



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# MEETING OF THE PARLIAMENT

Tuesday 26 January 2016

Session 4

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# Scottish Parliament

*Tuesday 26 January 2016*

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

## Time for Reflection

**The Presiding Officer (Tricia Marwick):** Good afternoon. The first item of business is time for reflection. Our leaders today are Lauren Galloway and Brandon Low, who are pupils of Auchmuty high school in Glenrothes.

**Brandon Low (Auchmuty High School, Glenrothes):** Good afternoon, ladies and gentlemen. My name is Brandon and beside me is Lauren. We are students from Auchmuty high school in Fife.

In September last year we participated in the Holocaust Educational Trust's lessons from Auschwitz project with 200 Scottish students. We were honoured to meet survivor Zigi Shipper—the most inspiring man I have ever met. Having survived the Łódź ghetto, Auschwitz and a death march, Zigi came to Britain as a teenager in 1947.

For a man who had experienced such indescribable horrors, he was surprisingly at peace. As he spoke, the room fell silent. I had never felt so moved, yet I was disappointed by my naivety. I did not know about the children who were forced to grow up so quickly and I had not considered the physical suffering that they had endured. I had not thought about what it really meant to have survived the Holocaust.

Zigi's words became all too real when we visited Auschwitz, which was where he faced some of the hardest times of his life and witnessed the reality of a death camp. I remember seeing someone's keys on display. Someone had picked up those keys, expecting to return home at the end of their journey—not knowing that they were locking the door to their home for the very last time. They did not know that they were headed to their death. That was the most upsetting realisation that I had during the entire experience. I remembered Zigi's words: "We cannot forget."

**Lauren Galloway (Auchmuty High School, Glenrothes):** How do you make sense of what happened when you are standing at Auschwitz, seeing a heartbreaking display of baby clothes? We were able to leave Auschwitz that day. We would make the return journey that 1.1 million people could not. We would use our keys to get back into our homes and we would be greeted by our families. We were there, at Auschwitz, free.

We looked around at birds flying overhead. Foxes could be seen running through the barracks that prisoners slept in. The grass was as green as ever. Life had not stopped because of the Holocaust. We decided then that we wanted our experience to mean something.

The theme of Holocaust memorial day 2016 is "Don't stand by". I will not stand by as the Holocaust is forgotten. I will not stand by as people forget the anti-Semitism, intolerance and prejudice that led people such as Zigi to be sent to places such as Auschwitz, and I will not stand by and allow that hatred to repeat itself. I encourage people around Scotland to join me in pledging to do the same. Thank you.

## Topical Question Time

14:02

### Unaccompanied Refugee Children

**1. Liam McArthur (Orkney Islands) (LD):** To ask the Scottish Government what discussions it has had with the United Kingdom Government regarding how it could assist in accommodating 3,000 unaccompanied refugee children. (S4T-01299)

**The Minister for Europe and International Development (Humza Yousaf):** Scotland has a proud history of providing refuge to vulnerable people and this group of children is especially vulnerable. The Scottish Government welcomes the interventions by organisations such as Save the Children and Citizens UK to raise awareness of the plight of the 26,000 Syrian children who are estimated to be in Europe.

We have repeatedly called on the UK Government to do more. Action must be taken promptly to avoid further tragedies of the type that we have seen in the past few months. I have raised the matter in conversation with Richard Harrington, who is the minister with responsibility for Syrian refugees, and it has also been discussed by the Scottish refugee task force.

**Liam McArthur:** I thank the minister for his response, with which I agree. As Save the Children has pointed out, making it to Europe does not mean that children are safe.

Although the UK Government's position appears to be softening, so far it has not played its full part in offering shelter. Every day that it waits, 3,000 unaccompanied orphan children sleep rough unnecessarily. Those children are vulnerable to not only deadly winter conditions and disease but trafficking and exploitation.

To demonstrate that Scotland is ready to play its part, have Scottish ministers indicated how many unaccompanied children Scotland could accommodate? Have they made it clear that those 3,000 children should be in addition to the 20,000 whom the UK Government has pledged to take from camps around Syria?

**Humza Yousaf:** I agree with the sentiments behind Liam McArthur's question. On his specific points, we have discussed the issue with the Convention of Scottish Local Authorities—in fact, I have just come off the phone to it. It is fair to say that local authorities are sympathetic, as all of us are. COSLA has made the valid point that there has to be a well-resourced package for unaccompanied children. We agree with it that this

is quite a resource-intensive endeavour to undertake.

We would like the UK Government ultimately to decide to accept unaccompanied Syrian refugee children. That is a decision for it. If it decides to do that, it will be important that it has a discussion with the Scottish Government and Scottish local authorities about a well-resourced package.

I have made it known that we are willing to play a part. I have written to the Secretary of State for International Development, Justine Greening, to let her know that Scotland is willing to play her part, and I know from speaking to COSLA that it is also willing to do so. Shortly after this discussion, I am to meet Save the Children to discuss the proposal in more detail. The Scottish Government certainly will do anything that we can do, and anything that we can do to make it known to the UK Government that we are willing to play our part.

**Liam McArthur:** As the minister will be aware, such children would be among the most vulnerable individuals to arrive in the UK. In fleeing terror and persecution, they need protection and a future.

