaved. In those deleted messages lay the culture and the calculation of the decisions under which we all lived and under which, I am sad to say, far too many of us died. What confidence can the Deputy First Minister offer Parliament that simply changing the platform for messaging will prevent such a deception from ever happening again?

Kate Forbes: I, too, express my condolences and sorrow to everybody who suffered during lockdown. Although it is now a couple of years beyond the period of the Covid pandemic, we know just how horrendously difficult it was and how people had to respond to those challenges. That is why we are committed to learning the lessons and participating fully in the UK and Scottish Covid inquiries. It is also why we have set out today our response to the Martins review, which the Government commissioned to look particularly at the questions of use of technology, because that dominated parliamentary debate and external scrutiny during the coverage of module 2A. We have set out quite clearly our response, which includes no longer using commercially controlled mobile messaging apps.

Jamie Greene (West Scotland) (Con): I am afraid that I believe that the late delivery of the Martins report was deliberate. I find that to be extremely unhelpful and quite disrespectful in this instance.

I listened carefully to what the Deputy First Minister had to say. It is naive to think that civil servants will not continue to use WhatsApp and text messages to communicate with one another. It is also naive to assume that they will not use personal devices if such means of contact are banned on Government devices. Will it be clear to civil servants what they can and cannot do? Will it be clear what enforcement can take place in the workplace of the Scottish civil service? Will the Deputy First Minister clarify whether the permanent secretary will respond in detail to the Martins report so that Parliament can scrutinise it further in due course?

Kate Forbes: I have been very clear, but I am happy to repeat the point that not only will the policy change so that ministers or officials do not use such apps; the devices will be configured to ensure that the apps cannot be downloaded in the first place. This is not the first time that we have done that, because our technical environment already ensures that no official or minister can download TikTok, for example. It is something that is within our gift to do.

As I said, we will develop the policies and the training on these policies between now and the implementation in spring 2025 so that there is total clarity on what is and what is not permitted. As I also said previously but will repeat, all ministers have a corporate device and are expected to use it for Government business, and all members of staff who need a device will be issued with a corporate device.

Between the training, the configuration of the technical environment and the issuing of corporate devices, that will ensure that the policy is fully implemented.

Evelyn Tweed (Stirling) (SNP): It is important that the seven principles of public life are upheld in the context of changing work practices in modern digital workplaces. Will the Deputy First Minister say more about the interaction with the principles of public life in relation to modern communication needs?

Kate Forbes: Those principles should be reflected in the way in which ministers and the Scottish Government act and interact, and that extends to the use of modern communication. Many workplaces have had to grapple with the rapid change and evolution of technology, particularly during the Covid lockdown period. I will also write to the UK Government and other devolved Governments about those principles, because some of the requirements and recommendations are specifically for the civil service code.

The Deputy Presiding Officer: That concludes the ministerial statement. I apologise to the one additional member whom I was not able to take, given that time is moving on and we need to move to the rest of the afternoon's business. There will be a short pause before we move to the next item of business, to allow front-bench teams to change positions.

Business Motion

14:57

The Presiding Officer (Alison Johnstone): The next item of business is consideration of business motion S6M-15884, in the name of Jamie Hepburn, on behalf of the Parliamentary Bureau, on a stage 3 timetable for the Scottish Elections (Representation and Reform) Bill.

Motion moved,

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

Groups 1 and 2: 1 hour 10 minutes

Groups 3 and 4: 1 hour 25 minutes

Groups 5 to 7: 1 hour 45 minutes.—[*Jamie Hepburn*]

Motion agreed to.

Scottish Elections (Representation and Reform) Bill: Stage 3

14:58

The Presiding Officer (Alison Johnstone): The next item of business is stage 3 proceedings on the Scottish Elections (Representation and Reform) Bill.

In dealing with the amendments, members should have the bill as amended at stage 2—that is, SP bill 42A—the marshalled list and the groupings of amendments.

The division bell will sound and proceedings will be suspended for around five minutes for the first division at stage 3. The period of voting for the first division will be 45 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate.

Members who wish to speak in the debate on any group of amendments should press their request-to-speak button or enter the letters RTS in the chat function as soon as possible after I call the group. Members should now refer to the marshalled list of amendments.

Before section 2A

The Presiding Officer: Group 1 is on disqualification. Amendment 34, in the name of Graham Simpson, is grouped with amendments 35, 36, 3, 37, 5 and 6.

15:00

Graham Simpson (Central Scotland) (Con): It is a pleasure to start off our deliberations on stage 3 amendments with this group, which contains three amendments of mine and some from Annie Wells and my new friend, Ross Greer. I am happy to support Mr Greer's amendments and I look forward to hearing from Ms Wells about her amendments.

It is fair to say that my three amendments have attracted a good deal of attention. They aim to tackle the issue of dual mandates, which, as members know, is the practice of holding positions in the Commons, Lords or a council at the same time as holding positions in the Scottish Parliament. The Scottish Parliament is alone among the devolved legislatures in allowing that practice. It is high time that it ended.

I read the Standards, Procedures and Public Appointments Committee's excellent stage 1 report, which mentioned dual mandates because the issue had come up during the committee's evidence taking. The majority of submissions to

the committee on the matter said that dual mandates should end.

During the stage 1 debate, I was clear that I would be looking at dual mandates at stage 2, and I also said that there are different views on the issue. However, I am certain that the vast majority of the public, along with most members of the Parliament, agree that we should ban so-called double jobbing.

The fact that we have not done so is an oversight that is hard to fathom. It is one of a number of legislative gaps, some of which I am attempting to fix with my member's bill. Members will be pleased to know that my bill is due to be published tomorrow, along with screeds of accompanying documents that will keep them busy over Christmas.

I kept my word and, at stage 2, I submitted a series of amendments on dual mandates as they relate to MPs, members of the House of Lords and councillors. The minister then wrote to the committee saying that he wanted to consult on the issue but that there would likely be no legislation on it before 2026. I spoke during the stage 2 debate but tactically withdrew because, first, I was not going to win that day and, secondly, I knew that I might get another chance with a bit more thinking, discussion and persuasion, which is exactly what has happened.

We also have a certain MP to thank, who came out of the woodwork to say that he wanted to stand for this place and continue to be an MP. There may be others, too, and that spurred me into action again and told me that I was right to pursue the issue, so I lodged new amendments. That, and the furore over the said MP's ambitions, have forced him to back down.

Keith Brown (Clackmannanshire and Dunblane) (SNP): I am looking for the member's view on this issue, although, obviously, if his amendments were to be agreed to, the decision would rest with ministers. Does he support the idea that the disqualification to be a member of the Parliament should apply at the point of nomination, or should it apply only if somebody is elected to this place? That would necessitate a by-election, with all the attendant costs. Which is his preference? Is it for people to be disqualified at the point of nomination or subsequent to election to the Parliament?

Graham Simpson: I encourage Mr Brown to read the amendments. They leave the details to regulations, and the minister will consult on those. It is not my intention to prevent anyone from standing for this place—I would never do that. If somebody wants to stand, let them stand and let them be elected. The details would be left to the regulations, which is clear in the amendments, as Mr Brown would see if he read them—I am sure that he has them in front of him while I am speaking.

Stephen Kerr (Central Scotland) (Con): To build on what Keith Brown has asked, what discussions did my colleague have with the minister about the expected timetable for any consultation? In my friend's estimation, would the provisions play a part in the selection of candidates for the 2026 election?

Graham Simpson: The minister has been very clear on that. He gave a statement last week and set out his timetable, and I am sure that he will repeat that when he makes his contribution in this debate. I am not speaking for the minister—he can do that himself—but his intention is that the provisions will be in place for MPs and peers by the time of the 2026 election. I hope that that reassures my friend Mr Kerr.

The furore over said MP's ambitions forced him to back down, and if all that has helped Audrey Nicoll, who is a lovely lady, I am delighted about that. I will not name the MP—he would probably like me to—but we all know who it is. My amendments are not about him or anyone else, but he has helped to shine a light on double jobbing, so he has done us a favour in a way, although it might not have felt that way to some.

I want to give some context to the debate on this group of amendments, so let me turn to what has gone before. I have said that Scotland is an outlier in not banning dual mandates. Let us first have a look at Northern Ireland. Dual mandates in the House of Commons and the Northern Ireland Assembly are prohibited by the Northern Ireland (Miscellaneous Provisions) Act 2014—a United Kingdom Parliament act—which provides that an MP who is elected as an MLA has eight days to resign from the House of Commons and that an MLA who is elected as an MP must resign immediately from the Northern Ireland Assembly. The act also explicitly prevents members of the legislative Assembly from becoming members of Parliament in Dublin.

The Local Government Act (Northern Ireland) 2014 prohibits councillors from being members of the Assembly, the House of Commons or the House of Lords or from being elected to any other legislature.

The banning of dual mandates in Northern Ireland followed increasing criticism of the practice in the aftermath of the 2009 MPs' expenses scandal. That year, Sir Christopher Kelly published a report on MPs' expenses and allowances, which recommended that the practice of holding dual mandates in the House of Commons and the devolved Parliaments should be brought to an end as soon as possible.

The Kelly report found that so-called double jobbing was most prevalent in Northern Ireland, where, in 2009, 16 out of the 18 Westminster MPs also sat in Stormont, and five of them were ministers. The report found that double jobbing was "unusually ingrained" there.

Daniel Johnson (Edinburgh Southern) (Lab): Graham Simpson has set out a very good case in relation to precedent elsewhere, but why has he limited the scope of his amendments to the House of Commons and the House of Lords and not looked at people with dual mandates in this legislature and other devolved legislatures or bodies such as the Greater London Assembly?

Graham Simpson: Mr Johnson makes a reasonable point. Perhaps that was an oversight on my part, but, for me, the main issue is people who want to sit in this Parliament while being an MP or in the House of Lords. The question of councillors is another matter, which I will come on to.

The Kelly report said:

"the Committee questions whether it is possible to sit in two ... legislatures simultaneously and do justice to both roles".

David Cameron pledged to end dual mandates for Northern Ireland in the 2010 Conservative Party manifesto. That was framed as part of a broader objective to make devolution work and

"bring Northern Ireland back into the mainstream of UK politics."

In Wales, dual mandates were banned under the Wales Act 2014, which ruled that any MP who is elected to the Senedd has eight days to resign from the House of Commons and that an AM who is elected as an MP must resign immediately from the Assembly. The Secretary of State for Wales justified the changes as a response to the increased workload of AMs following the devolution of powers in 2011. In a debate about Welsh Assembly elections in the House of Lords in June 2012, Baroness Morgan of Ely argued:

"it is difficult to serve two political institutions at the same time."—[*Official Report*, *House of Lords*, 18 June 2012; Vol 737, c 131.]

I agree.

The Senedd and Elections (Wales) Act 2020 disqualified members of the House of Lords, Scottish Parliament, Northern Ireland Assembly or local authorities in Wales from being members of the Senedd, which is possibly the point that Mr Johnson was making.

Wales and Northern Ireland have legislation to prohibit double jobbing, but we do not have it here. Somehow, Scotland has escaped. It does not make sense.

Douglas Lumsden (North East Scotland) (Con): Graham Simpson says that we have to put legislation in place in this Parliament. However, to really stop double jobbing by also stopping MSPs standing for Westminster, would Westminster also have to put legislation in place?

Graham Simpson: I stress to Mr Lumsden that I am not trying to prevent anyone from standing anywhere; the amendments would tackle the practice of continuing to serve in two places at the same time.

In this Parliament, there is a petition on the issue. The Electoral Reform Society Scotland wrote a submission on it, in which it said:

"we would like to see the legislation here brought into line with The Senedd ...

Having a full-time paid job in the Lords, Commons or Holyrood should be mutually exclusive, and we would advise against MSPs being allowed to hold a dual mandate. There are no clear advantages to voters or to the operation of democratic institutions and one big disadvantage—the capacity of an individual to fulfil the responsibilities of both roles."

We have also seen support from none other than my other good friend Ivan McKee, who said:

"I think that double-jobbing—working as an MP and MSP—isn't sustainable" .

The Secretary of State for Scotland, Ian Murray, told the Scottish Affairs Committee on 20 November this year that

"everyone sitting around this table will know how difficult it is to be a constituency MP, let alone have other responsibilities as well ... I would have thought that the Scottish Parliament may want to look at that."

As I said, at stage 2, the Minister for Parliamentary Business said that he wanted time to consult on potential changes. That could have meant no legislation being in place until the 2031 elections—if at all. That may suit some people, but it is not acceptable to me, and we have the chance, with this bill, to act now.

The Minister for Parliamentary Business (Jamie Hepburn): Graham Simpson will of course recognise that I did not shy away from that fact. Indeed, I was explicitly clear with the committee in recognising that my preference for consultation at that stage would, if we had sought to legislate by the primary legislative route, have led to such a delay. I did not demur from or hide that fact at all.

Graham Simpson: I agree with that. I have to say, and I will probably repeat this later, that it has been a pleasure to work with the minister on this. I think that we have arrived at a sensible conclusion. If Parliament backs our joint position, that will be a good thing.

I originally lodged two stage 3 amendments dealing with MSPs who are also MPs and MSPs

who are also peers. That was a belt-and-braces approach and, although those amendments would have attracted widespread support, I wanted to get the minister on board. Therefore, rather than go for the purist option, I came up with something more pragmatic.

I am asking Parliament to vote on the principle of dual mandates in relation to MPs and peers, with the details being left to regulations that the minister has agreed will be in place before the 2026 elections. I am sure that he will repeat that today. That is what amendments 34 and 35 do.

Amendment 36 says that the issue of whether councillors should be able to do both jobs can be dealt with in regulations if consultation shows that there is a case for that.

I am closing, Presiding Officer.

At the heart of the matter is the principle of whether someone should be able to serve here as well as in another legislative chamber. For me, the answer to that is no. This is not a cosy club; this is a Parliament, and we are here to serve the people. This is not a second-rate chamber to be used as a part-time hobby. This is a serious Parliament, and members should be fully focused on their work here. Being an MSP demands our full attention. It is a full-time job. We make laws for the people, and not to protect the vested interests of individuals or parties.

The amendments that I have lodged stand up for this Parliament and the standing that it should enjoy. Double jobbing should be consigned to history. David Cameron was clear that double jobbers

"haven't got a leg to stand on."

He legislated for Northern Ireland. Wales has legislation. We can legislate here, and we should do the right thing.

I move amendment 34.

15:15

The Presiding Officer: I call Annie Wells to speak to amendment 3 and other amendments in the group.

Annie Wells (Glasgow) (Con): I probably will not go on for 15 minutes, so we will be okay.

I thank the minister and his advisers for working with me and communicating with us on my amendments.

As members know, at stage 2, I lodged amendments that aimed to prohibit from standing for this Parliament or local government all sex offenders, including those who are no longer subject to the sex offender notification requirement, a sexual risk order or a sexual harm prevention order. I withdrew the amendments because of concerns that they might not comply with article 3 of the first protocol of the European Convention of Human Rights, which concerns the right to stand for election.

My amendments at stage 3—amendments 3 and 37—are an attempt at compromise, and would require those who were previously subject to the sex offender notification requirement but who are no longer under that requirement to disclose that information on nomination papers for Scottish Parliament or local government elections. However, disappointingly, I have again been informed by the minister that my amendments might fall foul of the ECHR and the competence of the Scottish Parliament. I absolutely do not want to jeopardise—

Stephen Kerr: I am grateful to Annie Wells for giving way. Perhaps she will comment on whether she agrees with me that our constituents will be greatly confused by the idea that, given the kind of clearance that one has to go through with Disclosure Scotland to be involved in a youth club, for example, or any kind of role with children and young people, an MSP could be elected and enter this chamber without any kind of clearance at all. They might have the most lurid background or have the most unsuitable character to be an MSP, yet Annie Wells has been told that her amendments are against a convention on human rights. What about the human rights of the majority?

Annie Wells: I thank Stephen Kerr for his intervention. That is the reason why I lodged the amendments. I was looking at what the issue meant for victims of sexual violence and sexual crimes or what it meant for parents and grandparents of children at school, where perhaps a member goes to visit the school and we do not know their background. I understand it when people say that someone has served their sentence or had their punishment after a crime has been done, but that is a different step, and it is a step too far.

The debate is a valuable opportunity to talk about standards in public life. As Mr Kerr has alluded to, we are all in a position of power in our capacity as members of the Scottish Parliament, and it is important that we do not abuse that power. I would therefore not be comfortable if someone was elected to this Parliament who was a former sex offender. I absolutely respect the need to comply with our international legal obligations, but I am dismayed that they prohibit us from enacting commonsense policies.

Alex Cole-Hamilton (Edinburgh Western) (LD): I am grateful to Annie Wells for giving way and for raising the issue for debate. She will remember that, in the previous parliamentary

session, in which we served together, I lodged amendments to previous bills on the protecting vulnerable groups scheme applying to elected members. That is still an unanswered question, and she is very eloquently putting the case for why it is an unanswered question.

The issue relates not only to grounds of sexual offence: a PVG search will always pick up things such as crimes of dishonesty, as well. In our privileged roles as members of Parliament, we sometimes deal with very vulnerable adults and, although we would seek to have safeguards to ensure that we are never alone in our constituency casework surgeries, that does not presuppose that everyone will always take those steps.

I have toyed and grappled with the amendments—amendment 37, in particular. I have one anxiety, which is that amendment 37 talks about sexual offence orders that have been disapplied. In many cases, it is absolutely right that we should know that information, but in a small number of cases the information applies to minors who, through repetition of abuse that has happened to them or through other acts that they have perpetrated as young people, have had a risk of sexual harm order or a sexual offence prevention order applied but have later had that disapplied when they attained majority, as is right, given that they would not want to have that hanging around their necks for the rest of their lives. I have some anxiety about that and ask the member to speak to that in the remainder of her remarks.

Annie Wells: I understand where the member is coming from but, with respect, I say that I am looking at the matter from the victim's point of view. If I was to get through my door, from someone who had committed a sexual offence against me or a member of my family, a leaflet on their seeking election to stand here and make law for us, I would feel very uncomfortable. Most people whom I speak to would feel very uncomfortable about that, too. That is my reason for lodging amendments 3 and 37, which I will not move.

Regarding my colleague Graham Simpson's amendments 34, 35 and 36, I said at stage 2 that the changes to dual mandates should be consulted on, so I note and welcome the Government's announcement of its intention to consult on such changes in the new year. I will support Graham Simpson's amendments.

Ross Greer's amendments 5 and 6 stipulate that when a court finds that an offence that is aggravated by hostility towards a returning officer, registration officer or counting officer has occurred, the court must state whether a different sentence would have been handed out without that aggravator. The changes seem to be sensible and are most welcome.

The Presiding Officer: I call Ross Greer to speak to amendment 5 and other amendments in the group.

Ross Greer (West Scotland) (Green): I say at the outset that my contributions on future groups of amendments will be far shorter than this initial one.