The minister mentioned resources and I fully accept the point that he made. He will have seen the report in the *Sunday Herald* at the weekend that suggested that the number of children who have been referred to the Scottish guardianship service has risen by 80 per cent since 2014. Has the Scottish Government discussed that escalation with the service? Will the Government undertake to examine how it can help to ensure that enough guardians are available and that there is sufficient access to supported accommodation and the foster care placements that are required?

**Humza Yousaf:** I saw the report in the *Sunday Herald*, which the Scottish Government commented on. Through funding the Scottish guardianship service—that funding has increased—the Scottish Government has enabled separated children to learn about the welfare and immigration processes directly with information that is made relevant to their specific circumstances. Notwithstanding that, I know that the Scottish Government will continue to have discussions with local authorities, as they will be key partners in everything that we do.

The political momentum on unaccompanied refugee children is overwhelming. I know that Tim Farron has been vocal on the matter, as Jeremy Corbyn was on a recent visit, and the Scottish Government certainly has been. It is important that we ensure that, in Scotland as well as across the UK, local authorities are given the resources that they require for that. It is very much a decision for the UK Government.

To give credit to the UK Government, it approached the issue of refugees previously in an open manner. I hope that it will approach the issue in an open-minded manner with local authorities, should it decide to take unaccompanied children.

To answer Liam McArthur's direct previous question, which I did not, the number should be above and beyond the 20,000 people whom the UK Government has agreed to take.

**Roderick Campbell (North East Fife) (SNP):** Will the minister provide any further information on how the Scottish Government assists unaccompanied refugee children in interacting with the care system?

**Humza Yousaf:** Through our work with the refugee task force, we have worked extensively with local authorities to ensure that Syrian refugee children who have come in through the vulnerable persons relocation scheme have been made to feel settled. Different local authorities have approached the matter in different ways. Some children have been put straight into the school system, while other children have been assessed as being not quite ready, so their entry into the school system has been staggered. Throughout the Christmas period, children were given gifts, such as toys, and were made to feel welcome.

Refugee children's specific needs, including their care needs, will be worked through the care system at a local authority level, much as with Scottish children, but with the additional understanding that refugee children might have complex needs beforehand. The complex needs that any such children have are assessed pre-arrival in Scotland by the office of the United Nations High Commissioner for Refugees and the UK Government.

**Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab):** I thank all the members who have signed my motion on the issue. As the minister has acknowledged, unaccompanied children already come to Scotland. Many members would like that number to increase, as has been discussed.

In spite of our recognition of the burden that that would place on services in local areas and Scotland as a whole, I wonder whether we should demonstrate our willingness by putting in place mechanisms that would allow us to have the foster carers who will be needed to look after those young people and children and the other mechanisms that will be needed to support them. By the time such children come here, we must have in place those mechanisms, so that the children can be supported not just adequately but in an appropriate way for their complex needs, as the minister said, because they are often the most

vulnerable children in the camps where they are located.

**Humza Yousaf:** The member makes a valid point. The Scottish Government works closely with local authorities to ensure that we have in place as many foster carers as possible. She is right that there is a need to do that, particularly in the big cities, including Glasgow, which she and I represent.

My extended family are foster carers. I know that foster carers from black and minority ethnic communities will be particularly important because of the profile of the refugees who will be coming here. That is another issue that we must look at.

Although we have unaccompanied asylum seekers, they are very different from the unaccompanied refugees who will be arriving. If child refugees are to be taken, their profile and complex health needs should be known. In that way, the situation should be able to be slightly more controlled and managed.

Of course, we must work with local authorities. If the UK Government decides to accept such children, it must immediately enter into discussions, as it has done in the past, with local authorities, through COSLA or bilaterally with my Government—whatever suits it best. It must then come to an agreement on a suitable package, because local authorities will have to deal with the burden—if that is the right word—and with the financial costs and the implications of taking unaccompanied refugee children.

**Claire Baker (Mid Scotland and Fife) (Lab):** It is helpful that the minister sounds positive about discussions with the UK Government. However, if the UK Government decides not to go ahead with accepting unaccompanied children, has the Scottish Government given any thought to what support it could offer to UK and European charities that are supporting such children in Europe?

**Humza Yousaf:** That will be part of the discussions that I have with Save the Children later today. The member will know that the Scottish Government cannot unilaterally accept refugees; ultimately, that is a decision for the UK Government. We have given a fair amount of funding to non-governmental organisations that are working in, for example, Lesbos, where a number of unaccompanied refugee children are arriving. When I was on the island of Lesbos, a dinghy came into shore. A number of young children on it were accompanied not by their parents or even their blood aunties or uncles but by their neighbours and so on. They were in a vulnerable position indeed.

If the Scottish Government can do more, we will always look to do that. That will be part of my discussions with Save the Children. As I said, the

decision is for the UK Government, but the noises from it in the past few days have been positive. Let us hope that a decision is made soon, because the crisis is going on right here, right now.