I will begin where Annie Wells finished, by talking about my amendments 5 and 6, on aggravators. I lodged the amendments because I believe that democracy is under pressure across the world at the moment—not just here in Scotland and the UK. Unfortunately, attacks on people who are involved in the electoral process are rising. We saw that during the recent Irish election, including, unfortunately, an assault on my colleague, the leader of the Irish Greens, Roderic O'Gorman. We saw it yesterday when there was an attack on activists for the Social Democratic Party of Germany ahead of the election in February.

Amendments 5 and 6 would create an aggravator. For those who are issuing a sentence when an individual is found to have committed an offence, and if that offence has been committed against people who are involved in the electoral process, there would be a requirement to consider the application of the aggravator. There is no requirement to apply it. As Annie Wells said a moment ago, it would be at their discretion, but if they did apply it, they would have to state how it had varied the sentence and, if they did not apply it, they would have to give the reason for deciding not to apply it.

Amendment 5 would apply the aggravator to the category of individuals that are specified in the bill, which is the returning officers, registration officers and counting officers who are involved in administering an election. Amendment 6 would amend the Elections Act 2022, in so far as that act applies in Scotland, by applying the aggravator to the other group of people who are involved in elections—candidates, elected representatives and campaigners.

I lodged amendments 5 and 6 because I think that we need to have more, not fewer, people involved in our electoral process. Members across the chamber will recognise that all parties face challenges in recruiting more individuals, and people from more diverse backgrounds, to stand for Parliament, and that a significant part of the difficulty comes from the threats and risks that are faced by those who are involved.

I lodged amendments 5 and 6 because I believe that they are another useful tool to protect and strengthen our democracy. They are not, in and of themselves, the solution to the challenges that we

face, but they are a tool that is worth having at our disposal.

I turn to the amendments on dual mandates. I thank the minister and my friend Graham Simpson for their work on them. I also thank the individual who sits elsewhere and whose recent errors of judgement have allowed us to bring the issues back for debate. The minister offered Graham Simpson and me a compromise at stage 2. In return for our not pressing our amendments, the Government offered to run a consultation on the issue, which would have meant that the rule could not be applied for 2026 but that the consultation would be conducted and that we would be able to legislate on that in the next session of Parliament. However, events since then have created the political space in which we can bring the issues back for debate now and apply them from the 2026 election onward. I am most grateful to the individual whose choices made that possible.

The Scottish Greens are glad to support amendments 34 to 36 for the simple reason that being a member of Parliament is a full-time job. The job is a huge privilege, but it is also immensely challenging, and it is the kind of challenge that requires dedication to the role—a level of dedication that I think we all recognise our constituents expect from us.

Amendment 35, in relation to the House of Lords, is something of a compromise following the amendment that I lodged at stage 2 that would have banned peers outright from this Parliament. Amendment 35, I think perfectly reasonably, includes provision that would allow someone who has a peerage to serve here for as long as they have taken a leave of absence from the Lords.

Keith Brown: I pose to Ross Greer the question that I asked Graham Simpson, who was unable to answer it and did not seem to know the extent of his own amendments. Is it Ross Greer's interpretation that the ban, if you like, on dual mandates should apply at the stage of nomination? He will be aware that, when returning officers receive a nomination, they can declare at that point that the person is disqualified and the nomination is not valid. I know that the amendment says that it will be decided by the minister in due course, but is it Ross Greer's view that the election should proceed and that a by-election should then take place, with all the attendant costs, after the election? I am interested in hearing his view.

Ross Greer: The amendments would require a consultation then development of regulations, so that question has not been answered yet. It is right that it would be answered after the consultation. My personal preference is the latter of the two options that Keith Brown mentioned. However, I recognise the concerns that the minister raised at stage 2, and it is right for the issues to be thoroughly consulted on before regulations are brought back to Parliament and Parliament as a whole makes a final judgment on the matter.

At stage 2, I focused on the Lords simply because I and the Scottish Greens see the House of Lords as an anti-democratic outrage and we think that membership there is incompatible with membership of an elected body. We do not believe that being an elected representative and being an unelected unaccountable lawmaker are compatible.

I am glad that amendment 36 was lodged in the form that it has been lodged because, unlike amendments 34 and 35, it does not prejudge the outcome. Amendments 34 and 35, quite rightly, use the word "must". We will decide this afternoon to ban MSPs double jobbing as MPs or peers. However, we need to take separate issues into consideration when it comes to councillors. The Scottish Greens do not have an issue with the de facto situation that we have with the one-year transition period between election to this Parliament and local authority elections in the subsequent year. Given that, in that circumstance, the cost of a by-election is about four times the cost of a councillor's salary, there is no harm in consulting on what options could be taken. I am particularly glad that amendment 36 includes provision for a transition period of, for example, a year and a week to allow for that year of overlapping mandates.

To return to my amendments on aggravators, I note that, at previous stages, some members expressed concerns about amendments in this space. I simply emphasise again the point that I made a moment ago that we want to welcome more people from more diverse backgrounds into the electoral process. That is certainly a conversation that my party has had. I have spoken to a number of women in my party whom I am trying to encourage to stand at the next election, and at the top of their list of concerns they have raised matters of safety and the risks that are posed to elected representatives. Given a number of other debates that we have had in this Parliament in recent weeks, if we want not just to strengthen our democracy but to make it more accessible to those who are currently being shut out or who feel that there are significant barriers in place, having those tools at our disposal would be most useful.

Alex Cole-Hamilton: My comments on the group will not take very long at all. I put on the record the Liberal Democrats' support for Graham Simpson's amendments on double jobbing. The MSP's role is a privilege, and, if it is not occupying all of someone's waking hours and some of their sleeping hours, they are not doing it right. All our

families put up with a lot. It would be very difficult to juggle the role with any other elected role, so the amendments certainly have our support.

I restate the point that I made in my intervention on Annie Wells. The question of vetting not just parliamentary candidates but council candidates is an unanswered one. We have privilege and access far beyond what we would tolerate for people in a regulated childcare position or a position of power and influence over vulnerable adults, and we should revisit that as a Parliament. Other assemblies have rudimentary vetting for their parliamentary candidates. We must not wait for something bad to happen before we address it in this place.

15:30

Martin Whitfield (South Scotland) (Lab): I will not take too much of the Parliament's time. I think it is worth visiting the amendments in group 1 to set out the position. Many of the amendments that are being dealt with today are minor and technical, but those in group 1 address some fundamental questions that the Finance and Public Administration Committee, during the time when it was involved with the bill, and others have wrestled with.

Regarding amendments 34, 35 and 36, in the name of Graham Simpson, it is right to say that, fundamentally, we all agree that double jobbing is wrong. Anybody who has the privilege of sitting in this chamber, or the privilege of sitting on an elected body elsewhere, knows that doing so is a full-time job—or more than that—and that it takes away much of your sleep rather than just small amounts of it.

In the spirit of Christmas and the time of year, I want to say that it has been very positive to see the cross-party work on the bill. The minister has been very open to members raising errors, problems or concerns, and all the members involved in the bill, even those whose names do not appear in support of the amendments, have worked to come up with the compromise.

It is worth reiterating the importance of amendments 34 and 35, which relate to MPs and the House of Lords and are a must. However, there is an open consultation on the position in relation to councillors, and I urge members, as I did at stage 1, to contribute to that. The issue relates to the rationale for how people who choose to seek election end up in the Parliament and what their roles are. It is also for people to contribute to that environment and to make sure that the right people come to this Parliament with the right and proper support of those outside it who elect them.

With that, I offer my compliments to the member for those amendments and I confirm that Scottish Labour will support them.

I turn to Annie Wells's two amendments in the group: amendments 3 and 37. She is aware of my concerns on the issue. In addressing those amendments at stage 3, it is right to pick up the two points in the human rights legislation that applied at stage 2. As a committee, we struggled, though we were ably assisted with evidence very late on, with what the considerations should be for the disqualification of MSPs—and, indeed, councillors—who appear on the sex offenders register. On some levels, it is a very complex area, but the committee received substantial evidence that reassured us that there are levels of protection that sometimes go unseen by members of the public, although some stories and events might call that into question. It was an area that we very much struggled with.

Amendments 3 and 37 raise concerns with me on a human rights basis. It is admirable that Annie Wells should point out her intentions for those amendments in due course. I am grateful that she intends to do that, but it is a discussion that has to happen. That discussion extends beyond the role of parties, including in this Parliament, in assessing eligibility. It falls on political parties to make those decisions and it falls on individuals to choose whether to put their names forward for those positions. Such responsibilities lie outside the statutory extent to which the bill can go, but all people, groups and parties that are involved should pay great attention to them.

I have been, as I was in committee, on swings and roundabouts over Ross Greer's amendments 5 and 6, because that area invites our criminal legislature to look inside the elections world to determine whether an offence is aggravated. I am glad to support the amendments in the end—as, I hope, Ross Greer accepts—because we are sometimes struggling for engagement from people on the matter not because they do not desire to engage, but because they are genuinely concerned about the experience and the environment that they will fit into. Ross Greer is right to say that the amendments will not be the cure for that, but they are certainly a step towards understanding the importance that this place and the people of Scotland should give to those who put themselves forward, those who support them and those who administer the situation from the polling station to the count and beyond. We will, therefore, support amendments 5 and 6.

Unfortunately for members' knowledge, I will return to speak on other amendments. However, for the moment, Presiding Officer, I am grateful for your time.

Edward Mountain (Highlands and Islands) (Con): I will keep my comments as short as possible. I am pleased that amendments 34, 35 and 36 appear to have cross-party support.

Before Mr Simpson approached the minister and reached agreement with him, he and I were in discussion because we both fundamentally agree that double jobbing does not work. An MSP takes on a huge amount of work, including answering all of our constituents' questions and dealing with the business that we have in this Parliament. It is beyond my comprehension that somebody could also take a role in another Parliament and do both roles well. Therefore, I am pleased that the minister will bring forward regulation before the election in 2026.

Mr Brown has asked various questions on when people think that that requirement should take effect. I believe that members should have to stand down from the first role when they are elected to the second role. At that stage, they should have to make a choice about whether they serve in one Parliament or the other. I do not think that it is right to ask them to stand down before that stage.

Martin Whitfield: The amendments are clear that the issue is about membership of this Parliament rather than any process before that membership exists.

Edward Mountain: I think that that is the case, and it is for the minister to answer that when he comes to it.

On amendment 36 and councils, I struggled with that issue while we were discussing it, before agreement had been reached, because there is, at the moment, only a small gap between the time when members who are councillors are elected to this Parliament and the time when they have to stand down. We know all too readily, at the moment, that the costs are high of carrying out a council election at short notice, when the member has been in post for perhaps just a short while. Therefore, I am not swayed on the issue of councils, but I am swayed when it comes to serving either in this Parliament or in Westminster. We can do only one of those jobs for our constituents. That is why I support amendments 34, 35 and 36, and I am delighted that the Parliament will support them as well.

Keith Brown: I will be very brief as well. First, I welcome Graham Simpson's voice in this campaign against dual mandates and will support all three of his amendments. I am not sure why his voice has not been heard before now. I have only fairly recently heard Graham Simpson talk about dual mandates and the evils therein. I am not sure what could have prevented him from speaking up before. [*Interruption*.] I will not mention any names, because I think that it is wrong to concentrate on individuals in this discussion. We should be making law because it is best for everybody—particularly the electorate and the people of Scotland—and we have to bear that in mind.

I will explain why I believe that it is better to have the requirement at the point of nomination. Edward Mountain just said that he supports the idea that the requirement should be on election to Parliament, but he then railed against the cost of needless council by-elections, which cost, on average, around £70,000. People sometimes stand for election and then stand down immediately afterwards because they are disqualified from being council candidates. In this Parliament, depending on what the regulations were, we would face a rapid by-election after a general set of elections in which somebody was elected who was a member of the House of Commons or the House of Lords, and that would cost substantially more than £70,000.

Edward Mountain: Will the member take an intervention?

Keith Brown: I will finish this point first.

More important than that cost is the issue of treating the electorate with contempt. We do not want to continue to alienate and disengage from the electorate. We do not want to have a by-election within the space of a few weeks after a general set of elections, when the electorate has already gone through all the arguments at that general set of elections.

Edward Mountain: It has been agreed that the Scottish Government will carry out a consultation in relation to council elections, to find out what is appropriate. Does Mr Brown accept that, rather than he and I arguing about council elections and when somebody should step down, carrying out that consultation will probably drive the best answer?

Keith Brown: I agree with Mr Mountain, and I will be interested to see the results of the consultation.

The last point that I will make is that, whatever we agree in this Parliament, individual parties in this Parliament can take action themselves.

In 2020, my party decided that we would have no dual mandates, so that nobody who was an MP would stand for election to this Parliament. We did that ahead of this legislation. Therefore, unlike Graham Simpson, we have been against dual mandates for some time. However, whatever legislation is passed in this Parliament, it will remain the case that individual parties will be able to make rules for themselves.

Stephen Kerr: Will the member take an intervention?

Keith Brown: I will finish this point before I give way to Mr Kerr.

As we all know, people can stand for a political party only if they have the mark of that party at the point of nomination. That is the way that parties can exert their influence.

Stephen Kerr: I seek a point of information from Keith Brown. He has described the situation that existed in 2020, when Joanna Cherry was famously denied the opportunity to stand for the Scottish Parliament. What is the current position of the Scottish National Party on such situations—for example, in relation to Stephen Flynn?

Keith Brown: Joanna Cherry was not denied the opportunity. Another MP stood down, stood for election to this Parliament and won that election and is now a member of the Scottish Cabinet. I believe that that is the way to do things.

The member asked about the current position of the SNP. We passed that measure for a set of elections in 2021 and we will look at it again for 2026. I am simply pointing out that every party in the chamber can do the same thing.

I plead that we should not take the electorate for granted. We know what the turnouts are like in local by-elections right now. For example, the turnout on the day for one by-election in Glasgow was around 6 per cent, not including postal votes. We have to start paying attention to the fact that the electorate is turning away from elections, and having needless elections when interest has waned because we have just had a set of general elections is not the way to do that. Let us wait to see what the consultation says, but let us also be aware that parties can take their own actions in this area.

Jamie Hepburn: I thank everyone who has engaged on the bill. The three members with amendments in this group have sought to be collegiate on these issues, and on others in the bill. I hope that they feel that they can say the same of me. We have been able to discuss views and, in some cases, come to an agreement. That shows that advance dialogue and discussion can be constructive throughout the passage of all legislation.

I appreciate the fact that we have had the opportunity to have a thorough and full debate on this group of amendments. They relate to important issues, so it is good that we have done so. For those who, based on the debate so far, are concerned that today's stage 3 proceedings will be particularly lengthy, I say that I suspect that this group of amendments will probably take us the longest to debate, despite it being the first group.

Let me begin with Graham Simpson's amendments in relation to dual mandates. On Saturday just past, my party's national executive committee took a decision to put in place, as part of its selection rules, a prohibition on anyone seeking to hold elected office in the Scottish Parliament while simultaneously remaining elected to the House of Commons. That was the position that the national executive committee took at the 2021 election, and it is the position that it has taken for the forthcoming election. I support that position. I very much agree with Alex Cole-Hamilton about the privilege of being elected to the Scottish Parliament, although I am a little concerned that some of his sleeping hours are preoccupied with thoughts of working in that regard. I hope that he gets a little rest and relaxation over the Christmas period.

However, the position that my party has taken—this speaks to the point that Keith Brown just made—is a reminder that, under the current law, any party has always been able to determine for itself its position on dual mandates for MSPs.

As he mentioned, at stage 2, Graham Simpson lodged a range of amendments to place in primary legislation a legal prohibition on the holding of dual mandates for MPs, peers and councillors. Ross Greer lodged another amendment that focused specifically on peers. I was clear with Mr Simpson, Mr Greer and the Standards, Procedures and Public Appointments Committee that, although I strongly believe that there is merit in addressing the issue, including through full prohibition in the bill, given that there had been no consultation or evidence gathering on the matter—it was discussed at stage 1 but, I would say, respectfully, not in great detail—those amendments were not the appropriate manner in which to legislate for such provisions. I was grateful to Mr Simpson and to Mr Greer for not moving their amendments at stage 2, given the nature of my concerns.

At stage 2, I committed to carrying out a public consultation in 2025, so that an informed decision on the details of how we could prohibit dual mandates could be reached. However, I was clear with the committee that any changes arising out of such a consultation would realistically not be in place until after the 2031 election, given the time that is required for the process of primary legislation. I was therefore grateful that Graham Simpson came upon a solution that would enable me to satisfy my genuine concern about the need for consultation and engagement before prohibiting dual mandates while still enabling us to meet his ambition to do so in time for the 2026 election.

Martin Whitfield: The forthcoming consultation is very wide when it comes to the overlap of time, the process and the matter of identification. I hope that the minister can confirm my understanding that the Government is open to listening to all

sides in the consultation so that we can come up with regulations that I hope—if the bill is passed—will match the requirements of the amendments in this group.

15:45

Jamie Hepburn: Mr Whitfield speaks to the very point of why I believe that consultation is important. There are different perspectives on the matter. There might be broad agreement on the principle, but it is not just a principle that we are agreeing on when passing legislation. We are making the law and, in doing so, it is incumbent on each of us, in discharging the privilege that we have in being elected here, to ensure that the law is as good as it possibly can be.

I was very pleased to engage constructively with Mr Simpson to bring forward a proposal for Parliament to consider today. As Graham Simpson outlined, amendments 34 and 35 require ministers to lay regulations before the Parliament to prohibit MSPs from being able to serve simultaneously as either an MP or a peer.

This will hopefully satisfy Stephen Kerr's inquiry. Should Parliament agree to the amendments and then pass the bill, I am committed to ensuring that, by autumn 2025, regulations are laid as informed by the consultation, which I have committed to publish, and that those regulations are in place well ahead of, and effective by, the Scottish Parliament election that is scheduled for May 2026.

Amendment 36 includes similar delegated powers in relation to dual mandates for councillors but, unlike the powers in amendments 34 and 35, the powers in amendment 36 are discretionary. That acknowledges the distinct nature of councillor roles and, candidly, it reflects what I detect to be a broader range of opinion in the chamber on the matter and allows the public consultation to guide us in deciding whether action is required or not. I will report back to the Parliament after the consultation is concluded and will give an indication of the next steps thereafter.

Douglas Lumsden: Regarding amendment 36, does the minister think that there could be another way forward whereby someone who is an MSP and a councillor would take only one salary? I know that a lot of councillors who become MSPs give up their councillor salary, although they do not have to. Could there be a way of forcing them to do that?

Jamie Hepburn: Quite possibly there could be, although I do not know whether that would be through the provisions in the bill. I suspect there might be other means by which we could consider that. Whether or not we determine that there should be a legal prohibition on MSPs being able to be councillors simultaneously, I would be more than willing to consider the matter in dialogue with any member who wishes to explore it with me.

In case this is not yet clear, I encourage the Parliament to support the amendments that we are discussing. I consider that to be an appropriate conclusion to the deliberations that we have had on the matter. They ensure that the issue of dual mandates can be considered properly, and regulations informed fully, and that changes can still take place ahead of the 2026 election.