### North Sea Oil and Gas Industry

**2. Mark McDonald (Aberdeen Donside) (SNP):** To ask the Scottish Government what its response is to the recent research by Pinsent Masons regarding the North Sea oil and gas industry. (S4T-01294)

**The Minister for Business, Energy and Tourism (Fergus Ewing):** We welcome the optimism that the report indicates for the medium and long-term future of the oilfield services sector, despite the challenge of the low price of oil. With 22 billion barrels of oil and gas remaining, there are still many opportunities in the North Sea, but maximising them will require a concerted effort from everyone—industry, Governments and the new regulator.

We continue to stand alongside the oil and gas industry in Scotland, doing all that we can to improve collaboration, co-operation and innovation, creating a more competitive sector and further developing Scotland's status as a global centre of oil and gas expertise.

In order to encourage investment and further merger and acquisition activity in North Sea operations, we urge the UK Government in its spring budget to bring in a series of tax measures, including clarification of decommissioning liabilities, refinement of the investment allowance to include operating expenditure—OPEX—and further fiscal measures to incentivise exploration in order to increase the international competitiveness of the United Kingdom continental shelf.

**Mark McDonald:** I welcome the Scottish Government's action via the energy jobs task force to minimise redundancies where possible and to assist those who face redundancy where that situation arises. The minister has outlined a number of sensible measures that have been put to the UK Government. In his discussions with UK ministers, has the minister received any indication of their openness to those approaches, given the support that is required for the industry and its wider supply chain?

**Fergus Ewing:** As far as I am aware, we have not yet received any indication of what the UK Government plans to do in its spring budget. However, when I attended the oil and gas day on 17 December, I took the opportunity to urge upon the UK Government the need for action in the spring budget. I can confirm that at a meeting this morning the Scottish Government Cabinet discussed the matter and confirmed that we will be looking for the UK Government to step in and take

a series of necessary fiscal steps, to assist the oil and gas industry at its time of greatest need.

**Mark McDonald:** I thank the minister and I hope that the UK Government will approach the matter in an open manner and will listen to his constructive suggestions.

Offshore workers have expressed to me concern about the impact on the offshore safety culture of the current belt tightening in the industry. Does the minister agree that the industry's engagement in a drive to cut costs must not lead to the cutting of corners?

**Fergus Ewing:** I absolutely agree with Mark McDonald; he is absolutely right. I am pleased to say that when I meet operators and service companies, they always say that safety is and must remain paramount. Indeed, that was the case yesterday in Aberdeen when I met two major operators in the North Sea.

It is also encouraging that many operators, who I think it is fair to say are facing the toughest challenges ever faced in the oil and gas industry, are seeking to meet the challenge of achieving greater efficiency by consulting and engaging with the workforce and asking proactively how things might be done more efficiently without jeopardising safety. That willingness to reach out to and involve the workforce as full partners in meeting the challenge that the industry faces is very welcome; it is absolutely the correct approach.

**Lewis Macdonald (North East Scotland) (Lab):** Pinsent Masons correctly highlighted the important role of the Oil and Gas Authority if there is to be a recovery. At a time when the tax that companies are paying is not even 1 per cent of what they were paying five years ago, does the minister accept the urgent need to go beyond tax reliefs and to support further direct investment by the OGA in exploration, to ensure recovery?

**Fergus Ewing:** We have good relations with the OGA and work closely with Andy Samuel. I have impressed on him and the UK Government the point that measures need to be taken to encourage more exploration. I have to say that I am not yet convinced that the UK Government has taken that on board—I hope that it will now do so. We have called repeatedly for more exploration, which has dropped to a parlously low level. If the teams of people who have expertise in exploration are to be maintained, there needs to be more work for them to do. I agree that that is necessary.

It is not a matter of dismissing tax reliefs, although perhaps Mr Macdonald was not seeking to do so. Although tax is not the industry's main focus at the moment—to be frank, the main focus is survival—tax is a necessary tool in the box, which can contribute towards meeting the objective of surviving and thriving thereafter. In



particular, many of the operators I have met over the past few weeks—I will not name them—during a period of fairly intensive engagement with the industry, said the same thing: there must be clarity on decommissioning liabilities.

The lack of clarity is impeding investment and blocking deals that could secure the future of Mr Macdonald's constituents. Therefore, I urge the UK Government to include in its spring budget the necessary steps—on which I know that it is obtaining advice—to allow deals and investment, which will considerably assist the industry in meeting its toughest challenge.

**Dennis Robertson (Aberdeenshire West) (SNP):** Last week, the minister welcomed the Economy, Energy and Tourism Committee's report, "Future prospects for oil and gas in Scotland". Will he say whether, with the co-operation and collaboration of the trade union movement and the oil and gas companies, he is able to look carefully at the supply chain in the industry? There are many people with many skills in the supply chain who feel that they are being forgotten.

**Fergus Ewing:** Mr Robertson is absolutely right. It is recognised in the industry that, in the past, it has perhaps not used the supply chain to best effect. It has not adopted the available technology—there is a fear of being first in adopting new technology—nor has there been, in some cases, a willingness to listen to the supply chain on how to meet operators' needs in the most cost-efficient fashion. However, there are signs that, in drives towards standardisation, that is now happening.