Mr Simpson's indication that he has now introduced his own bill to the Parliament serves as a reminder that any one of our number can seek to produce proposed legislation of the type that we are debating today that addresses issues of eligibility to hold elected office as a member of the Scottish Parliament. In that regard, I am sure that I speak for us all in looking forward to Daniel Johnson's member's bill prohibiting dual mandates for MSPs and those elected to the Senedd, the Northern Ireland Assembly or indeed the London Assembly. As he will of course know, section 16 of the Government of Wales Act 2006, as amended in 2020, bars MSPs from membership of the Senedd.

Daniel Johnson: Just testing.

Jamie Hepburn: Mr Johnson says that he was just testing me; I hope that I have risen to the occasion.

I genuinely look forward to engaging imminently with Mr Simpson on his forthcoming bill.

I turn to amendments 3 and 37, in the name of Annie Wells. I understand what she is trying to do. Any person would recognise the disconcertion and concern that a person might feel in the circumstances that she has described. That would be a very understandable human instinct. As we discussed at stage 2, however, I believe that there are insurmountable issues with Ms Wells's amendments—issues that Ms Wells is aware of, as she withdrew amendments at stage 2, acknowledging that they did not meet the requirements of article 3 of protocol 1 to the European convention on human rights. That remains the case.

There are significant ECHR compliance concerns with amendments 3 and 37, which I have outlined to Ms Wells in person and in correspondence. Amendment 3 engages article 3 of protocol 1, the right to stand for election to the legislature, and both amendments concern article 8, the right to respect for private and family life. Neither amendment would, I recognise, bar a person from office, but both would have the effect of publicising an expired restriction or order. That would be the case no matter how much time had elapsed since the restriction or order was in place.

It is the Government's view that the amendments, no matter how well intentioned and no matter how much sympathy there might be in relation to the point that Ms Wells is driving at, are incompatible with the convention and, as such, are outwith the competence of the Scottish Parliament.

An amendment that is passed that is incompatible with convention and outwith competence is not law. I do not need to remind members of the concerns that the bill would be risked as a consequence of passing such amendments. I am sure that Ms Wells's intention is not to risk the bill, and I am sure that she will also recognise that I am keen to avoid such an eventuality. It is also unclear how amendments 3 and 37 would interact with the detailed law on spent convictions, which is contained in the Rehabilitation of Offenders Act 1974.

However, I can say—and it is important to place this on the record, because I understand the nature of the concerns—that improved safeguards are already embedded in the bill that we debate today as a consequence of amendments that were brought forward at stage 2, which the convener of the committee, Mr Whitfield, mentioned. If the bill is passed today, we will see a substantial change in relation to ensuring that anyone who is subject to a relevant notification requirement or sexual harm or risk order will be prevented from being an MSP or a councillor. I believe that that will provide a change in legislation and, I hope, some reassurance in strengthening safety and public perception. Amendments 3 and 37 go a little too far in terms of compliance, so I am grateful to Ms Wells for indicating that she will not move those amendments.

Ross Greer's amendments 5 and 6 cover disqualification orders under the bill and the Elections Act 2022. Those orders seek to bar people from office when they are convicted of a crime involving hostility towards elected representatives, campaigners and electoral workers. I have a great deal of sympathy with Mr Greer's suggestion that any offence involving abuse in an electoral context should also carry a sentencing aggravation. The Electoral Commission's report on the last UK Parliament general election spelled out the concerning increase in unacceptable abuse that candidates and campaigners face. It is also the case that we already provide additional protection for certain groups, such as emergency workers, by setting out statutory sentencing aggravations.

Mr Greer lodged similar amendments at stage 2. At that stage, I was not fully persuaded of their merit, but, having reflected further on them, and following my engaging with a range of relevant stakeholders, who have not raised concerns at the proposition, I am happy to say that the Government supports Mr Greer's amendments in this group, and I urge Parliament to vote for them.

The Presiding Officer: Members will note that we are approaching the first time limit and that we have a further group still to debate. As a consequence, under rule 9.8.5A, I am minded to accept a motion without notice to propose that the time limit be extended by 30 minutes. I ask the Minister for Parliamentary Business to move such a motion.

Jamie Hepburn: On the basis of a commitment to try to make up some of that time, I move,

That, under rule 9.8.5A, the time limit for groups 1 and 2 be extended by up to 30 minutes.—[*Jamie Hepburn*.]

Motion agreed to.

The Presiding Officer: I call Graham Simpson to wind up and press or withdraw amendment 34.

Graham Simpson: I will press my amendment, and I wind up simply by thanking everyone who has taken part in what has been a very good debate. That includes my good friend Keith Brown, who made a very interesting point. I respectfully disagree with it, but it is right that he made it. That kind of issue can be looked at when we do the consultation.

I urge the minister to be as collegiate as he has been so far when he looks at the regulations. I am sure that that will be the case, and with that, I will sit down.

Amendment 34 agreed to.

Amendments 35 and 36 moved—[Graham Simpson]—and agreed to.

After section 2B

Amendments 3 and 37 not moved.

Section 3—Scottish disqualification orders

Amendment 5 moved—[Ross Greer]—and agreed to.

After section 11

Amendment 6 moved—[Ross Greer]—and agreed to.

After section 13

The Presiding Officer: Group 2 is on joint party candidates. Amendment 7, in the name of Daniel Johnson, is grouped with amendments 9 and 8.

Daniel Johnson: It must be Christmas, because everyone is praising one another for the full and engaged conversations that they have had. I am no different, and I thank the minister for the conversations that we had last week. I also

reiterate my apologies, as my three amendments in this group do something that may not be entirely apparent at first glance, and they should rightly have been lodged at stage 2. I attempted to lodge them then, but unfortunately the drafting was not right at that stage. Nonetheless, these amendments seek to do something quite important.

There is much discussion in this place about members changing parties and whether they are a member of a party. It may have escaped some members' notice that 11 of us in the chamber are actually members of two parties: both the Scottish Labour Party and the Scottish Co-operative Party. That is part of a long-standing tradition in our politics. The Co-operative Party was founded in 1917, and in 1927 it formed an electoral alliance with the Labour Party. Ever since then, it has been standing joint candidates in elections at the UK level and the Scottish level.

I will stop my Labour Party history there—I am not entirely sure that it is a way of winning votes for my amendments, and I am also mindful that Richard Leonard is sitting at the back of the chamber and might well correct me. However, my point is this: political parties are an important part of our electoral system, and the way that they work and interact with one another is also important. Much of the criticism from outside this place is about parties being insular, and therefore the possibility of parties working in tandem, and in conjunction and co-operation, with one another is important.

The relationship between the Labour Party and the Co-operative Party—which is fundamentally what these three amendments are about; there is no point in dressing it up in any other way—is a useful one. Amendment 7 is about enabling candidates to give a joint description between two political parties and—importantly—extending that to local government elections. The subsequent amendments are about the recognition of third parties, and recognising the co-operation that exists between two parties, for the purposes of organisation and election expenses.

I recognise that the latter two amendments in particular are perhaps complex—I am sure that the minister will address that—and I will bear that in mind as the debate proceeds, along with the comments that the minister makes. However, there is an important point of principle here. Each and every one of the parties that are represented in the chamber has either been formed from relationships with other parties or has existing relationships. The Conservative Party merged with the National Liberal Party after the second world war; the Liberal Democrats were formed out of an alliance—as members may remember—between the Social Democratic Party and the Liberal Party; the SNP was formed from a merger of the National Party of Scotland and the Scottish Party; and the Scottish Greens demerged from the UK Green Party in the 1980s and have a relationship with the UK's other green parties, and Mr Greer alluded earlier to the relationship that the Scottish Greens have with their sister parties in other parts of the world. Therefore, we can see that there is a precedent for such relationships in each of our parties. That is an important part of our democracy and it is important to recognise the relationships that parties have with other parties.

16:00

It is also important because the relationships that parties have with third parties can be exceptionally sensitive. None of us wants to see our politics emulate that of the United States, where there are third-party organisations and super political action committees that apparently exist completely outwith the organisations of individual parties.

Therefore, we need to proceed very carefully. I have concerns, and I have voiced them to the minister directly, about the Executive's ability to designate organisations as being third parties or not being third parties. There is a broader point of principle to which, as we think about the way that our democracy works and the way that elections to the Parliament work, we should give deeper consideration.

Stephen Kerr: Will the member give way?

Daniel Johnson: I was about to draw my remarks to a close, but I am happy to give way.

Stephen Kerr: I would like to ask Daniel Johnson a direct question, as he has not made himself clear. Are amendments 9 and 8 an attempt to give the Co-operative Party a third-party status that would allow the Labour Party to have a financial advantage when it comes to the activities of the Co-operative Party? That is what it looks and sounds like. I would be grateful if he could be absolutely clear. He mentioned that the amendments are technical but I think that the chamber deserves to hear the ramifications of what the amendments would do, particularly in relation to his own party and any possible advantage that it might gain from them.

Daniel Johnson: The member is quite correct to raise the issue, although I would say that what I am seeking through the amendments is the opposite of what he has said.

There is an important point of principle about the recognition of activity. The amendments, in a sense, would be disadvantageous, because they would mean that the resources and activities of a third party should be included in the electoral

returns of candidates who are standing as Labour Party and Co-operative Party members. The purpose is to ensure that a full account is provided and that there is no possibility of activity and, importantly, expenditure not being included. It is about proper accounting of expenditure and activity that takes place when candidates are standing on behalf of two parties, not just a single party. [*Interruption*.]

Stephen Kerr looks exceptionally worried—he need not be. I am trying to ensure that things are above board and proper. I doubt that my amendments will go through, so I do not think that he need worry too much.

I think that the member's concern reflects a broader point. However, future consideration should be given to the issue. My amendments are about making sure that the activities of the Co-operative Party are fully acknowledged and accounted for when Labour Party and Co-operative Party candidates are standing for this place.

I move amendment 7.

Sue Webber (Lothian) (Con): Mr Johnson has almost answered the questions that I have on amendments 9 and 8. He has spoken about historic alliances that have come about from various parties across the chamber, but the difference is that the rest of us are all sitting here as members of only one party.

I still interpret amendments 9 and 8 as giving the Labour Party and those who are Co-operative Party members an unfair advantage over others sitting in the chamber. Despite what he said to Mr Stephen Kerr about third-party expenditure being included to ensure proper accounting, I still have concerns and the amendments are a challenge for me.

Mr Johnson called them useful amendments, but I am also concerned that they might not be quite as useful for Parliament as they are for the members who sit with the Labour Party and the Co-operative Party.

Jamie Hepburn: As a student of history, if for no other reason, I have enjoyed Mr Johnson's contribution to this group of amendments. His amendments raise a number of complex points that neither he nor anyone else raised at any point during the bill's passage, either at stage 1 or at stage 2.

I recognise the point that he made about some of the challenges that he faced in getting the amendments drafted for stage 2. Although I was grateful to him for the time that he gave me to discuss the amendments last week, I am afraid that I cannot support them, and I will set out why.

In the first instance, I acknowledge that amendment 7 seeks to apply the existing position of Scottish Parliament elections and local elections. However, that change can be achieved by existing secondary legislation powers. Indeed, the amendment itself clearly refers to existing secondary legislation. As a general rule, it is not particularly good practice to amend secondary legislation via primary legislation, not least when any such changes could otherwise be made using the secondary legislation process. I therefore suggest that Mr Johnson not press amendment 7 today. Instead, I will discuss the matter further with him, along with the merits of the change featuring in the conduct order that will be prepared ahead of the 2027 local government elections. That will permit consultation with interested parties such as the Electoral Commission.

Amendments 8 and 9 are significantly more complex, as they delve into rules that are set out in the UK-wide Political Parties, Elections and Referendums Act 2000. I recognise that Mr Johnson said that he was unable to lodge amendments in this area at stage 2 because of drafting issues. I am afraid that I also have some concerns about the drafting here.

Mr Johnson has explained to me that he is concerned that changes that were made in the UK Elections Act 2022 might have, in his view, resulted in unintended consequences. Given when that act was passed, those concerns could have been discussed long before amendments were lodged at stage 3.

On Mr Kerr's point, as Mr Johnson said in his response, the concern that Mr Kerr raises does not seem to have been Mr Johnson's intent. However, where there is a joint party candidate, the proposed amendments seem to allow one or both of the registered parties to be a registered third party, meaning that they would therefore gain access to third-party campaign spending limits in addition to the normal party spending limits. A third party that is not eligible to become a recognised third party is subject to a £700 limit. That does not seem to be fair, as a point of principle, notwithstanding long-standing arrangements between the Labour Party and the Co-operative Party. Why should registered parties that are fielding a joint candidate at a Scottish Parliament election be permitted to incur significantly more expenditure than a candidate who is taking the more normal route of standing for one party?

I am also concerned that such a change could open the door to possible abuse of the system of regulation on spending by a host of phantom joint candidacies. Indeed, we have been in discussion with the Electoral Commission, which has highlighted the risk that the proposed amendment might create an uneven playing field among

parties that might be contesting a Scottish Parliament election by permitting parties that are involved in fielding joint candidates access to additional spending over and above the limits that are set out in schedule 9 to the Political Parties, Elections and Referendums Act 2000.

In addition—this speaks to the fundamental concern—the complexity of the rules on campaign finance mean that Mr Johnson's amendments 8 and 9 are outwith legislative competence. Although the Scottish Parliament can make changes to the Political Parties, Elections and Referendums Act 2000 in respect of Scottish Parliament elections, there is a reservation in schedule 5 to the Scotland Act 1998 that applies if a Scottish Parliament election is held in the 12 months prior to a UK general election. We cannot make changes to the rules in parts 5 and 6 of the Political Parties, Elections and Referendums Act 2000 in that situation.

Because amendments 8 and 9 do not take that point into account, they could impact on a Scottish Parliament election that was held in such a timeframe. That means that the Government considers amendments 8 and 9 to be outwith the competence of the Scottish Parliament, and I have highlighted that point directly to Mr Johnson.

As I said earlier, when speaking to the previous group of amendments, an amendment that is passed that is outwith competence is not law. Section 33 of the Scotland Act 1998 allows law officers to refer a bill to the Supreme Court for determination of whether it is within the legislative competence of the Parliament, and that would happen before the bill gets royal assent. Therefore, agreeing to amendments 8 and 9 could jeopardise the whole bill.

As Mr Johnson and other members might imagine, and as with Annie Wells's amendments 3 and 37 in the previous group, which she did not move, I cannot agree to something that would imperil the bill. I therefore urge Mr Johnson not to press his amendments today, but, if he does, I urge all members to vote against them.

Daniel Johnson: Let me be clear: my intention was to get full recognition and proper accounting in relation to joint party status. I certainly would not want anyone to think that any of my amendments were intended for any reason other than that and to ensure the recognition of the long-standing relationship that the Co-operative Party has had with the Labour Party.

I agree with the minister that, given that my amendments arose out of my concerns regarding the Elections Act 2022, there was time to have discussed the amendments earlier. I somewhat fell victim to the fact that people brought the issue to me at a late stage, but I take the minister's point.

Most importantly, given that the minister has undertaken to look at addressing the descriptions through secondary legislation, I will withdraw amendment 7. Further, I fully acknowledge the issues that have been set out regarding amendments 8 and 9, and I will not press them either.

Amendment 7, by agreement, withdrawn.

After section 14

Amendments 9 and 8 not moved.

After section 27

The Deputy Presiding Officer: The next group is on ballot papers. Amendment 10, in the name of Ross Greer, is the only amendment in the group.

Ross Greer: I thank Kenneth Gibson for his support, and I also thank the minister and the bill team for their support. Amendment 10 is a simple amendment that would require a review to be carried out of how candidates and parties are ordered on ballot papers. Members will be familiar with the question of ballot randomisation, which results from the pretty strong evidence of advantage for candidates who are at the top of the ballot paper. Because of the way in which we and many other countries order our ballot papers, that means candidates whose names start with letters at the top of the alphabet, some of whom are staring me down in the chamber as I say this.

There is quite comprehensive evidence on the issue. A thorough study from Denmark's 2015 municipal elections shows an average advantage of 4 per cent in vote share for candidates who are at the top of the ballot paper. We have not had the same kind of rigorous study here in Scotland, and I think that one would be useful, but there are plenty of others worldwide that show a similar effect.

This is about the principle of fairness but also the perception of fairness, which I think we can all acknowledge is almost as important as the principle of fairness itself. Elections need to look fair to have public confidence. Amendment 10 simply mandates a review, with no specific outcome in mind. Various suggestions have been made, such as randomisation of ballot papers or having two different ballot papers, so that, on half the ballots in a ward, the names would be printed from A to Z and, on the other half, they would go from Z to A. There is a range of options, and I acknowledge that there are accessibility issues to consider.

Ministers already have the power to vary ballot paper order, so the amendment simply requires them to undertake a review and consider what the options might be. I lodged the amendment because the bill is about strengthening our

democracy and I think that, in a small but significant way, amendment 10, the review and its outcomes would do so.

I move amendment 10.

Kenneth Gibson (Cunninghame North) (SNP): I thank Ross Greer for lodging amendment 10. Over the years, I have raised on a number of occasions the issue of how the alphabetic order of candidates impacts on election outcomes when two or more people from the same party contest the same council ward under the single transferable vote system. I am therefore delighted to speak to Ross Greer's amendment.

There has been some research. John Curtice did research on the issue and, more recently, the researcher Kevin Boyle worked with Michael Shanks, among others. The impact of one's surname in STV elections is undeniable. It has been present at every single local authority election since the introduction of STV. In the 2022 election, in wards where parties fielded two candidates, those with surnames higher up the ballot paper received more first preference votes than their lower-placed colleagues an astonishing 83 per cent of the time. In previous STV elections, the figure has been between 80 and 85 per cent.

On the rare occasions when a party fields three candidates, the poor soul who is lowest down the ballot tops the poll among party colleagues a mere 1 per cent of the time. When a lower-ranked candidate prevails over a higher-ranked colleague, most of the time that is only through incumbency.

The effect is so widely known that parties spend time, money and effort developing strategies to work around it. Those generally focus on encouraging more supporters to vote for the candidate whose surname is lower on the ballot in most of the ward to offset the advantage that a higher-ranked candidate has. That is known as the ward management strategy, as every person in the chamber knows.

Female candidates have been known to use their maiden name or their married name based on alphabetical order. The issue can skew selection contests, too. A candidate named Gibson is more likely to want William Wallace as a running mate than Alasdair Allan. I even know of a councillor who recently changed his surname to start with an A.

16:15

The Acting Minister for Climate Action (Alasdair Allan): Will the member concede that his theory has not been put to the test recently, as I have not recently stood on the list?

Kenneth Gibson: Well, indeed.

The only dissenting voice against the reality of this effect came from a 2019 Electoral Commission study, which fundamentally misunderstood the problem. The hopelessly flawed study asked research participants to find and vote for a specific fictitious candidate on the ballot paper. That ignored the fact that many people have a preferred party, rather than a preferred candidate, and that the problem is primarily about the distribution of votes within parties.

Candidates should be judged on a number of attributes: integrity, competence, accountability and work ethic, to name but a few. Instead, a candidate's surname is the primary advantage or disadvantage against their party colleagues. That is fundamentally unfair and undemocratic.