On the other matter that Mr Robertson raises, we regularly meet representatives of the trade unions in all sectors, and that includes the oil and gas sector. I have made it my business to ensure that we are in touch with what they say, and we value their advice, particularly as many of them have been in the industry for several decades. We work in close partnership with not only the industry but the trade unions, especially to take account of the very real issue of safety for those who work offshore. We will continue to work very closely with our trade union colleagues.

## Pentland Hills Regional Park Boundary Bill: Stage 1

**The Presiding Officer (Tricia Marwick):** The next item of business is a debate on motion S4M-15130, in the name of Christine Grahame, on the Pentland Hills Regional Park Boundary Bill.

I call Christine Grahame to speak to and move the motion. You have around three minutes, Ms Grahame.

14:21

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** Thank you, Presiding Officer. I am pleased to open today's debate on the Pentland Hills Regional Park Boundary Bill. It is a short bill, but in my view it deserves something better than a 20-minute debate slot, so I am disappointed in the Parliamentary Bureau for not allowing it more time. We often have debates in the chamber that are far too long and in which members have to think of more things to say and are given extended times when they have little to say. Many people have put a lot of work into the bill; I hope that the Parliamentary Bureau will take account of that.

I thank the members of the Pentland Hills Regional Park Boundary Bill Committee for their considered scrutiny of the bill, all those who gave evidence orally and in writing, and—not least—the Parliament's non-Government bills unit.

My bill simply provides for extension of the southern boundary of the Pentland hills regional park to include the whole of the Pentlands range. It would do nothing more than that; it is simply about drawing a new line on the map to include 100 per cent of the range instead of 45 per cent, which is the current position. If we were starting from scratch today, we would not call it a regional park if it were to include only 45 per cent of the range.

My bill would not change public access rights, place additional planning restrictions on landowners or farmers or place additional governance conditions on local authorities. The direct financial implications for local authorities would be de minimis. The financial memorandum says that the cost would be some £20,000 overall, across five local authorities, for consulting about the boundary.

The bill would provide a two year lead-in period, which would enable the five local authorities whose areas bound the Pentland hills to consult and agree on the new southern boundary. It would also provide them with an opportunity—no more than that—to look at the future management of the regional park and to investigate future funding

options. The key word is “options”. There is nothing mandatory in the bill about financing. Any arrangement on financing the administration of the park would be—as it is now—contractual and therefore consensual.

The bill is simply about drawing a line on the map—nothing more and nothing less. That is what the bill committee was asked to consider, but did it do that? To be frank, the answer is no. The committee has reported on a bill that does not exist—a bill that would oblige local authorities to fund it. I ask members where that is in my bill. The bill that the committee reported on is, in the words of Ernie Wise, not the bill what I wrote, but one that the committee wrote for itself.

There was also criticism of my consultation, but the Government said that I had “consulted widely”. Perhaps I will get a moment to deal with that when I sum up.

It is three decades since the Pentland hills regional park was created. I do not think that we should wait another three decades before we complete the job and extend the park to include the whole range.

In the very, very brief time that I have to speak, I ask members to focus on the line on the map—nothing more and nothing less—and to support the bill at stage 1. The committee’s report does not deal with my bill. It deals with the bill what the committee wrote, not the one what I wrote. I ask members to read my bill and to support it.

I am pleased to move,

That the Parliament agrees to the general principles of the Pentland Hills Regional Park Boundary Bill.

14:24

**James Dornan (Glasgow Cathcart) (SNP):** Before I set out the committee’s findings, I thank the committee members and clerks for all their help and support during the committee’s consideration of the bill.

In June 2015, an ad hoc committee was established to consider the Pentland Hills Regional Park Boundary Bill. As the convener of that committee, I am pleased today to share with members the committee’s scrutiny of the bill. I thank Christine Grahame for introducing the bill—particularly following her kind remarks. She prosecuted her case with her usual forensic rigour and passion. Because of her, the subject matter, which is relevant to a lot of people who live or work near the hills or who use them for recreational purposes, has had a very public airing.

The bill is also ground breaking in procedural terms, so let me explain how the bill has pushed the procedural boundaries. I apologise for the pun.

Although it is a member’s bill, it has the potential to “adversely” affect

“a particular private interest of an individual ... or bodies of the same category or class.”

That aspect aligns the bill with private bills. Should such a bill have been introduced by the Government, it would have been dealt with under the hybrid bill procedure. We wrote to the Standards, Procedures and Public Appointments Committee about that, and it confirmed that it will consider including that procedural point in its legacy report. The bill’s uniqueness and its potential to affect some individuals and bodies differently from others underpinned the committee’s approach to our scrutiny of it, which I will now set out. As has been mentioned, we have very little time today, so I will lay out the main considerations and conclusions in the short time that I have left.

Local authorities already have the legislative power to extend the park’s boundary under the Countryside (Scotland) Act 1967. Local authorities, farmers and objectors told us that they are unaware of any demand to extend the park. Some people thought that a feasibility study should be carried out before potential legislation is introduced, and Scottish Borders Council believed that a study ascertaining the current park’s effectiveness should take place before its resource burden is added to. We concluded that a detailed feasibility study would be appropriate in order to identify demand before potential legislation is introduced.

We also inquired whether designation as a regional park would provide any additional protection. A number of formal designations already apply to the area: for example, sites of special scientific interest and core and promoted paths are currently managed and maintained by local councils. We were, therefore, not convinced that designation as a regional park would provide any greater protection against development, given that regional park status is, by design, light touch.

Section 3 concerned us greatly, because it would automatically extend the boundary of the regional park if local authorities did not agree a boundary within a two-year period. That would override section 2, which would require every owner, occupier and lessee of land to be notified of the extended area and would allow representations. We agree with the minister, who said:

“We should not dispose of the carefully thought through consultation procedures and arrangements that are provided for by the current legislation.”—[*Official Report, Pentland Hills Regional Park Boundary Bill Committee, 19 November 2015, c 6.*]

We concluded that the bill is a significant shift away from current safeguards.

The funding of an enlarged park was of concern, too. The member in charge of the bill argued that the boundary change would not cost, because it would be just

“a line on the map.”—[*Official Report, Pentland Hills Regional Park Boundary Bill Committee*, 19 November 2015, c 7.

However, the committee disagrees with that interpretation. With a bill comes the expectation that it will deliver something. For example, people living or working near and using an extended regional park would expect an increased ranger service and car-parking facilities. We concluded that an additional financial burden on top of local authorities' existing financial pressures would be unwelcome and would impact detrimentally on the current operation of the regional park.

For those reasons, the committee unanimously recommends that Parliament not agree to the general principles of the Pentland Hills Regional Park Boundary Bill.

14:28

**The Minister for Environment, Climate Change and Land Reform (Aileen McLeod):** I thank the Pentland Hills Regional Park Boundary Bill Committee for its consideration of the bill, and I thank everyone who gave oral and written evidence. I also acknowledge Christine Grahame's commitment to the issue, which has focused minds on the regional park's aims, success and future challenges, so I thank her for all the work that she has done in getting the bill to this stage.

As I said when I gave evidence to the committee in November, although the Scottish Government recognises the geographical reason for wishing to extend the southern boundary of the Pentland hills regional park, I agree with the committee, which concluded in December that it could not support the general principles of the bill. Yesterday, NFU Scotland and Scottish Land & Estates, which represent farmers and land managers in the Pentland hills, said the same. I, too, cannot support the bill, and I will explain why.

First, the Scottish Government is not involved in the operation of regional parks, which are created, managed and funded by local authorities. Local authorities already have powers to extend parks' boundaries if they so wish. My view, therefore, is that decisions on the Pentland hills regional park should continue to be made at that local level.

Secondly, the local authorities told the committee that they are not aware of any demand for an enlarged regional park. Indeed, the two councils into whose areas the park would be extended said that the southern Pentlands is a low priority in terms of pressure for outdoor recreation.

South Lanarkshire Council noted that the area is remote from its main centres of population. The Scottish Borders Council opposes the bill and said that an extended park would draw disproportionate resources from elsewhere.

Third, I have concerns about the procedures that are set out in the bill, because they represent a shift away from all the existing safeguards that are set out in the 1967 act and subsequent regulations.

Finally, I note that the lead committee, the NFUS and Scottish Land & Estates all say that the bill and its “line on the map” approach would create expectations and has therefore overlooked the funding requirements of an extended regional park.

For all those reasons, I cannot support the bill.

14:30

**David Stewart (Highlands and Islands) (Lab):**

I welcome the opportunity to speak today as a member of the Pentland Hills Regional Park Boundary Bill Committee.

I am sure that everyone here today shares Christine Grahame's passion for protecting the landscape of the Pentland hills for future generations. I confirm, as a member, that the committee also held that view.

I thank Christine Grahame for her efforts in producing the bill. I know as someone who has two bills under my belt—one successful and one not so successful—how much work is involved in bill preparation.

No one can fault Christine Grahame for her absolute passion and energy in getting the bill on the table. That involves the consultation side as well, and I echo the convener's point about the support of the NGBU, which does a fantastic job in the Parliament.

As we have heard, however, there were a number of issues on which we did not share Christine Grahame's views. There were questions about whether there is demand from local communities and local councils, and about what extra protection would be provided, which the convener already covered. I say, in trying to be as positive as I can, that if in the future there were to be a bill in which funding opportunities were made much clearer, governance issues were resolved and it was clear that there was widespread community, local authority and Scottish Government support, my personal view—I stress that it is my personal view—is that I would not rule it out, if those boxes were ticked.

The minister has been clear that there is no Scottish Government support for the proposal and

the councils that gave evidence to the committee did not provide any positive evidence that the bill should go ahead. For those reasons, Labour members will not support the bill.

I praise, however, the work that Christine Grahame has carried out.

14:32

**Alex Fergusson (Galloway and West Dumfries) (Con):** I cannot begin by thanking Christine Grahame for bringing forward the bill, but I congratulate her. It takes no little commitment and effort to bring forward a bill to this stage and, whatever the outcome, I am very happy to recognise that she has applied a great deal of both during the best part of two years that have passed since the proposal for the bill was lodged.

I also have some sympathy with Christine Grahame's vision of extending the existing regional park boundaries as the bill seeks to do, in that there is a certain logic in assuming that a Pentland hills regional park should encompass the whole Pentland hills range. There, I am sorry to say, is where I think that the vision should be left for the foreseeable future—as a vision.