The Scottish Government previously said that the problem is not as big as many people make it out to be and that it is down to those who are involved in the political process to ensure that the public are aware of how the system works. I have two points to make on that. First, those who are higher up the ballot paper beat their party colleagues between 80 and 85 per cent of the time. If that figure is not high enough to be a problem, what figure would be—90 per cent, 95 per cent or 100 per cent?

Secondly, we have had 18 years of parties supposedly educating the public about STV. What can be said or tried that has not already been said or tried? If the case is as the Scottish Government has previously stated it to be, why does the Scottish National Party, as well as other parties, have a vote management strategy in council wards, including, I suspect, in the minister's Cumbernauld and Kilsyth constituency?

The SNP adopted randomisation of ballots for internal elections donkeys years ago. Why did we do that if it was not to tackle a real issue, even among party members? At some point, we need to face up to the reality of the system as voters interact with it, not how we wish that they did. Randomisation would nullify the issue with alphabetical order, thereby ensuring that election outcomes were fairer and more democratic and reflected voters' genuine preferences, and ending the ludicrous in-built bias in the layout of ballot papers.

I feel some responsibility for the problem. When I moved a motion at the SNP conference in 1995 that said that STV should be our method of election for local authority elections and others, I did not realise that parties would often be too cowardly to put up more than one candidate in many wards—they put up two at most—because they always play safe rather than giving voters a real choice. I did not realise that it would be such an issue, but it is, and we must address it.

Amendment 10 calls only for a review, which the Scottish ministers have been reluctant to agree to for reasons that I have never quite fathomed. However, I hope that Mr Hepburn will tell us today how the system can be changed now. Robson rotation—a simplified version of which is used in Tasmania—is the gold standard.

I again thank Kevin Boyle and John Curtice for their research, and, most of all, I thank Ross Greer for lodging amendment 10. I worry that, if the issue is not addressed, the systemic bias that is inherent in the current system will drag on, with the force of inertia meaning that the current system prevails in the next local council elections in 2027. I hope that that will not be the case. In the meantime, let us make a start, so I urge members to support amendment 10 in the name of Ross Greer.

The Deputy Presiding Officer: I suspect that the next two speakers will have some sympathy with the plight of William Wallace. I call Sue Webber, to be followed by Martin Whitfield.

Sue Webber: I welcome the fact that Ross Greer has reintroduced the amendment, which, importantly, now includes the requirement for a consultation first.

As someone who has a surname beginning with a W, I whole-heartedly agree with what Mr Gibson has outlined and understand the arguments for randomised ballots. When I first stood as a candidate in the Pentland Hills ward for the City of Edinburgh Council, I was one of two candidates. The other candidate for the Conservative Party had a surname that began with a B, whereas my surname began with a W. I found out after the election that, if I had gone back far enough in my family tree, I could have called myself Anderson, but there we go.

I am glad that we are looking at the issue, and I am concerned with ensuring that we make the change following robust consultation. One of the first things that I received from Mr Hepburn when I rejoined the Standards, Procedures and Public Appointments Committee in October was a letter addressing accessibility and other issues during elections, and a pack that contained a trial tactile voting device.

I have genuine concerns about how randomisation would work alongside something like that. How, for example, would a voter with a visual impairment prepare themselves to vote with no knowledge as to the order in which candidates may or may not appear on a ballot paper? The same conclusions may be just as relevant for voters with other impairments and disabilities. Randomisation would make things more complex, confusing and unfamiliar for such people as they cast their votes.

I understand all the evidence that Mr Gibson has outlined, but the unintended consequences of our desire to make things equal for those with a surname beginning with W deserve much more detailed consultation and scrutiny.

Martin Whitfield: As the final W in the debate, following Sue Webber, who came after Ross Greer and Kenneth Gibson, I will talk in support of amendment 10.

Of all the items that came up during our consideration of the bill—both objectively and, more so, subjectively among members across the chamber—the one that came up most often was the question of the order of candidates on ballot papers. It is a heart-lived and close challenge, particularly for those who have been unsuccessful.

It is right to echo Kenneth Gibson's submission that there is very strong evidence to show that where a candidate appears on the ballot paper plays into the results of the election.

There are accessibility issues. Sue Webber was right to point out that the Government, on a number of occasions, has rightly pointed out the challenge in that regard. However, it is not insurmountable. I thank Ross Greer for phrasing amendment 10 in such a way that it will require a review to be carried out. In doing so, while we might not quite get to the solution, we can maybe put to bed some of the views that people have that are incorrectly held. More importantly, we can find out what the experiences of those with accessibility issues are, and about the effect of alphabeticisation of the ballot papers.

Jamie Hepburn: Let me begin by offering Ross Greer reassurance that, as someone with a surname that is firmly planted in the middle of the alphabet, I do not intend to stare him down as I make my remarks.

I say to Mr Gibson that it is important that I make the following point: I represent the Cumbernauld and Kilsyth constituency. My Kilsyth constituents rightly get upset when they are forgotten about. It is right to say that, in my constituency, we operate a voter management strategy. That allows me to place on record the result in the Cumbernauld North ward, where Councillor Alan Masterton got 30.5 per cent of the vote in contrast to Danish Ashraf's 19.7 per cent of the vote. It can be done.

Nonetheless, it is clear that many members have concerns that using alphabetical order to list names on ballot papers can have an unfair impact. Many have raised that issue over some period of time, almost exclusively in respect of local government elections.

At stage 2, we had a very healthy discussion about the merits of randomisation as an alternative

approach. That was raised as an option by the Government in its consultation on electoral reform in 2017. I hear Kenny Gibson's point that no one other than the Electoral Commission has raised concerns about randomisation.

However, I highlighted at stage 2 the evidence received from disabled people's organisations, at the point when we undertook our consultation in 2017, that a switch to randomisation might have an adverse impact on voters with accessibility needs. Notwithstanding the genuine and sincere concerns that members have expressed about the impact of alphabetical listing of candidate names on any ballot paper—concerns that I recognise and understand—we must also hear the equally genuine and sincere concerns of those disabled people's organisations as we consider the way forward.

At stage 2, I stressed that I was keen to engage with Ross Greer on a possible way forward, and I am pleased that we will be able to work together on amendment 10. I very much hope that the study that it requires the Government to take forward, should we agree to the amendment and pass the bill, will result in full and proper consideration of the issue. The study is designed to ensure that any change, should one be identified as being necessary, could be made in time for the 2032 local government elections. That seems most appropriate, as the local government STV system attracts the most comments about the impact of the alphabetical list order.

On that basis, I encourage members to support amendment 10.

The Deputy Presiding Officer: I call Ross Greer to wind up and to press or seek to withdraw amendment 10.

Ross Greer: I will press amendment 10.

I thank Kevin Boyle and John Curtice for the research work that they did on the issue. I echo Kenneth Gibson's frustrations about the Electoral Commission's 2019 study, which was an opportunity to do something in Scotland that was as thorough as the Danish 2015 study that I mentioned, as well as various other international studies. Sadly, it was a missed opportunity to do so.

I am glad that Sue Webber covered accessibility issues. We are trying to balance not mutually exclusive outcomes but outcomes in which there is an element of tension. The proposed review is therefore the right way forward.

As the minister highlighted, Scotland's use of STV, which is a perfectly good system for our local elections, appears to increase the challenges that are created by the alphabetical order of ballot papers, so it is incumbent on us to look at the matter primarily with a focus on local elections.

On the minister's example of Cumbernauld North and Councillors Masterton and Ashraf, I suggest that Councillor Masterton's years of excellent service as an incumbent councillor in that ward probably did him no harm whatsoever.

Jamie Hepburn: We should let the record show that Councillor Ashraf was also an incumbent.

Ross Greer: I of course recognise both councillors' incumbency. Having known Councillor Ashraf before, I should definitely put that on the record. However, having known Councillor Masterton for much longer, I suggest that his incumbency certainly helped.

That goes back to Kenneth Gibson's point about the evidence on the order of party candidates when parties field more than one candidate and the fact that it is possible to match up where candidates are or are not incumbents based on the relative vote share that they get across their party's candidates. The evidence base is clear, and it appears that there is clear consensus across the chamber on the issue.

I thank the minister and the bill team for their work on amendment 10, which I press.

Amendment 10 agreed to.

Section 27A—Nomination of candidate in local government elections: home address form

The Deputy Presiding Officer: The next group is minor and technical amendments. Amendment 11, in the name of the minister, is grouped with amendments 12 to 16.

Jamie Hepburn: The amendments are, as the grouping title suggests, extremely minor. They only tidy up issues and do not make changes to any policy. They concern non-Government amendments that were lodged by Ross Greer at stage 2, which I supported and which added sections 27A and 27B to the bill. One change will allow candidates at local government elections to choose to display their ward of residence on the ballot paper. The other will permit election agents to request that their publicly available address be a correspondence address rather than their home address. Those changes were already being considered by the Scottish Government as part of a package of regulations that we will take forward next year, but I was happy to see them added to the bill at stage 2.

Amendments 11 and 12 will insert Scottish statutory instrument references into sections 27A and 27B to reflect best drafting practice. There are no policy implications to those amendments.

Amendments 13 to 16 will make changes to section 27B, replacing the word “regulation” with “article” throughout the section. The amendments reflect the fact that the secondary legislation measures that are being amended are orders rather than regulations.

I move amendment 11.

Amendment 11 agreed to.

Section 27B—Election agent and sub-agent in Scottish Parliament elections: public notice of home address

Amendments 12 to 16 moved—[Jamie Hepburn]—and agreed to.

Section 28—Pilot schemes under the Scottish Local Government (Elections) Act 2002

The Deputy Presiding Officer: Group 5 is on pilots and electronic voting. Amendment 17, in the name of Ross Greer, is the only amendment in the group.

Ross Greer: Section 28 is a very welcome section of the bill. It empowers the use of pilots to boost democratic engagement. However, there is always a risk when we change the arrangements for something as fundamental as how we vote and how we elect those who govern, whether locally or nationally. Electronic voting has been debated before in the Parliament but possibly only in members’ business debates and in a couple of committee sessions.

Many of us are concerned about electronic voting for a range of reasons. Any voting system must be secure, anonymous and verifiable, but electronic voting can only guarantee two out of those three outcomes. There is an element of mutual exclusivity when we try to resolve all three through an electronic system.

Through amendment 17, I do not seek to ban electronic voting, which is a much wider debate. I am trying to require that that debate takes place even before a pilot on using electronic voting proceeds. It would simply put a check on the system.

16:30

If a pilot of electronic voting is proposed, given the unique concerns about that and the fact that any pilot would still be for a real election, the amendment would require that proposal to come before Parliament for approval, giving an opportunity for effective scrutiny.

Amendment 17 is simple and requires that any electronic voting pilot be approved by Parliament, through a statutory instrument, before being put into place.

I move amendment 17.

Jamie Hepburn: I appreciate Ross Greer’s point of principle, which is that any pilot of electronic voting would represent a significant development. I recognise that there are security concerns about any move to electronic voting and that there are many bad actors who might relish the opportunity to seek to disrupt or adversely influence democratic elections.

I can certainly assure you, Presiding Officer, Mr Greer and other members that the Government has no plans for electronic voting, aside from possible changes targeted at meeting the needs of voters with accessibility requirements.

At stage 2, Mr Greer lodged an amendment that would have captured a far broader range of initiatives that might be piloted, including some relatively minor innovations. He was clear that his concern related specifically to electronic voting and I am pleased to have worked with him since then on amendment 17, which will ensure that parliamentary approval is given for any electoral innovation pilot that involves electronic voting. I am therefore happy to support amendment 17.

The Deputy Presiding Officer: I call Ross Greer to wind up and to press or withdraw amendment 17.

Ross Greer: I have nothing further to add. I press amendment 17.

Amendment 17 agreed to.

Section 45—Boundaries Scotland: changing date of next review of local government wards and number of councillors

The Deputy Presiding Officer: Group 6 is on boundaries. Amendment 18, in the name of Ross Greer, is grouped with amendments 19 and 20.

Ross Greer: Members will be glad to hear that I am almost done.

Amendments 18 to 20 continue some work that I began at stage 2. I again thank the minister and the bill team for their co-operation. The core of the amendments in the group is a simple proposal that any boundary reviews be carried out at least 18 months before an election. That recognises that the public, and especially political parties and candidates, need time to prepare and that, in particular, parties need time to select candidates for the relevant electoral areas.

Amendment 18 clarifies that the amendment agreed to at stage 2 applies to local elections and therefore is a clarification, rather than any substantive change. Amendment 19 brings the

overall review cycle into sync, given the changes that have already been agreed to. Amendment 20 applies the 18-month limit to any change of boundaries affecting elections to this Parliament.

Jamie Hepburn: I am pleased to have been able to work with Ross Greer on amendments 18 to 20. Having electoral boundaries confirmed 18 months before elections is a sensible change and one that I was interested in pursuing before Mr Greer lodged his amendments on the issue at stage 2.

As we discussed then, I supported the intention behind Mr Greer's amendments but could not support them because they would have made what I recognise was an unintentional change to the timeframe for reviewing boundaries for the 2027 local government elections. Realistically, any such change to the timeframe in which Boundaries Scotland must finalise proposals for ward boundaries can be applied only to the 2032 local government elections and beyond. I have been pleased to work with Ross Greer on framing amendments 18 to 20, which achieve that end and will give greater certainty to constituents, administrators and candidates for both local government and parliamentary elections.

Having brought a proposition to establish an 18-month lead-in period for local government ward boundary changes, I took the view that it would also be sensible to do that for proposals for constituency and regional boundary changes for parliamentary elections. I am grateful that Mr Greer has also lodged an amendment to achieve that.

It also seems to me to be helpful to update Parliament by saying that I have written to the Standards, Procedures and Public Appointments Committee and to the Local Government, Housing and Planning Committee to outline plans to establish an independent review to consider boundaries legislation and processes. That review will be tasked with making recommendations about how a system of automatic approval for electoral boundary changes could work in Scotland, which is something that the Standards, Procedures and Public Appointments Committee has taken a great interest in. The review will take account of experience elsewhere in the UK and will look at international best practice. It will report next year so that Parliament can consider its recommendations. In the meantime, I ask members to support Ross Greer's amendments 18, 19 and 20.

The Deputy Presiding Officer: I call Ross Greer to wind up and to press or withdraw amendment 18.

Ross Greer: I am grateful to the minister for his support and have nothing more to add. I press amendment 18.

Amendment 18 agreed to.

Amendment 19 moved—[Ross Greer]—and agreed to.

After section 45

Amendment 20 moved—[Ross Greer]—and agreed to.

Section 47—Constitution of the Electoral Management Board for Scotland

The Deputy Presiding Officer: Group 7 is on the Electoral Management Board for Scotland. Amendment 21, in the name of Jamie Hepburn, is grouped with amendments 22 to 33.

Jamie Hepburn: The amendments in group 7, which is the final group, further modify the new constitution that the bill introduces for the Electoral Management Board for Scotland. Changes that were made at stage 2 will see the Scottish Parliamentary Corporate Body assume oversight of the EMB. The amendments in the group largely make further technical refinements following discussions with the EMB and SPCB officials.

Amendments 21 and 22 remove the word "draft" from the provisions that require a strategic plan that sets out the EMB's priorities over the next five-year period, in order to avoid any ambiguity about the status of the plan while it is being considered.

Changes that were made at stage 2 expanded the pool of potential board members for the EMB to include serving or former returning officers and electoral registration officers from England and Wales. Amendment 23 makes a small expansion by including returning officers for local elections and acting returning officers from England and Wales. I must be clear that the bill will in no way require returning officers or electoral registration officers from other parts of the UK to be appointed as members of the EMB. Instead, the bill seeks to expand the possible pool of candidates. Paragraph 2(5) of the new schedule that sets out the EMB's constitution will ensure that the membership as a whole still has Scottish experience.

Amendment 24 makes it clear that the convener holds office on such terms and conditions as the SPCB may determine, and amendment 25 provides that SPCB approval is needed for the convener to set the terms and conditions for the other board members.

Amendment 26 provides that the appointment period of any deputy convener must be approved by the SPCB.

Amendments 27, 28, 31 and 32 modify the rules on remuneration and pensions of the EMB convener and other board members and staff. The changes will ensure consistency with other legislation whereby bodies report to the SPCB.

Amendment 29 clarifies that, although the board may obtain advice, assistance or any other service from qualified persons, any payment will be subject to approval by the SPCB.

Amendment 30 will allow the SPCB to issue directions to the EMB on the sharing of premises, staff, services or other resources with any other public body or office-holder.

Amendment 33 removes provisions that would require the SPCB to indemnify the entire EMB. That is consistent with the bill making the EMB a corporate body.

I thank the EMB and SPCB officials for their help with the changes. The EMB has been highly successful in supporting the smooth running of elections in Scotland, and the changes that are made by the bill will consolidate its independence and build on its strengths.

I move amendment 21.

Martin Whitfield: I echo the minister's thanks to the Electoral Management Board for Scotland for its contribution throughout our consideration of the bill and for its suggestions and recommendations.

In some ways, the amendments in group 7 take us further than those in any other group, because they will move us from having people with expertise in elections voluntarily gathering together to assist us to a system with a corporate body that can enter contracts. That body will pay for the services, rather than the system relying on a returning officer's or ERO's credit card, although in some cases it has been less complex than that.

The journey from the suggestion of the Electoral Management Board having a legal identity, which came from the consultation, to where we are today has been challenging at times. I compliment the minister and Government officials on the lengths that they have gone to in recognising possible areas of concern in the relationship that the EMB will have with the Scottish Parliamentary Corporate Body as, in essence, the EMB's overseer for the purposes of audit and finance.

I confirm that we will support all the amendments in the group. I take the opportunity to thank again not only the Electoral Management Board but the returning officers and electoral registration officers for their assistance.

Jamie Hepburn: I concur with Mr Whitfield's remarks about the EMB moving from being a voluntary body to being a corporate entity. I consider that to represent a significant improvement in its governance and accountability, which will, importantly, be to this Parliament and not to the Government.

I very much appreciate Mr Whitfield's remarks on the activity and effort of Scottish Government officials, Parliament officials and those who are involved in the EMB, who have all worked incredibly hard to get us to this point. I am similarly grateful for their efforts.

Amendment 21 agreed to.

Amendments 22 to 33 moved—[Jamie Hepburn]—and agreed to.

The Deputy Presiding Officer: That ends stage 3 consideration of amendments.

As members will be aware, the Presiding Officer is required under standing orders to decide whether, in her view, any provision of a bill relates to a protected subject matter—that is, whether it modifies the electoral system and franchise for Scottish parliamentary elections. In the Presiding Officer's view, no provision of the Scottish Elections (Representation and Reform) Bill relates to a protected subject matter. Therefore, the bill does not require a supermajority to be passed at stage 3.

Scottish Elections (Representation and Reform) Bill

The Deputy Presiding Officer (Liam McArthur): The next item of business is a debate on motion S6M-15875, in the name of Jamie Hepburn, on the Scottish Elections (Representation and Reform) Bill at stage 3. Members who wish to participate in the debate should press their request-to-speak buttons.