The bill does not seek to create an extended park or to establish the infrastructure to manage it. It seeks, as Christine Grahame has often reminded us, and has done so again today, to draw a line on the map within which an extended park could operate. The committee was surely right to look at what the consequences of that would be. Ms Grahame's belief is that it would drive the five affected local authorities towards putting in place the necessary management structures and funding them to bring about a successfully extended park. So far so good, but the problem with that—this was made very clear to the committee—is that four out of those five affected local authorities do not want an extended park and that the other would not consider it at all unless sufficient funding were made available by the Scottish Government. In turn, the Government made it equally plain that it was not in its plans to do so.

Indeed, the minister pointed out in giving evidence that regional parks have always been the preserve of local rather than national Government. Traditionally, they have been demanded by local authorities and managed and funded by local authorities. It seems to me that it would be inappropriate for our national Parliament to impose extended boundaries on local authorities when they have shown no desire themselves to extend those boundaries.

If we were to agree to extend the Pentland hills regional park boundary, even if it was just a line on a map, we would have to ask ourselves what the

consequences would be. In my view, an extended boundary would mean increased expectation, which would increase pressure on the park, particularly within the extended area; that increased pressure would lead to a demand for increased infrastructure and the funding to back it up, but we already know that that would not be forthcoming.

It is not just the local authorities that seem to be lukewarm, at best, about the proposal; there appears to be little, if any, demand for the proposal from the likely users of an extended park. I am sure that that is largely due to the success of the right of responsible access that was brought in by the Scottish Parliament back in 2003, which gives people access to all the land in Scotland. Indeed, we heard from land managers from the area within the proposed extension, who have already diversified into providing various services for walkers, cyclists and other access takers. They said that they had not experienced any pressure for greater access to the area beyond the existing park, which is another sure sign that the demand for an extension is not there.

The one and only witness who enthusiastically favoured an extended boundary was the chair of Balerno community council. I believe that Balerno is an area that is under increasing pressure from the existing park, but it is not actually included within Christine Grahame's proposed extension.

We have a proposal before us that, if passed, would impose new park boundaries on five local authorities, four of which are opposed to them and one of which would consider them only if sufficient funding were available, which it will not be. There is little, if any, demand for the proposal from either the public or land managers; no feasibility or environmental impact studies have been carried out on the proposal; and I believe that it would be irresponsible for the Parliament to dictate to local authorities on an issue that has always been their sole preserve, even if it is just to put a line on a map.

I support the committee's recommendations, and the Scottish Conservatives will not support the bill at decision time this evening.

**The Deputy Presiding Officer (John Scott):** I call David Stewart to make his closing speech—two minutes, Mr Stewart.

14:37

**David Stewart:** A point that has not been covered particularly in the debate is one that the committee convener made, which is that the committee wrote to the Standards, Procedures and Public Appointments Committee on the issue of the absence of bespoke standing orders.

The minister made the useful point that the Scottish Government is not involved in the operation of regional parks and that it believes that that should be done at the local level. It comes back to the issue of whether there is any demand for the bill. That is the key point, which was echoed by Alex Fergusson. I take his point that there is a certain logic in the Pentland Hills Regional Park Boundary Bill as an entity, but we have to consider whether there is demand for it from the five local authorities concerned, land managers and, indeed, local communities.

If the bill were to go ahead, we would need a full feasibility study and we would have to consider the aspects of competence and finance. I have nothing further to say on the bill, except to repeat that Labour members will not support it at decision time at 5 o'clock.

**The Deputy Presiding Officer:** I call Aileen McLeod to wind up on behalf of the Government.

14:38

**Aileen McLeod:** I have listened with interest to the contributions to the debate. The member in charge of the bill, Christine Grahame, described it as enabling legislation that would simply provide a line on the map. However, as we have heard, an extension of the park's boundary would undoubtedly have significant implications for all the local authorities involved and for farmers and land managers, and it would create expectations about how an extended park would be managed and funded.

The evidence that was gathered by the committee shows that local authorities are not aware of a demand to extend the park. In addition, as I said previously, NFUS and Scottish Land & Estates reiterated yesterday that they do not support the bill, stating that it would create a public expectation that cannot be delivered and that the obvious funding requirements of an extended regional park have been completely overlooked. Indeed, on funding, I note the committee's view:

"It is clear to us that there are financial pressures on the current management of the existing Regional Park and it therefore seems illogical to extend it thus requiring any available funding to be spread more thinly across an enlarged area."

Extending the boundary of the Pentland hills regional park to include the complete range of hills might seem logical at first glance but, as I said in my opening remarks, the Scottish Government is not involved in the operation of regional parks and it remains our view that decisions on the Pentland hills regional park should continue to be made at a local level. That is why the Government cannot support the bill and will vote against it at decision time this evening.

**The Deputy Presiding Officer:** Finally, I call Christine Grahame to wind up.

14:40

**Christine Grahame:** I find myself in the unusual position of being in disagreement with my Government. It is a strange place to be.