16:41

The Minister for Parliamentary Business (Jamie Hepburn): This year, we have been celebrating the 25th anniversary of the reconvening of the Scottish Parliament. Since its first election in 1999, this Parliament has improved participation, extended voting rights and enabled more people to stand for election. The Scottish Elections (Representation and Reform) Bill seeks to continue the evolution of our elections.

The bill is wide ranging and contains a mix of technical improvements and substantial advancements. It is the result of extensive consultation both before and after its introduction. I am pleased that we have an improved bill, following the engagement of members. I express my thanks to all who have contributed—many of whom have spoken at the amendment stage today.

I also thank past and present members of the Standards, Procedures and Public Appointments Committee and its convener and clerks for their engagement throughout the bill's progress. I record my appreciation for the bill team's hard work on the legislation.

I pay tribute to my predecessor, George Adam, who is recuperating in his sick bed because he has Covid-19. Otherwise he would, I know, have been here. He made it clear at the bill's introduction that it was to be considered "the Parliament's bill". I hope that members will agree that we have all upheld that spirit.

The bill seeks to improve candidacy rules across the board. It empowers foreign nationals who have made their lives here to stand for election, and it means that people who commit offences in an electoral context can be disqualified from office.

As, I think, we all recognise, being involved in an election is a challenging undertaking. The Electoral Commission's recent report on this year's United Kingdom Parliament election highlighted the aggravation and intimidation that people who stand for election can face. It is partly because of those concerns that the initial proposal to expand candidacy rights to 16 and 17-year-olds was, ultimately, not included in the bill.

There are barriers to standing for election. That is why the Government introduced the access to elected office fund—which, since it started in 2017, has supported more than 120 disabled candidates of all parties during three national elections. I was pleased to be able to work with Jeremy Balfour and to support his amendment to put that fund into statute.

The bill also makes a significant change in disqualifying from elected office anyone who commits a sexual offence. Barring from elected office people who are subject to sexual offence notification requirements and sexual risk orders will help to reassure the public that they can trust their elected representatives. The Government played its part in those changes, but they are also the fruit of cross-party engagement, particularly with the Standards, Procedures and Public Appointments Committee, which engaged with that complex issue sensitively and diligently.

Many other topics are addressed in the bill. I thank Bob Doris for his amendments to address concerns about high rates of spoiled ballot papers in some council wards. It is clear that more needs to be done to assist voters in expressing their views, especially in council elections. In its stage 1 report, the committee asked the Government to lodge an amendment to make it clear that election pilots could encompass automatic voter registration. I was happy to work with Mr Doris at stage 2 to achieve that.

At this stage, I cannot provide an absolute commitment to a full pilot on automatic registration. We will, though, continue to work closely with colleagues in the Welsh Government in order to monitor progress and to consider how we can pick up lessons from the activity on automatic registration that it has under way. We will also continue to work closely with the United Kingdom Government on work to improve registration, given its on-going responsibility for Westminster elections.

That said, I am happy to commit to the Scottish Government leading work to run a specific trial on more automated forms of registration, with a particular focus on improving registration levels among young people.

At Stage 2, Ross Greer lodged helpful amendments that make it clear that our democratic engagement grant could be used for the purposes of automatic registration at education institutions. I can set out that we will seek to carry out a pilot of that nature. I envisage the Scottish Government and electoral registration officers working directly with interested schools, further and higher education institutions and local

authorities. I will happily report back on how we get on with seeking to take forward such a pilot.

I also thank Ross Greer for the further changes in respect of boundary reviews and electronic voting, and for the amendment requiring a study on the merits of randomised names on ballot papers.

At stage 2, Ben Macpherson helpfully raised the question whether MSPs should have to be ordinarily resident in Scotland. I have written to members and the committee with plans for further consultation in the spring. That will include proposals on residency requirements and candidate deposits for MSPs, removing some types of council by-election, and more issues on disqualification from office.

As I said earlier, I will in January publish a consultation on dual mandates, and will create regulations that are informed by that consultation that will bar MPs and members of the House of Lords from also being an MSP.

It is fair to say that the bill might not have attracted significant attention previously, but the matter of dual mandates coming to the fore certainly brought it into the foreground. The debate on that matter allowed us to take action to address an issue on which many people hold strong views, while also affording time to get the finer details correct. Again, I express my thanks to Graham Simpson for his work on that.

The electoral process does not begin or end on polling day. Months of planning are involved—not just by candidates, but by electoral administrators. For more than 15 years, the Electoral Management Board for Scotland has provided to returning officers and others invaluable assistance and support on the conduct of our elections. That support was central in ensuring the safe and successful holding of elections during the pandemic. We are building on that success: we are ensuring the next steps in the EMB's evolution by enshrining it as a corporate body with an improved constitution under the direct oversight of the Parliament.

The Electoral Commission is another vital part of the electoral landscape. The bill will ensure that it has a stronger link to the Parliament by planning for and reporting on its activities in our elections.

I conclude by expressing again my thanks to all those who have engaged on the bill. Together, we have agreed a robust set of improvements to the law, which I hope will—should we pass the bill, today—deliver real benefits to voters.

I move,

That the Parliament agrees that the Scottish Elections (Representation and Reform) Bill be passed.

16:48

Annie Wells (Glasgow) (Con): The Scottish Elections (Representation and Reform) (Scotland) Bill followed a consultation that was launched by the Scottish Government in late 2022. The consultation focused on administration and governance, election scheduling, candidates, voting, and campaigning and finance.

It was through that consultation that many initial productive exchanges were had between MSPs and stakeholders. For instance, the plans to allow 16 and 17-year-olds to become councillors and MSPs were dropped after widespread opposition and concerns became clear.

The bill is now being welcomed, either in whole or in part, by a host of organisations, including the Electoral Reform Society in Scotland. In January, the society's senior director, Mr Willie Sullivan, even described the bill as a tidying-up of Scotland's electoral system.

That kind of support for the bill reflects the common desire to have an electoral system that is continually updated to meet the current and future needs of voters. My Scottish Conservative colleagues and I agree that laws on electoral issues are not static, and we have continually supported the bill's aim of creating a more efficient and transparent electoral system. Given that the 2026 Holyrood elections are just around the corner, those aims could not be more relevant to us as MSPs and to the public.

I support the aims of the bill, but it is worth looking at exactly what it sets out to change in order to make an updated Scottish electoral system a reality. Its provisions cut across various areas of electoral law and would, for example, grant the Electoral Management Board for Scotland its own separate legal personality as a corporate body.

Other changes include expanding the group of people who can propose an electoral pilot scheme to improve democratic engagement.

Further provisions would allow the Presiding Officer of the Scottish Parliament to propose an election date that is either four weeks earlier or eight weeks later than it would typically be held.

Notably, the Electoral Commission will be subject to changed requirements to present five-year plans. Those plans would detail the commission's intentions alongside requirements for resources pertaining to devolved functions in Scotland.

I am certain that colleagues from across the chamber will join me in welcoming the progress that has been made since the bill's introduction. Although I acknowledge the progress that has been made so far, which is an encouraging sign of

things to come, I have concerns about the bill—and I am not alone. Although it supports parts of the bill, the Law Society of Scotland has also expressed reservations about the practical challenges of some of its provisions. Its concerns focus on proposals to allow non-citizens living in Scotland with limited leave to remain to run for public office.

I do not believe that people who have been subject to a sex offender notification requirement should ever be allowed to hold public office, regardless of the level of that office. The bill does not go far enough in ensuring that. That is why I lodged amendments at stages 2 and 3. My stage 3 amendments would have required any candidate to declare in the nomination papers whether they had ever been subject to a sexual harm order, risk order or notification requirement. I absolutely understand and take on board the minister's concerns that that requirement would be in breach of the European convention on human rights.

However, personally, I think that this is a missed opportunity. It is unfortunate for anyone who agrees with me—I can safely say that that is quite a lot of people I have spoken to—that the bill fails to—

Jamie Hepburn: Will the member take an intervention?

Annie Wells: Yes, absolutely.

Jamie Hepburn: I have already made this point. I completely understand and appreciate the concerns and reservations that any person, including Annie Wells, would have about an individual who has a history of sexual offending standing for elected office. I reflect Mr Whitfield's points about the responsibility that parties have in respect of who they nominate.

However, although Ms Wells might feel that the bill does not go far enough, does she accept that the changes that we made at stage 2, which mean that people can now be prohibited from holding office in the Scottish Parliament or in local government if they have a sex offender notice or order, represent a significant improvement on where we are now?

Annie Wells: Yes, I absolutely agree with that. However, the voices of the victims of sexual offences have not been heard throughout the bill's passage. I welcome the minister's response, and I know that we all share the same concerns. However, the issue was how we could get that requirement into the legislation, and there just was not a way to do it—I appreciate that.

The Scottish Elections (Representation and Reform) Bill has been several years in the making, from the extensive consultation on electoral reform that was launched by the Scottish Government in 2022 to the point that we have reached today. We are much closer to changing our electoral system for the better and to making it fit for the future. Admittedly, although the bill is not exhaustive with regard to its aims, as is demonstrated by the concerns that I have just highlighted, its provisions broadly achieve its aims, and steps in the right direction are being taken towards more comprehensive changes.

Moreover, the Scottish Government is expected to introduce electoral reform regulations next year, with the intention to have proposals ready for implementation in time for the next Holyrood election. I will work constructively with colleagues from across the chamber when the time comes, and I very much look forward to examining the regulations carefully with the same goal in mind, which is to create a more transparent and smoothly run Scotland, wherever in the country people go to the polls to choose their representatives. That is the right thing to do.

The Deputy Presiding Officer (Annabelle Ewing): I call Martin Whitfield to open on behalf of Scottish Labour.

16:55

Martin Whitfield (South Scotland) (Lab): It is a pleasure to open the debate for Scottish Labour on a bill that has almost haunted me since I came into the Parliament. Like other members, I will start by thanking my colleagues on the Standards, Procedures and Public Appointments Committee. I also thank those who have supported the committee: the clerks and the staff of the Scottish Parliament information centre, with their knowledgeable input. I thank those who gave evidence to the Scottish Government's original consultation between December 2022 and March 2023 and those who contributed to the committee's stage 1 scrutiny and assisted us with on-going evidence on the fundamental but complex issues that arose during consideration of disqualification.

I thank the Minister for Parliamentary Business for his positive, open-door approach, and I hope that he feels that I replicated that as far as I was able to do so, both as convener of the committee and as the representative of Scottish Labour on the matter. I echo the minister's thanks to George Adam, who opened up the original consultation with, "Bring me anything you can think of"—and people obliged. That became a vehicle for trying to restrict things and bringing things in. It is interesting that a bill that was introduced only on 23 January 2024 finds itself, at the close of the year, in a position where, hopefully, it will become statute.

The original policy memorandum suggested

"a number of improvements to the law affecting Scottish Parliament and Scottish local government elections."

The bill has certainly achieved that.

I wish to address again the amendments that Annie Wells lodged and her contribution in the committee at the earlier stages. It is challenging when rights are restricted given the knowledge that should be open, but that speaks to the iterative nature that election bills need to have. They are bills of the Parliament as much as they are bills of the Scottish Government. Some members may not agree with me on this, but I envisage that it will not be overly long before we must look again at primary legislation.

In the meantime we have the secondary legislation. If I have any criticism of the Scottish Government, I would draw attention to the role of secondary legislation in this field in particular, and to the extent to which the Scottish Government feels able to decide what it wants in that regard. I look forward to hearing from the minister on that—not necessarily this evening, but at a date early in the new year.

When we were discussing amendments, Keith Brown raised the challenges of dual mandates, which were eloquently debated. One thing that was not mentioned that I think is worth mentioning is the challenge of having two elections, one for a Scottish seat—be it at council level or for this Parliament—and one for the UK Parliament, for which we use very different electoral methods. An historical example of where we tried to do that, with two elections at the same time, categorically showed the challenge of that. There is always a cost element, and we must take that into account.

There are also the electors and their expectation. We are aware from the recent election to this place and from earlier elections that incorrect instructions have been given. Voting and election law is an iterative process.

I will mention a number of other matters that have not, so far, been debated. We touched on the complexity of campaign finance for Scottish elections and the role of third parties and assistance. That is a very complex area, and it would be foolish for anyone to believe that we fully understand it and have got our heads round it, as it is an ever-changing field. Mention of the elections in the US points to something that we need to consider. The election pilots have been talked about at length, and they represent a huge step forward to allow tests in the real world, with the proper restrictions and control. It is open to those who are knowledgeable on the matter to bring such tests forward.

We have not mentioned digital imprints today, and those represent a massive change in how members of this Parliament and people across Scotland will interact with the electorate, noting the requirement for the electorate to understand what is happening.

We touched on the boundary changes, which make sense, and on the Electoral Management Board for Scotland becoming a corporate body, which is important.

In conclusion, this is an iterative step, but it is the right step to take on the 25th anniversary of the reconvening of the Scottish Parliament. It has not all been easy, and complex issues have been highlighted. We are pressing into secondary legislation some very important decisions, which I know members will oversee properly and fully. The Government would expect no less, and the electorate would demand no less from us. However, there is still an on-going discussion to find the best method, because elections are not just from 7 am to 10 pm on election day. They are all the weeks and months beforehand, and they include engaging with young people to ensure that they are registered to vote and that they want to vote, engaging with older people who may never have voted and raising the numbers of people who vote in certain areas. All that is the responsibility of anyone who seeks election. It is also the responsibility of others who have been empowered to do that in the bill.

17:01

Ross Greer (West Scotland) (Green): I said earlier, when moving amendments on aggravators, that our democracy is under significant pressure. The choice facing all elected representatives and parties, not just in Scotland and the UK but across most if not all of the democratic world, is whether to exploit divisions for personal or party advantage or to defend the fundamental principles of a democratic society. Maximising participation minimises the opportunities for negative, hostile actors to undermine trust and legitimacy in our elections, so the bill is welcome in many respects. I am reminded of a phrase that a colleague of mine has used a lot, which is that politics should be something that the public feel we all do together, not something that is done to them by politicians—too often, it feels like the latter.

Following on from Martin Whitfield's closing comments, I think that 25 years into devolution is the right point to consider fundamental questions of reform. In that respect, the bill makes welcome but, I think, limited progress. There was an opportunity for major reform, although I do not want that to be mistaken for any frustration with the bill itself. The progress in the bill is very welcome but, for example, earlier this year, there was some debate—mostly by MSPs but outside of this place—about the size of Parliament. There

were 129 MSPs in 1999, and there are 129 now, but we have far more power and responsibility than we did before. There are significant capacity issues for the Government to have the required number of ministers and for Parliament to have enough MSPs and enough capacity to effectively scrutinise the Government and the wider public sector, and proposals from different parties and, indeed, the Presiding Officer, were made on that very issue.

Martin Whitfield: On that point, should election bills and election law not sit as an animal of this Parliament rather than of the Scottish Government? We have capacity through committee bills and other things, but could one of the iterative moves be to look at that so that we can address as a Parliament the election challenges that are coming down the line?

Ross Greer: I am very grateful for that intervention. Although there is a role for the Government, particularly in resolving administrative issues around elections, as a matter of the health of a democratic system, having wider issues of electoral law and electoral reform sit primarily with Parliament would be very welcome. If Mr Whitfield is perhaps hinting at his committee's interest in future committee bills in that area, I would certainly welcome that.

Jamie Hepburn: That point came up at stage 1, and I think that I was pretty clear then that the Government would absolutely welcome Parliament taking the lead on these matters. What I suggest, with great respect to those members who are concerned about doing so, is that they should get on with it.

Ross Greer: I am very grateful for that intervention from the minister, and for that outbreak of consensus, which has been a pattern in a number of areas of debate, although perhaps there were different motivations in mind for the parties involved.

I moved a number of amendments at stage 2 to address long-standing democratic deficits and barriers to participation. I thank the committee for its patience with the sheer number of amendments that I lodged. Some of those amendments were based on recommendations from the Electoral Commission that had long gone undelivered; others were based on policies that had been long advocated by external organisations; and some were simply the result of my own experience as an election agent, a campaign manager and a member of staff for a party, and of course as a candidate.

I will cover some of those amendments in closing, but I will highlight just one of them now. It was not on aggravators; rather, it concerned the safety of those who are involved in elections. It was an amendment that I lodged at stage 2 and which secured unanimous support, for which I am grateful, on no longer requiring election agents to publish their address. That was based on the experience of an election agent in my party who had an individual turn up at their door on the Saturday after the election, seeking the elected representative for whom they had been the agent. Fortunately, it was an individual who you might describe as overly enthusiastic rather than dangerous, but that was nonetheless extremely alarming for the election agent. That amendment is a small but simple example of the range of measures in the bill that will improve our democratic system.

Despite some frustrations that I have about missing an opportunity for more substantive reform, therefore, the Scottish Greens and I will be glad to vote for the bill this afternoon, for the great many necessary changes that it makes to our electoral systems.

17:05

Alex Cole-Hamilton (Edinburgh Western) (LD): The debate has been excellent, and it gives me pleasure to offer the support of the Scottish Liberal Democrats for the bill before us, which I hope will be passed to become an act of Parliament.

Before I properly begin my remarks, I pay tribute, as others have, to the committee and its work, to those who were involved in the evidence sessions and to the officials working around the bill, who often go unsung.

I am pleased that the bill commands broad support across the chamber. The changes that we are discussing today may seem little, but they are necessary and they speak to our custodianship of our democracy as we leave it for those generations of parliamentarians to come who will fill the chamber.

As Churchill said,

"democracy is the worst form of government, except for all"

the others. What he meant by that is that democracy is imperfect—and it is. As new technologies come online and as we see new realities in our changing population and how we view the world, it is incumbent on us to reflect those changes in the pages of the legislation that we pass in this place.

I am particularly pleased that the legislation will extend candidacy rights at Scottish Parliament and local council levels to people with limited leave to remain in the country. Four years ago, this Parliament—rightly, I think—granted refugees the right to vote in elections in Scotland. It is only right

that, if we extend the franchise to them, they can stand in those elections.

Jamie Hepburn: At stage 1, we heard some concern about enabling such individuals to stand. Does the member agree that it is perfectly possible for such individuals to stand for election, putting themselves before the electorate, and for the electorate to decide whether someone with limited leave to remain can represent them adequately?

Alex Cole-Hamilton: I am grateful for the minister's intervention. He makes the point very well. This place is made better by the richness of the diverse views and life experiences that we bring to the chamber.

I can think of no more deserving voice, which we do not hear enough of in the chamber, than that of somebody who has sought safe harbour and has been given sanctuary in our country. I think that they would seek to serve their community as ardently as anybody who has been elected to the Parliament so far. Those people who are concerned about that should try to defeat the argument on open ground. If they are worried about those candidates representing their community, they should stand against them and let the people—whom we, in this Parliament, trust with so much—be the final arbiter and judge.