I go back to that ubiquitous line on the map. Nothing in the bill—I repeat, nothing—obliges any local authority to provide any funding, with the exception of £20,000 divided across five authorities to consult on the extended boundary. The rest is fiction. The current financing by three local authorities is by agreement and contractual, and is very precarious. Over 30 years, the pressure on the Pentland hills has increased and it will continue to do so. Regional park status delineates a boundary only for administration purposes, protecting those hills, those who work in them day in, day out, and those who use them for recreational purposes.

We are all guilty at times of doing something only when it really needs doing. For example, most of us would not, by choice, defrost a freezer. Usually, we do so only when we find that the door will no longer close no matter what the physical effort. In the same way, there is a danger that discussions concerning the future of the Pentland hills will be deferred until we are forced into action, perhaps when the money from the existing three local authorities completely runs out. I hear what members say about local authorities having power, but they will not do anything. We know that they will not do anything; that is why they all object to it. The issue will be left to wither on the vine and they hope that it will go away. It will not go away, because I can assure David Stewart that if I am re-elected I am coming back with it.

The bill provides the impetus for change and would provide a chance—just a chance—to look at the future management and funding of the park. It is a pity that Murdo Fraser is not in the chamber, because he could tell members about some worthwhile points that he made in a recent BBC article about creating and preserving national parks. Much more humble is the regional park, but I agree with him about the important role of parks in conservation and I think that the bill goes some way towards achieving that, so I look forward to Murdo Fraser pressing his button to agree with me when it comes to decision time.

In conclusion, I want to leave members with the thoughts of Richard Henderson, whom I think the committee called to give evidence thinking that he would sabotage me, but who did completely the opposite. He said, and I paid him no money to say it:

“Can I say first that the bill is par excellence? It is aspirational legislation. As you have said, it says in effect, ‘This is a line. We want somebody to fill it in.’ There is nothing wrong with aspirational legislation. The regional park would not be being talked about at all if it was not for the bill.”—[*Official Report, Pentland Hills Regional Park Boundary Bill Committee*, 12 November 2015; c 16.]

What a lovely man. I could not have said it better myself.

I ask members to focus on that line on the map, nothing more and nothing less, and to support the bill at stage 1. Remember, it is the bill what I wrote, as Ernie Wise might have said, not the bill that the committee thought I had wrote.

**The Deputy Presiding Officer:** Thank you for that spirited contribution. That concludes the debate.

**Alex Fergusson:** On a point of order, Presiding Officer. All members who spoke in the debate gave credit to Christine Grahame for the effort that she put into bringing the bill to this stage. She mentioned in her opening remarks the shortage of time given to the debate, and however much I might disagree with her I think that a 20-minute debate, following two years of hard work, hardly does justice to the work that she has put in, or to the work of the committee. I wonder whether you and your fellow Presiding Officers could ensure—even if it is in a legacy paper to the next session of Parliament—that the matter will be looked at, because the length of time that was given to the debate was almost insulting.

**The Deputy Presiding Officer:** Thank you, Mr Fergusson. As a past Presiding Officer of the Parliament, you will be well aware that that is not a point of order. However, you have made your point. I am certain that you will be aware that that is a matter for the Parliamentary Bureau and the business managers to decide.

## Trade Union Bill

### **The Deputy Presiding Officer (John Scott):**

The next item of business is a debate on motion S4M-15414, in the name of Roseanna Cunningham, on the Trade Union Bill.

I call on Roseanna Cunningham to speak to and move the motion. Cabinet secretary, you have 14 minutes today and we are very tight for time, so less would be more.

14:44

### **The Cabinet Secretary for Fair Work, Skills and Training (Roseanna Cunningham):**

I thank the Devolution (Further Powers) Committee and its convener, Bruce Crawford, for its swift consideration of the legislation and the memorandum that was sent to the committee. The majority of members recognise the urgency of the matter, and I appreciate the flexibility that the committee showed in considering it so quickly.

Concerns about this poorly thought-out piece of legislation are being expressed across the board. Last week, the House of Lords asked the United Kingdom Government to think again about the impact that the bill will have on political funding. The consultation responses, which were also published last week, show an overwhelming level of opposition to the UK Government’s plans, but still it ploughs on.

In November last year, the Scottish Parliament made plain its opposition to the bill with the motion opposing the legislation being carried by 104 votes to 14. In that debate I explained the Scottish Government’s view that trade unions are a force for good in modern society; that unionised workplaces have more engaged staff, a higher level of staff training and a progressive approach to staff wellbeing; that unions help employers to create the safe, humane and productive working conditions that head off industrial disputes and build better businesses; that any legislation that undermines the value and contribution that trade unions can make is a “thoroughly bad idea”; and that the bill is nothing more than an ideological attack on unions, with no evidence to underpin it.

That view was emphasised by the First Minister in the Jimmy Reid lecture at the end of last year, in which she said that the Trade Union Bill

“is based on a world view that I simply don’t recognise. It sees the relationship between employers and trade unions as one of conflict rather than co-operation. It doesn’t reflect public opinion here nor does it reflect the reality of industrial relations here. It offers illiberal solutions to a problem which simply doesn’t exist in Scotland.”

In November, I made clear my intention to continue to pursue the UK Government to exclude Scotland from the bill entirely. Further, if it

remained unwilling to seek the consent of the Scottish Parliament, I committed to exploring every basis for a legislative consent memorandum and motion and, in doing so, I fully recognised that it was “uncharted territory”.