As I expressed in my very brief remarks earlier, my party supports, and has supported, the amendments in the name of Graham Simpson—which have been agreed to—to prevent dual mandates, so-called double jobbing. This job is a privilege, but it is all consuming. If you let it, it can destroy your quality of life, your pastimes and sometimes even your family—I would urge members not to let it do that. The idea of somehow being able to hold an equally pressing job in an institution several hundred miles from here is, therefore, completely alien. I am glad that we have finally boxed that off. It was an aberration of the devolution settlement that we have resolved today.

Although I am gratified by the progress that we are making today, we should not lose sight of the things that we still have to do. As we move forward, we need to look at a more robust system for breaches of the ministerial code—we touched on that slightly in the ministerial statement that came before the stage 3 proceedings this afternoon. We also need to give voters the fundamental right to recall their MSPs, which they are afforded with MPs at Westminster.

As I have said several times in the debate, the Liberal Democrats also want an answer to the question of how we verify the suitability of elected members, whether in this chamber or in our council chambers, for the delicate work of supporting vulnerable individuals in times of need. It remains an unanswered question whether we would verify that through the protecting vulnerable groups scheme or a bespoke scheme. I worry and regret that we may be forced to answer that question after something terrible happens. We should not wait for that.

We need to do more. I think that we would all agree that there is a need to encourage the representation in the Parliament of underrepresented groups, whether they be women, LGBT+ minority communities, disabled people or black and minority ethnic groups. It is vital that everybody in our society has a voice in our nation's Parliament and that they are reflected in its make-up.

We also need to encourage people from every background to get involved in the democratic process by engaging with elections and coming out to vote. We should all be pleased that voter turnout at the Holyrood election in 2021 was, at 63 per cent, the highest since this Parliament's inception. However, that still meant that thousands of people did not engage with the democratic process.

I can see that the Deputy Presiding Officer would like my speech to come to an end. I am pleased to offer the support of the Liberal Democrats for the bill. This has been an uncharacteristically jovial and positive debate—let us have more of that.

The Deputy Presiding Officer: We move to the open debate.

17:11

Rona Mackay (Strathkelvin and Bearsden) (SNP): I am pleased to speak in this important debate, which is crucial for democracy and transparency.

The Scottish Parliament—rightly, in my view—agreed not to consent to the UK Elections Act 2022, as it is for our Parliament to legislate on electoral law in Scotland relating to local and Holyrood elections.

As a recent substitute member of the Standards, Procedures and Public Appointments Committee, I had catching up to do on the detail of the bill, and I hope that I manage to capture the crucial elements today.

As we have heard, the bill introduces provisions to expand candidacy rights, protect candidates and campaigners from intimidation and improve administrative arrangements for elections in Scotland.

In what I understand was a largely consensual committee process—that is always the best kind—

the minister worked to bring together all points of view to accommodate different opinions on most areas. Indeed, he stressed an open-door policy in which all views would be considered, and I think that they have been.

Improvements to the bill have been made during the scrutiny process, including amendments at stage 3 that will allow the issue of dual mandates—which has hit the headlines recently—to be addressed before the 2026 election.

On that important issue, the Scottish Government has been clear that it is supportive of ending the practice of dual mandates whereby members of the Scottish Parliament are also able to be members of the UK Parliament or peers. However, it should be noted that the issue was not really discussed at stage 1 and there has been no consultation on the matter, which is why provision to introduce secondary legislation has emerged in the amendments at stage 3.

The Scottish ministers have now committed to holding a public consultation, to allow political parties, the Convention of Scottish Local Authorities and the public to provide views on dual mandates for MPs, peers and councillors prior to the 2026 Holyrood election.

The bill is an opportunity to create an electoral system that improves democratic engagement, including for those who have chosen to make Scotland their home. That is hugely important, and I agree whole-heartedly with Alex Cole-Hamilton's comments.

The bill extends candidacy rights in Scottish Parliament and local government elections to foreign nationals with limited leave to remain, ensuring that all those who live in Scotland can play a bigger part in our democracy. Welcoming all those who choose to make Scotland their home is an important signal, and it is an especially important reform for European Union citizens in Scotland who had their democratic rights removed by the folly of Brexit.

The bill proposes important changes in a number of areas requiring action, including candidacy, voting and electoral administration. It also extends the UK Elections Act 2022 disqualification order to bar those found guilty of offences involving intimidation of campaigners, candidates and elected representatives from being MSPs and councillors. Additionally, it creates a Scottish disqualification order, which will apply to people found guilty of offences involving intimidation of electoral workers.

The legislation makes changes in relation to spending in election campaigns, including to the definitions of notional expenditure, overseas spending and third-party campaigning. Those changes broadly match those made by the Elections Act 2022 for UK Parliament elections.

Learning from recent lessons based on the experience of Covid-19, the Government has included in the bill measures to allow elections to be rescheduled in emergencies. That is an absolutely necessary future-proofing measure.

The bill revokes the existing Scottish regulations on digital imprints, but it adds to the new rules that are applied under the Elections Act 2022.

We have heard that, to support innovation in elections, the bill also allows pilot schemes to be brought forward by the Electoral Management Board for Scotland and by electoral registration officers and Scottish ministers. The bill creates a power that enables the Scottish Government to fund efforts to increase democratic engagement across Scotland.

Another aspect of the bill is the boundary changes, but I do not have time to explain those.

I think that we are all agreed that the bill is a huge step forward and that it will make an important difference to the democratic rights of voters in Scotland. It puts voters first in its programme of electoral reforms.

17:15

Richard Leonard (Central Scotland) (Lab): I begin by reminding Parliament of my voluntary registration of trade union interests.

Next year marks the centenary of the birth of the great parliamentarian, the great democratic socialist, Tony Benn. His view was always absolutely clear that, in a democracy, sovereignty belongs to the people, and they merely lend their power to those who represent them. He used to say that,

"with a stubby little pencil attached to a piece of string, voters can put a cross on a ballot paper that will remove an MP from parliament, or a government from power, without killing anyone."

Hard won by the trade union movement, by the Chartists, by the suffragettes, these are democratic rights, which, history teaches us, we have to keep battling to defend and to advance.

So, I welcome the fact that we have extended the voter franchise and that, today, we are extending the candidacy franchise, too, because I agree with the simple principle that those who can vote in elections should be allowed to stand in elections—although it is worth recalling that, when Jennie Lee was elected in the North Lanark by-election of 1929 as the youngest woman MP ever at the time, at the age of 24, it was before she was even old enough to vote.

In contrast, I reject the argument that we have heard expressed during the passage of the bill that allowing asylum seekers to stand for election and extending civic rights somehow opens up the possibility of "abuse from foreign powers", presumably through sleeper agents, undercover or maybe brainwashed a la "The Manchurian Candidate". I think that is far-fetched. In fact, we should be much less worried about the overseas infiltration of our politics via this futuristic, dystopian plot than we should be worried about the present-day overseas-funded infiltration of our elections and our referenda by dark money and the super-rich.

We should be much less worried about electoral fraud by people who care for and accompany voters with additional needs into our polling stations than we should be worried about the disenfranchisement of people because of digital exclusion, or as a result of Boris Johnson's law requiring voters to produce an identity card.

We should be much less worried about extending voting rights to people who are detained on mental health grounds than we should be worried about the integrity of our very democracy in effect lying in the hands of the owners and the chief executive officers of gargantuan, predominantly US-based, technology corporations.

Dark money, digital disinformation and dirty politics—that is the very real and present danger we are actually facing now. And that is why I support all attempts in this bill to tackle that, to improve transparency, to curb digital disinformation and to introduce better checks and balances on third-party campaigning.

We welcome this bill. We will be voting for this bill and it is right that we see how best we can end the dual mandate. The total abolition of the House of Lords would be one step forward.

Finally, democracy cannot only be about voting in elections. As George Eliot presciently wrote 150 years ago in "Felix Holt, The Radical", a novel on the early days of chartism,

"all the schemes about voting… and annual Parliaments… are engines"—

only—

"the force that is to work them—must come out of human nature."

This is the people's democracy. We have to be its guardian, we have to be its defender, and it is our duty to ensure that that force of human nature is nurtured, is encouraged, is liberated and is put to work for good.

The Deputy Presiding Officer: We move to closing speeches. I call Ross Greer to close on behalf of the Scottish Greens. You have up to four minutes, Mr Greer.

17:20

Ross Greer: I start by thanking all the external organisations and individuals who contributed to the bill and made it stronger. If I have a small note of frustration, it is that there are some organisations and individuals who have had a lot to say about electoral reform over recent years but barely had anything to say during this process or were entirely absent for it.

The process was poorer for their absence, because I have agreed with many of the things that they have said in the past. I know that it might come as a surprise to those of us in the Parliament, but some people do not find legislating to be quite as much fun as campaigning. However, legislating is incredibly important, and I urge those who have made compelling cases about electoral reform to engage with the many consultations that will come about as a result of the bill.

A number of the amendments that I moved at stage 2 but did not press to a vote will now go to consultation. I am glad that the Government has agreed to that. One of my proposals was to deliver on an Electoral Commission recommendation from 2015 to remove cash deposits. It might seem a little odd that it was me who moved that amendment, given that my party can only now—finally—afford to pay deposits and stand in most places. However, I lodged the amendment because, as the Electoral Commission noted, it is wrong to place a financial barrier in the way of people participating in elections.

Of course, some kind of threshold is absolutely required. What we proposed instead, which is common in other jurisdictions, is a requirement to be nominated by a certain number of registered voters in the relevant area—the constituency or the region. I am grateful to the minister for agreeing to put that forward for consultation.

I moved other amendments in that space of democratic reform, one of which would have replaced council-level by-elections when a councillor has to vacate their post with the nomination of replacement councillors. That would simply replicate the system that a number of other countries that use the single transferable vote system have in place to recognise that a single-member by-election for a multi-member ward often distorts the result and results in a number of people going without the representation that they chose at the election.

I found it interesting that a number of members from different parties spoke to me about that proposal outside the committee proceedings, to either strongly agree with or oppose it, and there was no pattern based on which party they were from in the positions that they took on that. That

was reflected in many of the issues that we addressed in the bill.

I thank Ben Macpherson for raising at stage 2 the issue of having residency as a candidacy requirement. It is a shame that we could not agree to his amendment on that. I do not think that it is controversial to say that someone should be resident in Scotland in order to stand for election to the Scottish Parliament. I hope that, although that will not be the case for the election in 2026, it will be the case subsequently.

The bill builds on a strong legacy of electoral reform in the Parliament. We have introduced votes at 16 and voting rights for refugees, which I was reminded of in the past few weeks due to recent events in Syria and the downfall of the Assad regime. At the 2021 election, I ran into two friends of mine who were Syrian refugees and who voted at the same polling station as I did. I am sure that they would not mind me saying that they were both middle-aged people who, for the first time in their lives, were casting their votes in a free and fair election. That was because this Parliament decided that they, as residents of this country, had just as much right to have a say in who governs the country as any other resident. I would contrast that legacy of electoral reform here with the previous UK Government's record on the introduction of voter identification, which is an entirely unnecessary requirement.

In closing, I thank the minister and the bill team for their co-operation; Graham Simpson for his incredibly important amendments; and George Adam for the approach that he took in kick-starting the process. I would like to agree with not just Alex Cole-Hamilton but Winston Churchill, which is not something that I do very often. Mr Cole-Hamilton reminded us of that famous Churchill quote that democracy is the worst system, apart from all the others. It is indeed a messy and difficult way to run a society, but it really is the only way that is worth trying. As I said earlier, politics should be something that we, the people, all do together, and it should not be something that is imposed on the public by politicians. I am glad that the bill takes us a little bit further towards that eventual goal.

17:24

Martin Whitfield: The quality of the past 40 or so minutes of debate underlines the quality of the interaction and cross-party working that the bill has involved. I welcome Rona Mackay to the committee and thank her for her contribution. I agree that we reached consensus and that we did so reasonably well. When we disagreed, we did so reasonably—if we showed that skill at other times, perhaps people would look less disrespectfully at the chamber sometimes.

We sought solutions to the problems that we were confronted with, which were brought to us by people from outside who gave evidence in our committee sessions. That was evident in the nature of the amendments that were lodged, because there are solutions to the problems.

I echo Richard Leonard's speech: the real challenge is what sits outside looking in at and attacking democracy. Those people fear democracy and have the ability, given their large sums of money, to overturn an election, if they choose to do so, almost irrespective of campaign finance rules.

It is worth reflecting on the nature of the people who exercise their vote now. In the UK general election, there was the rise of a new political party. It has managed to speak to the electorate, and people are coming out to vote for it at council elections, for which turnout is very low, as we have heard. All of us who sit here have a responsibility to challenge that, to take truth to the people and to say that, often, what is in front of them are different options for achieving an agreed goal: having a better country to live in.

At times, the bill has been very challenging. Selfishly, I reiterate my thanks to the committee clerks, who put up with some frustratingly silly questions from me and took the time to ensure that I sometimes almost understood what I was asking other people to do. We are supported by groups of people without whom so much of this would be massively challenging.

I will conclude by talking about voters themselves: the individuals who pick up a stubby pencil, which is often still attached with string—people sometimes wish to take a pen because of concerns about the system—to do the individual thing of casting a vote in a booth. I hope that the pilots will allow us to consider people who, instead of voting 1, 2, 3, put a number of Xs and people who choose to express their views in an artistic form that perhaps does not result in a vote being counted but which sometimes causes slight amusement at the table at the far end of the counting hall, where there are arguments about exactly whom the person is expressing an interest in.

I am conscious of the time—I hope that we can reach decision time at the appropriate moment—so I once again thank all the members who interacted with the committee and took the time to come forward with points and ideas.

I go back to what I said in my opening speech: this is an iterative process. I might well take up the offer that the minister expressed about getting on and doing it ourselves. We might take up that offer with enthusiasm, so I hope that he does not regret making it. I hope that, in formulating a democratic

system that is perhaps the best of the worst, we can move forward so that people feel that this is their Parliament, that their council is their council and that the people who represent them truly represent them.

17:28

Sue Webber (Lothian) (Con): Scottish Conservatives understand that electoral policy does not stand still and that the bill will update the law in time for the 2026 Holyrood election. Electoral reform that improves the running of Scottish elections and, at the same time, makes our democracy more transparent is very welcome, and I thank the minister for working closely with us throughout stages 2 and 3.

Although my colleague Annie Wells's amendments were not pressed to a vote, it was important to debate the issues that she presented to the chamber. Earlier, Martin Whitfield acknowledged the challenges with balancing various rights. I do not believe that sex offenders should ever be allowed to hold public office, regardless of the level, so I hope that, at some point, the Government will take the bold step of reviewing that complex issue, because I do not believe that it can be ignored.

I will briefly touch on the amendments that focused on dual mandates, whether they involve councillors, MSPs, MPs or members of the House of Lords. I am quite relieved that the proposals will first have to go to consultation in order for us to gain a better understanding of the unintended consequences that they might have, and that some of them may progress no further than that. Martin Whitfield mentioned some of the pragmatic elements in relation to costs and having elections that are run concurrently, given the different electoral methods—and the instances of different incorrect instructions that have happened in the past.

I certainly hope that any consultation will be open and fair, and that views will be accepted without any prejudged conclusions. I had a dual mandate for a period of 12 months: I was a councillor for the Pentland Hills ward in Edinburgh while I was a regional MSP for Lothian. It was a genuine privilege to do both, and I believe that there was not a second during that period when I let down any of my constituents, either as a councillor or as an MSP. I say to Mr Cole-Hamilton that that is perhaps because it was not hundreds and hundred of miles away, but just up the hill.

I do not think that I would ever have become an MSP had I not been a councillor first. My involvement in local government was a great place to gain experience and cut my political teeth while letting me stay heavily involved in my local community and learn more about what other opportunities in politics exist, such as being an MSP or an MP. If that was no longer possible, I know that this Parliament would suffer from missing out on a diverse range of potential MSPs.

A lot has been made of elected representatives double jobbing and taking double pay while they do dual roles. As an Edinburgh councillor, the payroll system made it quite straightforward for me to arrange for my councillor salary to go directly to two nominated charities in the Pentland Hills ward, without the money ever coming to me or my bank account. It was an honour to support those two charities for the period of 12 months, and I know from feedback that the money was spent locally and directly supported families and individuals in need.

The minister highlighted some of Bob Doris's amendments that spoke to the high rates of spoiled ballots, and Martin Whitfield spoke about some of the animations that we all see. We also heard Ross Greer's ideas about compulsory registration—or, rather, automatic registration, to get the terminology right.

So much of what we have heard today was also discussed before this afternoon. As Mr Greer pointed out, maximising participation will enhance the trust that people have in politicians. We all need that to be restored quickly.

With the Scottish Government introducing further electoral reform legislation next year, in readiness for implementation in time for the next Holyrood election, we will work constructively with colleagues from across the chamber when the time comes, as we have done so far.

The minister spoke of the many planned consultations. I hope that they will be managed to ensure that there is successful engagement and that the public does not get consultationitis. It is, after all, in all our interests to create a more transparent and smoothly run Scotland in which people across the country go to the polls to choose their elected representatives.

The minister called this Parliament's bill. To conclude, I formally state that the Scottish Conservatives will support the Scottish Elections (Representation and Reform) Bill.

17:33

Jamie Hepburn: I thank everyone who has contributed to the debate for setting out a wide-ranging and positive set of contributions that reflects the constructive dialogue that has taken place throughout the parliamentary process. However, I was rather surprised to hear Martin Whitfield say at the outset of his speech that the bill is one that has haunted him. I do not know

whether that is because we are approaching the festive season, but I have never thought of him as an Ebenezer Scrooge-esque figure who is haunted by any form of spectre. I hope that the successful passage of the bill will exorcise him of any haunting sensation that he has hitherto experienced.

Annie Wells mentioned our collective desire to have an electoral system that is constantly updated, refined and improved. I very much agree with that. I also reflect on the fact that the bill has been refined and improved over the period of its passage through Parliament. That in itself has served to better refine and improve our electoral system.

Annie Wells also said that electoral law is not static, which I agree with. Indeed, that is why we have already indicated the activity that we will undertake, and it is why, through the process of not recognising electoral law as static, I have announced that the Government intends to carry out two consultations on issues that have been raised throughout the passage of the bill. In January, I will publish a consultation on the detail of dual mandates, ahead of introducing regulations in the autumn—informed by that consultation—that will bar dual mandates so that MPs and peers cannot also be MSPs.

I very much appreciate and thank Rona Mackay for her remarks about my willingness to engage with others. She really spoke to the necessity of that form of consultation because, although we have established our position on what we should do, we need to get it right, and that is what that consultation is designed to do.

I should say, in relation to Richard Leonard's remarks, that I very much agree and concur with him that the best way to deal with the prospect of a dual mandate for a member of the House of Lords is his preferred solution. I also have a solution as to how we could end the practice of dual mandates for MPs and MSPs, which would be for Scotland not to send anyone to serve in the House of Commons and to become an independent country. I look forward to Richard Leonard coming to the same conclusion in due course.

I will publish a second consultation in the spring on issues such as residency requirements, deposits, by-elections and disqualification. Those issues arose, frankly, as a result of amendments that were lodged at stage 2. I had not planned on taking forward such a consultation, but, as those suggestions were proffered earnestly, I have determined that we should consider them further and take forward a consultation.

I have already spoken of the plans to have a review of the boundary-setting process, which indicates that we are likely—Martin Whitfield made this point—to return to the need for further primary legislation should we seek to introduce any form of automaticity.

Martin Whitfield: I am grateful to the minister for returning to, if not my haunting, my favourite issue of automaticity with regard to boundary review. We need to fall in line with the rest of the democratic world in relation to boundary justifications. I look forward to the Government's proposals in that consultation and, if possible, the primary legislation either in this parliamentary session or in the very near future that will enable that to come about.

Jamie Hepburn: In the interest of transparency, I note that it is very unlikely that any such legislation will be introduced in this session, but we will take that forward as soon as possible as a review process. I will, of course, ensure that Mr Whitfield's committee is kept apprised.

On the issue of who should have responsibility for activity related to refining our electoral process, is that the legislature or the executive? Following the exchange between Mr Greer and Mr Whitfield, my intervention on Mr Greer might have seemed a little supercilious, but it was not entirely meant to be. I genuinely make the point that I would welcome proposals emerging from the Parliament, and Mr Whitfield is very welcome to come and speak to me about proposals. He suggests that I might regret that, but I can assure him that my disposition will be less Frank Sinatra in "My Way" and much more Edith Piaf. I said that just so that I could mention Frank Sinatra; "The Manchurian Candidate" was mentioned earlier by Mr Leonard, so I thought that Sinatra deserved a mention.

The Government has a role to play in this process. Candidly, the Government probably has more capacity than the Parliament to take forward reform of electoral law, and I hope that the process of the bill demonstrates that I am more than willing—within reason, of course—to ensure that the Government's capacity can be used by MSPs to make changes to electoral law. That capacity exists, and members can discuss issues with me, including the composition and size of the Parliament, which Mr Greer mentioned. That was not a proposition that he or anyone else made for the bill, but I will be candid and say that I would have welcomed that, although it probably would have overshadowed any debate that we had on dual mandates. If members want to suggest other ideas, I will be happy to engage with them.

I conclude by again thanking members for their contributions and the important progress that we all seek to make in developing our democracy. The bill will improve and modernise Scottish elections and will take important steps to safeguard our democracy for voters, candidates

and administrators alike, but for voters in particular. I was taken by Mr Leonard's quoting of Tony Benn, who said that

"sovereignty belongs to the people",—[*Official Report, House of Commons*, 21 May 1990; Vol 173, c 134.]

and they merely lend it to those who are elected. I fundamentally agree with that, and the bill serves to preserve that principle.

On that basis, I commend the bill to Parliament and hope that we will pass it.

The Presiding Officer (Alison Johnstone): That concludes the debate on the Scottish Elections (Representation and Reform) Bill at stage 3.

Decision Time

17:40

The Presiding Officer (Alison Johnstone): There is one question to be put as a result of today's business. The question is, that motion S6M-15875, in the name of Jamie Hepburn, on the Scottish Elections (Representation and Reform) Bill, be agreed to.

As this is a motion to pass the bill, the question must be decided by division, so there will be a short suspension to allow members to access the digital voting system.

17:40

Meeting suspended.

17:43

On resuming—

The Presiding Officer: We come to the vote on motion S6M-15875, in the name of Jamie Hepburn. Members should cast their votes now.

For

Adam, Karen (Banffshire and Buchan Coast) (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)
Briggs, Miles (Lothian) (Con)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Brown, Siobhian (Ayr) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Carson, Finlay (Galloway and West Dumfries) (Con)
Chapman, Maggie (North East Scotland) (Green)
Choudhury, Foysol (Lothian) (Lab)
Clark, Katy (West Scotland) (Lab)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Cole-Hamilton, Alex (Edinburgh Western) (LD)
Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dowey, Sharon (South Scotland) (Con)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Duncan-Glancy, Pam (Glasgow) (Lab) [Proxy vote cast by Paul Sweeney]
Eagle, Tim (Highlands and Islands) (Con)
Ewing, Annabelle (Cowdenbeath) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gibson, Kenneth (Cunninghame North) (SNP)
Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
Golden, Maurice (North East Scotland) (Con)
Gosal, Pam (West Scotland) (Con)
Gougeon, Mairi (Angus North and Mearns) (SNP)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Neil (Airdrie and Shotts) (SNP)
Greene, Jamie (West Scotland) (Con)

Greer, Ross (West Scotland) (Green)
Griffin, Mark (Central Scotland) (Lab)
Gulhane, Sandesh (Glasgow) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hoy, Craig (South Scotland) (Con)
Hyslop, Fiona (Linlithgow) (SNP)
Johnson, Daniel (Edinburgh Southern) (Lab)
Halcro Johnston, Jamie (Highlands and Islands) (Con)
Kerr, Liam (North East Scotland) (Con)
Kerr, Stephen (Central Scotland) (Con)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Leonard, Richard (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
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) [Proxy vote cast by Rona Mackay]
Marra, Michael (North East Scotland) (Lab)
Martin, Gillian (Aberdeenshire East) (SNP)
Mason, John (Glasgow Shettleston) (Ind)
Matheson, Michael (Falkirk West) (SNP)
McAllan, Màiri (Clydesdale) (SNP) [Proxy vote cast by Jamie Hepburn]
McArthur, Liam (Orkney Islands) (LD)
McCall, Roz (Mid Scotland and Fife) (Con)
McKee, Ivan (Glasgow Provan) (SNP)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP) [Proxy vote cast by Jamie Hepburn]
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)
Mountain, Edward (Highlands and Islands) (Con)
Mundell, Oliver (Dumfriesshire) (Con)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
O'Kane, Paul (West Scotland) (Lab)
Regan, Ash (Edinburgh Eastern) (Alba)
Rennie, Willie (North East Fife) (LD)
Robertson, Angus (Edinburgh Central) (SNP)
Robison, Shona (Dundee City East) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Rowley, Alex (Mid Scotland and Fife) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Simpson, Graham (Central Scotland) (Con)
Slater, Lorna (Lothian) (Green)
Smith, Liz (Mid Scotland and Fife) (Con)
Smyth, Colin (South Scotland) (Lab)
Somerville, Shirley-Anne (Dunfermline) (SNP)
Stevenson, Collette (East Kilbride) (SNP)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Stewart, Kaukab (Glasgow Kelvin) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (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)
Webber, Sue (Lothian) (Con)
Wells, Annie (Glasgow) (Con)
White, Tess (North East Scotland) (Con)
Whitfield, Martin (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

The Presiding Officer: The result of the division on motion S6M-15875, in the name of Jamie Hepburn, on the Scottish Elections (Representation and Reform) Bill, is: For 111, Against 0, Abstentions 0.

Motion agreed to,

That the Parliament agrees that the Scottish Elections (Representation and Reform) Bill be passed.

The Presiding Officer: The motion has been agreed to and the Scottish Elections (Representation and Reform) Bill is passed. [*Applause*.] That concludes decision time.

Same-sex Marriage

The Deputy Presiding Officer (Liam McArthur): The final item of business this evening is a members' business debate on motion S6M-15775, in the name of Emma Roddick, on celebrating 10 years of same-sex marriage in Scotland. The debate will be concluded without any question being put. I ask members who wish to participate to press their request-to-speak buttons, and I invite Emma Roddick to open the debate.

Motion debated,

That the Parliament celebrates 10 years since the Marriage and Civil Partnership (Scotland) Act 2014 came into force, legalising same-sex marriage in Scotland; welcomes what it sees as the decade of love, respect and freedom of choice that has followed the implementation of the Act on 16 December 2014; understands that over 9,300 same-sex marriages have been recorded by National Records of Scotland to date; recognises what it sees as the bravery and tenacity of LGBTQI+ and equalities campaigners who brought about the conditions for change, and who, it considers, continue to advance the rights of minorities; further recognises what it sees as the ongoing international struggle for marriage equality, with, it understands, same-sex marriage being legal in only 36 states across the globe; considers that Scotland is one of the most LGBTQI+ friendly nations in Europe, with strong LGBTQI+ legal equality and the world's first LGBT-inclusive curriculum, and notes the calls on the Scottish Parliament to stay determined in its defence of the rights and wellbeing of LGBTQI+ people in Scotland, including in the Highlands and Islands region, and to act as a progressive global exemplar in the face of what it sees as reactionary political currents.

17:47

Emma Roddick (Highlands and Islands) (SNP): I am grateful to all the members who join me tonight in celebrating 10 years since same-sex marriage was legislated for in Scotland by a Scottish National Party Government.

Ten years does not seem long enough ago for that to have had to happen, given that it is something so simple, but I know how difficult it was and how much courage it took for politicians in the Scottish Parliament to carry on and do the right thing, regardless of well-funded detractors and entirely normalised homophobia, lesbophobia and biphobia in much of the press and in their correspondence. Many colleagues who are sitting around me today were part of that fight, alongside campaigners, lobby groups such as LGBT Youth Scotland, and ordinary people across Scotland who just wanted to marry the person who they love.

More than 10,000 couples have since taken advantage of being able to marry. I wish them all the greatest joy in their marriages, and I wish those first couples who embraced the change in law a very happy 10th anniversary this month. I have found it very moving to hear some of their stories repeated in the past few days, and I want to particularly recognise the work of Andrew Henderson, a sports reporter at Highland News and Media. I cannot overstate the importance of the media representing real people, real relationships and the benefits of treating people equally. Too often, we see the work of a minority of journalists who are looking to generate clicks and comments through outrage rather than reporting for good.

However, Andrew Henderson's coverage in today's *Inverness Courier* of Kevin Crowe and Simon Long, the first Highland couple to take advantage of same-sex civil partnerships, is thorough and empathetic. There are reflections in the piece about the challenges that they faced in getting their partnership recognised, despite the law allowing it, the backlash that they faced from locals who wrote to the local newspaper and the response of the Catholic church, of which they are committed members.

The step forward in legislation here precipitated other changes, such as the Church of Scotland and the Scottish Episcopal Church allowing members to conduct religious ceremonies for same-sex marriages. I know how important it is to LGBTQ people of faith to be able to marry their loved one in a way that also reflects their faith, and I hope that more churches will follow that example.

I want to highlight one quotation from the piece:

"We both recall the days when the expression of our love was considered to be a crime and our sexuality a mental illness, so we decided we wanted to enter a civil partnership on the earliest date allowed by the law—which was December 21, 2005. When same sex marriage was introduced, we also wanted to be married as soon as possible. We took our civil partnership documents to the council offices and the registrar changed its status to a marriage. So our marriage certificate is actually dated 2005!"

I love that they have been able to have their civil partnership, which, to them, was a marriage in all but name, recognised in the way that they saw it. I am sure there are many out there with on-paper anniversaries that do not reflect how long they know that they have been married. We must ensure that that is not the case for couples in the future.

I say that because although we have made it to a decade of same-sex marriage equality in Scotland, progress is a constant battle, and achievements are not promised forever. What is done can be undone. There are threats to the right to marriage equality, and there are people who would see it removed, just as there are couples in Scotland who still cannot marry the person they love without official documents misrepresenting their identity—trans people without a gender

recognition certificate. There are mixed-sex couples, who may be LGBTQ+, who are still unable to convert their marriage to a civil partnership. I have written to the minister and the United Kingdom Government seeking to rectify that.

What I am saying is that there is a lot more to do. When I lodged the motion, I sat and wondered for a long time how, had we not been able to get the legislation passed in 2014, the vote on the bill would go if it were held today. I could not answer that question with certainty, and nor could I be sure that the bill would actually become an act. I say that because, as an LGBTQ+ member of this Parliament, I have seen LGBTQ+ phobia. I have been personally subject to homophobia in the building, and I have heard people say things about others, and even themselves, that haunt me. Therefore, I appreciate the difficulty of the environment right now in proceeding with making the next necessary progress, despite the SNP's clear commitment to and record on it.

This Parliament, reflecting the Parliament that allowed same-sex marriage 10 years ago, overwhelmingly supported changes to GRCs for the trans community. The bill was then blocked by the UK Government. Much of the correspondence that I received during the bill's progress, and much of the commentary on social media, strayed from transphobia to homophobia very quickly and easily. It was a reminder of how far we still have to go.

When I was in the minister's position, the stories about conversion practices that I was told by LGBTQ+ people were harrowing, heartbreaking and even painful to listen to and to recall. I can understand why we are struggling to make progress on trans rights, on banning conversion practices—it is sad and horrific that such torture is still being inflicted on LGBTQ+ people in Scotland—and on non-binary equality. However, that does not mean that we should not try to take any small steps that are possible and call out the behaviours and speech that seek to tear down my community and force us back into the shadows. I would rather lose trying to do the right thing than not attempt it at all. At least the LGBTQ+ community will be certain that we are on its side.

Given that the new UK Labour Government has shamefully refused to lift the Tories' veto on the democratically reached position of this Parliament on the Gender Recognition Reform (Scotland) Bill and, just last week, denied access to puberty blockers for trans youth, I am sure that the minister will understand why there is little confidence out there that it is a Government that might take positive steps towards banning conversion practices. Therefore, I would be grateful if the minister could expand on the Scottish Government's current position on its plans for introducing a bill on that.

I will conclude by reiterating my deep joy for all those who have been able to marry in this country, celebrating themselves and their relationships and having all of that love recognised in law—just as mixed-sex couples could do. Having seen the often feral reactions to our very presence in public life, I often think that LGBTQ+ people are still seen as rebels for just existing; I say keep rebelling.

Happy anniversary to those who had the first weddings that were conducted after the law changed, and best wishes to the other 10,000 and to the next 10,000 couples who will make use of this important law.

The Deputy Presiding Officer: We move to the open debate.

17:54

Jackson Carlaw (Eastwood) (Con): I congratulate Emma Roddick on bringing the debate to the chamber. What a different place the chamber is tonight—I well recall the absolutely packed public gallery and the celebratory atmosphere in here 10 years ago.

When I finally leave this place, the things that I will remember, and with which I will feel most proud to be associated, are things that have nothing to do with the Conservative Party. They include: the campaign for assisted dying; Trish Godman's campaign on wheelchairs, which I remember from my first session of Parliament; Amanda Kopel's campaign for free care for those who are suffering from dementia at an early age; the campaign for women affected by mesh; and, above all, the campaign for same-sex marriage. I am the only Tory left in the Parliament who was here, and who voted for the legislation, in 2014.

In fact, when I look across at Patrick Harvie, I think that, in all the years that we have served together in Parliament, we have had very little in common whatsoever, except that we share an interest in "Doctor Who" and in assisted dying, and we were two of the leaders of the cross-party campaign in Parliament for same-sex marriage. I remember the garden lobby being packed to the rafters with people who were here as we campaigned for that same-sex marriage legislation back in 2014. It truly was a transformative moment in the lives of so many people.

I do not want to upset Emma Roddick's narrative, but this Parliament followed Conservative-led Westminster, which introduced same-sex marriage legislation in the rest of the country before we did so here. I observed at that time that I had many gay friends—I made the point that

"I am in the Tory party after all."—[*Official Report*, 4 February 2014; c 27348.]

Plus ça change, plus c'est la même chose—the world goes on.

I said then that I had been happily married for 26 years, and I wanted everyone in Scotland to have that same opportunity. Now I am 36 years happily married, and more than 10,000 same-sex couples have taken the opportunity to get married. Some of those marriages will have been a success, and some will not—that is not the point. The point is that everybody has an absolutely equal opportunity to enjoy the benefits of that union, and I am immensely proud of the job that we did in enabling that.

I have observed, for example, what happened with Whitelee wind farm in my constituency, and how all the opponents of that wind farm said that it would scar the landscape. Now, there is a generation who have grown up with the wind farm being there who think nothing of it. I think that it is remarkable that, 10 years on, there is a generation of older teenagers who were a little young at the time to have understood their own sexuality, but who, as they have matured, have done so in an environment in Scotland in which nobody is bothered by, or questions, their right to have the ability to choose what they want to be, where they will be and the union that they will eventually be able to have.

Challenges remain, and Emma Roddick identified some of those. My record, and my conscience, is clear on all these issues: I have voted, I think, consistently, on all such bills that have passed through the Parliament. I think all the time of friends of mine from the 1980s, some of whom died of AIDS, who did not have such opportunities and who endured an entirely different climate. Even now, I can get quite emotional thinking of some of those people. That was one of the key things that motivated me, when I came into Parliament, to be absolutely determined, as a straight person, to fight for the rights of everybody to have the same rights that I and my wife, and so many other people, had enjoyed.

The mood on that day in 2014 was genuinely celebratory. People were laughing and cheering, and applauding—they were doing all the things for which the Presiding Officer might consider suspending Parliament these days without so much as the drop of a hat—so much so that I introduced a little bit of levity. I thought, "Well, if you can't introduce a bit of musical theatre into an occasion like this, when can you?"

This time, I conclude with these words for all the gay people, for the trans people, for the bi people—whatever. We are what we are; we are our

"own special creation",

and

"Life's not worth a damn,

'Til you can"

stand up and say,

"I am what I am."

The Deputy Presiding Officer: I think that we have achieved another first there, Mr Carlaw.

17:59

Paul O'Kane (West Scotland) (Lab): It is often very difficult to follow Jackson Carlaw in any debate, and particularly in this debate, but I will try.

As a child and in my early teens, I was an altar boy; I know that this will be difficult for some colleagues to imagine, but I was told that I was quite angelic. I especially liked to serve on the altar at a wedding, not just because I often got a tenner in an envelope from the best man at the end, but because I loved watching, up close, the joy on a couple's face when they made their vows and exchanged their rings, and were declared to be married—when two people publicly committed their love to one another for life, in front of their family and friends and God. How could I not be moved? It is a moving occasion, and I think that, even as a child, I realised how moving such an occasion was.

As I got older, however, I started to think about whether that was something that would ever happen for me, and to me. In coming out, you ask yourself many fundamental questions: "Is this normal?"; "Will things get better?"; "Will I love and be loved?"; and "Will I be happy?" In some of those moments, the world becomes quite a dark place, and in the 1980s and 1990s, and indeed in the early noughties, the world was quite a dark place for gay people. The idea of two men or two women getting married seemed unthinkable.

As I said in my first speech in the chamber, however, people lit the darkness through their campaigning and their advocacy, and through taking brave decisions in this place and in our United Kingdom Parliament. It was a Scottish Labour Government that repealed section 2A of the relevant legislation—also called section 28—and a United Kingdom Labour Government that introduced civil partnerships and adoption rights. Those were all hopeful moments on the journey to equal marriage. All were hard fought for and hard won, and were sometimes opposed or frustrated, even by those who subsequently sat in the chamber and supported equal marriage in a later period. The path to progress is never smooth.

Nonetheless, in 2014, Parliament did what that young boy in Neilston thought was impossible, and legislated for equal marriage. In doing so, it gave me part of the answer to the questions that I had asked myself while watching those newlyweds walk out of the church, hand in hand, to begin their life together.

Those questions were perhaps more fully answered for me when I met Alan, I fell in love and I asked him to marry me. When we stood there on 14 August 2021, I was able to reflect on how far we had come and the fact that we stood on the shoulders of all those people who made it possible, but also to reflect on all those who lived in secret and experienced the pain of passing without ever having their love recognised in law and with their families and friends. We raised a glass to all those people at what was—I must say—quite a party.

As we have heard, 10 years on from that moment in the chamber, there are thousands of people who have married, as I have; thousands of committed relationships with thousands of happy moments and thousands of times of holding each other in times of sadness—and the odd fight, I dare say. Thousands of our fellow citizens have had their love and commitment recognised as equal before the law, and that is simple, yet incredible.

We know that there are still opponents and that, in some ways, we are going backwards. We know that some people still think that faith and being LGBT+ are incompatible, and that marriage can only be between a man and a woman. People often ask if that makes me angry, and more often than not, I say that it does not make me angry—it makes me sad. It makes me sad that someone could look at 10 years of equal marriage and be unable to see the immense joy that those rights have brought for people who love one another and to our families and our friends.

We are not going back, because this Parliament has built a sure foundation, and there will always be people to stand here and fight for it.

That sentiment is perhaps better summarised by the great Seamus Heaney, whose words featured at our wedding:

> Masons, when they start upon a building,
> Are careful to test out the scaffolding;
>
> Make sure that planks won't slip at busy points,
> Secure all ladders, tighten bolted joints.
>
> And yet all this comes down when the job's done
> Showing off walls of sure and solid stone.
>
> So if, my dear, there sometimes seem to be
> Old bridges breaking between you and me
>
> Never fear. We may let the scaffolds fall
> Confident that we have built our wall.

18:04

Rona Mackay (Strathkelvin and Bearsden) (SNP): It is an absolute pleasure to speak in this landmark debate celebrating the 10th anniversary of the passage of the legislation on same-sex marriage. I thank my colleague Emma Roddick for bringing it to the chamber, and for her customarily passionate speech. I also thank Paul O'Kane for making such a lovely personal speech.

The Marriage and Civil Partnership (Scotland) Act 2014 legalised same-sex marriage in Scotland, with the law coming into effect on 16 December, and the first same-sex marriage ceremony taking place on hogmanay the same year. The legislation was passed two years before I was elected, and it is definitely a huge regret for me that I was not in the chamber that day to celebrate the passing of that joyous legislation. I am really quite jealous of Jackson Carlaw having been here to experience that.

I understand that campaigners stood up in the gallery and applauded, against the rules of the chamber, and I am pretty sure that more than a few tears were shed, too. I would love to have been at the first same-sex marriage ceremony that took place on hogmanay that year—what a celebration that must have been. Since 2014, more than 10,000 same-sex couples have married in Scotland. That is a lot of happy people who are now able to live and love as they choose.

There can be few of us who do not know people, or who do not have family members, in same-sex marriages. As ever, though, we cannot take equality for granted. We must stop treating same-sex relationships as being somehow different, special or exceptional. They are most certainly not—they simply reflect the make-up of our diverse society.

My office manager and his husband will have been married 10 years this February—they did not waste any time in tying the knot after the legislation was passed. They did it, in fact, in a cave in Iceland, and those happy memories of an amazing day are remembered by many of their guests. Now, having adopted two siblings as babies, they are living life as one happy—if, at times, chaotic—family. You could not hope to see happier children or a more contented family.

The bill that was passed 10 years ago is proof that legislation can enhance and improve society at every level, but—as with all issues concerning inclusivity and what can be termed by some as "moral issues"—it was not easy to get it passed. That is why so much credit must go to the campaigners who gave so much of their time and energy over the decades leading up to 2014, and to those who are still campaigning to ensure inclusivity for all in a diverse modern Scotland.

They are the trailblazers to whom future generations will owe so much.

To be able to live and love freely, regardless of sexual orientation, is fundamental to a civilised society. Thankfully, young people who are growing up today do not see the stigma that existed for many people of my generation. We must consign discrimination of every kind—sexual, gender, race, disability and more—to the dustbin. Scotland is a tolerant and inclusive society, and any form of discrimination must be called out by each and every one of us.

To all the happy couples out there who have benefited from this decade-old legislation, I say this: "Thank you for being true to yourselves and for committing to living your life as you wish, with the love of your life. You have paved the way to happiness for future generations."

18:07

Maggie Chapman (North East Scotland) (Green): I thank Emma Roddick for lodging her motion and for bringing this important debate to the chamber. I whole-heartedly agree that the introduction of same-sex marriage in Scotland is a matter for enthusiastic celebration, but I am not sure that a characterisation of the past decade as one

"of love, respect and freedom of choice"

really tells the whole story. Equal marriage has, to some extent, been the low-hanging fruit of equality—reform with which we feel comfortable, and which extends our families and communities, gives us more occasions of festivity and provides extra ballast to the institution of marriage. However, we are misremembering if we think that it was easy, and Emma Roddick is right to highlight the bravery and tenacity of the early activists.

Looking back at the debates in the Parliament, I see some of the same tropes that we have heard recently in relation to the rights of transgender people—about supposed harms to children, none of which have materialised; about regressive beliefs being worthy of respect; and about redefinition of words, whether the word is "marriage" or "woman", as if language were not perpetually evolving. It is only in retrospect that reform seems inevitable.

Marriage is of deep importance to many people, carrying, as it does, such a rich history of tradition and romance, and of religious and secular connotation, but that is not what everyone wants. In England and Wales, married couples for whom civil partnership is a better reflection of their personal values can convert their marriage to a civil partnership. In Scotland, they still cannot—the decade of freedom of choice has not delivered for them.

I understand that the previous Secretary of State for Scotland expressed his agreement in principle to the section 104 order that would be needed to bring about that change. Unfortunately, the present Labour incumbent has not yet replied to the cabinet secretary, or to my colleague Ariane Burgess MSP, both of whom have written to him on that. Perhaps members here this evening could give him a little nudge.

Emma Roddick's motion claims that

"Scotland is one of the most LGBTQI+ friendly nations in Europe".

I want to agree, but I really do not know whether that is true. Yes, we have legal equality and an inclusive school curriculum, but real-life experiences, especially of young people and especially of transgender people, give us little on which to congratulate ourselves.

Recent reports from LGBT Youth Scotland, compared with those of five years earlier, show significant declines in the number of young LGBTQIA+ people who believe that Scotland is a good place for them to live. Those in rural areas are particularly unlikely to feel valued or welcomed, while many feel unsafe in, or unsupported by, healthcare services. Of course, Wes Streeting's devastating announcement last week, which was made with neither evidence nor compassion, will have compounded those experiences of rejection and exclusion.

A recent project with LGBTQIA+ young people in the east of Scotland asked them to explore their rights under the United Nations Convention on the Rights of the Child and to identify those that are most relevant to their lives but are not being fulfilled. The right to non-discrimination, the right to be listened to, the right to education, and the right to protection from violence, abuse and neglect are all being breached for a substantial number of our young people. That is a matter of deep collective shame, and it underscores the urgent need for action, including a comprehensive ban on conversion practices.

Emma Roddick asked us to stay determined. Absolutely—but I would say more. If we are truly to honour the achievement of 2014, we must discover new wellsprings of courage, compassion, solidarity and will.

18:12

Jamie Greene (West Scotland) (Con): I thank Emma Roddick for allowing us to have this debate. It is a great pleasure to take part in it.

My goodness! I thought that Jackson Carlaw was about to sing at the end of his speech.

Thankfully, he did not. I have never said this publicly in the chamber, so I would like to thank him for what I describe as his unwavering support of the LGBT community during his time in Parliament. I know that he will get many of the same messages and emails that I get regarding some of the positions that he has taken on votes in Parliament. I understand how those make me feel, and I can only imagine that the same will be true for him. It is worth putting those thanks on the record.

I also want to start by saying something controversial, which is that I do not think that there is any such thing as "gay" marriage; it is just marriage. It is marriage between two people who presumably love each other and want their relationship to be recognised in the eyes of the law, and who sometimes just happen to be of the same sex—because marriage is as symbolic as it is legal. I say that as someone who is not married. Perhaps, one day: you never know.

We should reflect on the fact that the story of equal marriage in Scotland is conjoined with the struggle for wider LGBT rights. From right back to the two men who first solemnised their marriage in Minnesota in 1971, it took Scotland until December 2014 to come to the same conclusion. As was pointed out, England and Wales did so some nine months earlier. Ontario—my other family home—did so in 2003, and some five years ago Taiwan became the first country in Asia to do the same. It is soon to be joined by Thailand, next year, which is good. Even Spain and Greece have embraced equal marriage, and that is in the face of fierce opposition from the church and from far-right politics.

Back in 2014, Scotland was plunged into division around its constitution, but it was equally plunged into division on the issue of equal marriage. I was not here then, but I recall something similar, because I was in a Dublin hotel room on the night on which Ireland held its referendum on equal marriage, in May 2015. I remember that vividly, because I was walking through the streets of Dublin, which were awash with campaigners on both sides of the argument, and I chatted equally with those who were carrying rainbow flags and those who were carrying placards that said that God loved me no matter what. It was those whom I encountered who told me that I was abnormal, or an abomination in the eyes of God, with whom I had a problem. That night, the results came through, and it was emotional—I could feel it—because, despite the opinion polls saying that 70 per cent of the population was in favour, you never know until you know.

I suspect that the same would be true in Scotland of that night 10 years ago, which we have heard so much about. From the petition from Nick Henderson in 2009 right through to 2014 when it became law, 77,500 people responded to the public consultation on equal marriage. Of course, many were opposed—but many of those came from outside Scotland or participated only through use of a postcard to express their opposition. At the same time, opinion polls were saying that 68 per cent of the population were in support.

I am glad that the Parliament did the right thing and I am sorry that most of the opposition to gay marriage came from the Conservative benches; however, it also existed in the SNP and Scottish Labour.

We could argue that those were very different times, but were they? A generation of young Scots will grow up knowing that they can marry whomever they choose to love, on the back of those struggles, because times do change. If the Church of Scotland can change its view on equal marriage, I hope that anyone can.

Back in 2014, Ruth Davidson was at the helm on our benches—the same Ruth Davidson who asked me to become a Scottish Conservative candidate despite my many reservations about being an out gay man in public life. In my view, she served as a role model showing that barriers could be broken down, both within my party and in wider Scottish politics. She reassured me that I could be fiscally and economically Conservative, but could also hold true to my values of modernity, inclusion and liberalism, which drove my political tenets.

That relationship has been put publicly to the test in recent years, and I wonder what Ms Davidson would think now of some of the narrative that emanates from this place, because LGBT equality often feels like anything but—anything but an acronym about equals or equal ambitions. I would be lying if I did not express my fear today that we in Scotland reached peak equality some years ago, because debate is now confrontational, difficult and regressive on so many levels.

At the end of the day, marriage is all about love, and too much air time is given to language that fuels division, not love. Today's debate will make no headlines whatsoever, because it fuels no hatred in a world that is consumed by short-form content of anger and othering—because the victories of this Parliament of 10 years ago, which we mark today, are the hallmarks of why the Parliament was set up in the first place: to treat every Scot as a human being who is capable of loving and of being loved. If I ever get married, all members will be welcome, and it might very well be a gay marriage after all.

The Deputy Presiding Officer: Patrick Harvie is the final speaker in the open debate.

18:17

Patrick Harvie (Glasgow) (Green): Like others, I am grateful to Emma Roddick for giving us the opportunity to debate the motion. I have to admit that I am perhaps showing my age, as I will have to put my remarks in a slightly longer context than just those 10 years. I cannot help thinking back to before devolution, because we have a bit of an easier story to tell of our history since then. Before devolution, Scotland had a nasty story to tell of itself—of being a more socially conservative part of the UK in many ways, in which bishops wielded block votes and in which the queer community had venues in basements and physically hid under the streets. That story of Scotland as a more socially conservative place was always false, in my view, but it was a powerful story and, before devolution, some of the queer community genuinely had deep anxiety about what a Scottish Parliament would do with our rights and with the legislation that affected our lives. We did not know.

In those early days, there was that incredibly toxic and high-profile homophobic campaign by, among others, Brian Souter, the head of the Catholic church and the *Daily Record*: "Keep the clause" and "Protect our children". That nasty campaign characterised the first few years.

At one point in her speech, Emma Roddick asked what would have happened if the equal marriage vote had gone the other way. I have often wondered what would have happened if equality had not won out in those early years of devolution and if the attempt to create a religious far right in this country had been successful. Equality did win. It was tough getting there, but equality did win through. Since then, we have had mixed-sex civil partnership, which was great progress at a practical level, but certain voices were still allowed to falsely present it as a second-class status, and that needed to be dealt with.

There was an immense amount of hard work by campaigners on those issues, and a dozen other major campaigns laid the groundwork that eventually made it possible for the Scottish Parliament to vote on equal marriage, but always against opposition from the usual homophobic voices as well as from some from the newer religious far-right organisations from the US that have started to base themselves in this country.

All through that, there has been this context in politics that I have regularly tried to challenge, without much success: the treatment of queer people's human rights as a special matter of conscience. If an MSP from any political party wanted to vote against allowing mixed-race marriage, for example, we would call them out as a racist, and any political party would expel them and be ashamed of them. We do not have that level of principle when it comes to queer people's human rights. Most political parties believe that it is okay to vote for homophobic laws because such rights are a special matter of conscience, and that needs to be challenged.

Throughout the debate on equal marriage, we had to endure debates on amendments that explicitly sought to frame same-sex relationships as less valid or even to frame LGBTQ people as a threat to others. That was not a new idea and not a new trope, but it was expressed explicitly in the chamber. Despite that, equality won through. It was tough going to get there, but equality won through with one of the biggest majorities of any Parliament voting on the issue anywhere in the world at that point.

Others have mentioned how, in that moment, the Presiding Officer had the flexibility not to enforce the no-applause rule as the campaigners in the gallery stood up and applauded when the vote was read out and the MSPs stood up and faced them back and applauded them. That symbolised what the campaigners for the Parliament had wanted—a Parliament that shares power with the people.

Since then, despite many thousands of couples having celebrated their special day with friends and families—and maybe, if we are lucky, some of them even living happily ever after—we have seen the rebirth and reboot of homophobia, and especially transphobia, on a scale that goes beyond even the nightmare days of the 1980s and 1990s, because it is boosted so powerfully by social media, including quite deliberately by the owner of X, who has sought to deliberately turn that space into one in which hate speech is actively promoted and monetised.

Presiding Officer, we have a great deal to celebrate about the work that was done to allow that vote and those wonderful marriage ceremonies to take place. However, we need to be clear eyed not just about the fact that we have further to go, but about the fact that we have a hill to climb in the face of the new threats that are being brought to us, including by those who have shamefully used this chamber to attack the idea of LGBT-inclusive education in schools in Scotland.

18:23

The Minister for Equalities (Kaukab Stewart): It is a real privilege to speak in tonight's debate to mark 10 years of same-sex marriage in Scotland. I thank Emma Roddick for bringing the debate to the chamber, and I note the respectful tone that

has been adopted by all contributors from across the chamber tonight.

There was a long and careful process to improve equality and to respect the rights and views of those who opposed same-sex marriage or had concerns about it. In particular, we recognised and put in place protections for religious bodies and celebrants who fundamentally disagreed with same-sex marriage because of their religious convictions, while other religious and belief bodies strongly supported same-sex marriage and wished to take part. Following their own careful deliberations, more bodies have chosen to opt in.

The Scottish Government consulted twice—once on the principles and once on a draft bill. The bill was passed on 4 February 2014, which was an emotional day. Once the bill was enacted, National Records of Scotland made a number of operational changes, including information technology changes. I pay tribute to NRS and local authority registrars for the work that they carried out at the time, which was done at pace.

In 2014, the Scottish Government worked on secondary legislation, which included working closely with the UK Government to promote an order under section 104 of the Scotland Act 1998. Among other things, that amended the Equality Act 2010 to protect celebrants who did not wish to take part in same-sex marriage ceremonies. Those protections have stood the test of time.

The first same-sex marriages in Scotland took place in December 2014. As the motion says, same-sex marriages have been a success. Since 2014, more than 10,000 couples have entered into a same-sex marriage. The number is higher than the one mentioned in the motion because that figure includes only the first three quarters of 2024.

Same-sex marriage has become an established part of society, and there are now more countries that take part in and recognise same-sex marriage. However, as the motion also says, there is still much to do to achieve equality here, in Scotland, and world wide. In 2019, we pardoned all men with convictions for same-sex sexual activity that is now legal, but, in some countries, consensual sexual activity between couples of the same sex remains illegal. Scotland needs to show that we are, as the motion says, an exemplar in equality.

Changes can be made to civil law as well as to criminal law in order to further equality. The 2014 act was a major step in civil law to recognise equality for LGBTQI+ people. Emma Roddick asked for an update on the position on ending conversion practices. I reaffirm that conversion practices are abusive and harmful and that no one should be coerced into changing or suppressing their sexual orientation or gender identity. We continue to work with the UK Government to explore a complementary approach. We are in the early stages of that work, following a detailed consultation, the responses to which will be published in due course. The Scottish Government continues to work at pace to ensure that comprehensive and effective legislation is ready to be introduced to Parliament, if that is required.

Jackson Carlaw made his contribution with his usual eloquence, but Gloria Gaynor said it first when she sang the words

"I am what I am."

I thank Paul O'Kane for sharing his experiences and for highlighting the joy and love that have been brought to so many people through equal marriage.

Rona Mackay, by recounting and describing some joyous ceremonies, gave us all wedding invitation envy. I thank her for paying tribute to all the campaigners for equal marriage, and I add my thanks to them for paving the way for all to live and love.

Maggie Chapman was right to highlight the current situation regarding legislation on converting marriages to civil partnerships. She is aware that making that option available in Scotland would involve a Scottish statutory instrument being laid in this Parliament and an order under section 104 of the Scotland Act 1998 being laid at Westminster. The Cabinet Secretary for Social Justice has written to the Secretary of State for Scotland on that issue, and I urge members to take up Maggie Chapman's suggestion to give the secretary of state a wee nudge in that direction.

Patrick Harvie reminded us of pre-devolution times, which were such dark times for LGBTQI+ communities. I want to reassure him that this Government believes in human rights for all and will continue to pursue equality for all. I am proud of the work that was carried out 10 years ago to reform civil law to introduce same-sex marriage. I looked back at the stage 1 debate on the bill, on 20 November 2013. Kevin Stewart, who signed today's motion, said that voting for the bill would give LGBT people

"the right to share the happiness and love and the trials and tribulations of marriage."—[*Official Report*, 20 November 2013; c 24658.]

Jamie Greene referred to the counsel that he received from Ruth Davidson. In that debate, Ruth Davidson said:

"I want that right to extend to not just me but the thousands of people across Scotland who are told that the law says no and that they cannot marry the love of their life. They are not allowed and, unless we change the law, they

will never be allowed."—[*Official Report*, 20 November 2013; c 24644-24645.]

This Parliament did change the law, same-sex marriage was introduced and it has brought happiness to thousands of couples. I welcome this celebration, and I commend the motion.

Meeting closed at 18:31.

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