Although I am disappointed, I respect the Presiding Officer’s ruling on my legislative consent memorandum, even if I suspect that it would not have been given with any great satisfaction. Similarly, I understand the frustrations that are being felt on the Labour benches regarding the process.

The experience suggests that the Parliament might wish to look again at its standing orders to consider whether Parliament should have a clearer mechanism that would enable it to express its opposition to what is deemed to be reserved legislation. I recognise the spirit of the Labour amendment and I will support that, but it is important to find the right mechanism to achieve it and it is right that we ask the Standards, Procedures and Public Appointments Committee to consider the matter further and come up with options for the best way forward.

By choosing to lay a general policy memorandum on 11 December, I ensured that the Scottish Parliament has been able to express its opposition in the clearest possible terms to Westminster. The Standards, Procedures and Public Appointments Committee might wish to consider how effective that approach has been. However, although expressing our opposition might underline that this fundamentally flawed piece of legislation is unfit for purpose, it will not stop the bill in Scotland. It is clear that the one single action that will do that is giving the Scottish Parliament powers over workplace relations.

While the Trade Union Bill and the Scotland Bill are still going through at Westminster, I call on all those who oppose the legislation to do everything that they can do to push for the bills to be amended to remove Scotland from the extent of such regressive legislation. I assure each and every worker in Scotland that we will leave no stone unturned and no route unexplored as we seek to block this exceptionally damaging legislation being applied in Scotland, and that the Scottish Government is regularly making the case to the UK Government at every level, including through discussions between the First Minister and the Prime Minister; such is the priority we are affording this matter.

Today’s debate, and the strong support from the Parliament, will further strengthen those representations. It is crucial that all of those opposed to this bill, whether they be members of the Scottish Parliament, members of Parliament, union officials, public sector leaders or anyone else, make the case to the UK Government that

this legislation is not needed or wanted in Scotland. These issues should be the responsibility of the Scottish Parliament.

The Devolution (Further Powers) Committee’s report recognises that the proposed legislation is a litany of errors, from its questionable purpose and competence to its lack of proper consultation, all intent on destroying the effectiveness of trade unions and Scotland’s good industrial relations.

The committee took evidence on the general impact on industrial relations and the culture of partnership working in Scotland. It considered evidence on the specific proposals within the Trade Union Bill such as ballot thresholds, a statutory cap on facility time and check-off provisions, as well as European convention on human rights matters and other international obligations.

In drawing its conclusions, the committee recognised the complete lack of evidence to support a bill of this nature being imposed on Scotland. That entirely echoes the UK Government’s own Regulatory Policy Committee’s findings that the impact assessment by the Department for Business, Innovation and Skills on the bill was “not fit for purpose” and that there is not sufficient evidence to support the UK Government’s quoted assumptions to justify the bill.

Indeed, the Devolution (Further Powers) Committee heard directly from the Convention of Scottish Local Authorities human resources spokesperson, Councillor Billy Hendry, describing the Trade Union Bill as an

“unnecessary and unjustified imposition, which could ultimately lead to more industrial unrest across Scotland.”—  
[*Official Report, Devolution (Further Powers) Committee, 7 January 2016; c 5.*]

That is a view that I have no hesitation in sharing.

I see the smiles of members on the Tory benches. It seems remarkable to me that, faced with a good industrial relations record, it is the intent of the Conservative Party to do as much as it can to damage that record. That seems to me to be utterly opposite to what it claims is the point of the bill, so I agree with the further powers committee that the bill is unjustifiable, both across the UK and in its application in Scotland.

Industrial relations here are good. The number of working days lost due to strikes has declined by 84 per cent since 2007—that is the highest reduction anywhere in the whole of the UK. Last year, fewer days were lost in Scotland, relative to our working population, than in any other part of the UK.

Frankly, the UK Government would have done better to learn from partnership approaches to

industrial relations—not just in Scotland but across the whole of Europe—rather than choosing the flat-out confrontation that seems to be its preferred, wholly unjustified route. The UK Government remains hell-bent on demonising trade unions and ignoring the benefits that they bring to employers and our wider economic success.

In its report the committee was deeply disappointed at

“the lack of consultation ... with major public sector employers in Scotland and with other organisations more widely.”

As the report points out, more than half a million people are employed in the public sector in Scotland—that is 21 per cent of the workforce. Ninety per cent of the total are employed in the devolved public sector. As such, the devolved public sector’s views, as major employers with responsibility for industrial relations, should have been taken into account by the UK Government, but they were not.

It is worth looking at some of the measures and how they will impact on that major part of the Scottish workforce. The UK Government wants the right to restrict facility time in the public sector. Facility time means that employees can spend time carrying out union duties: helping employees at disciplinary hearings, offering training, advising on health and safety matters, and meeting and supporting employers. It is a vital part of our partnership working; it is not a drain on taxpayers or an abuse that needs to be controlled. It is most often how we avoid an escalation to strike action, and curtailing it is far more likely to cost the public purse than it is to save money.

The UK Government also advocates a ban on public sector employers using check-off facilities—the payroll mechanism that enables union membership subscriptions to be deducted at source. The Scottish Government, as an employer, has been operating a check-off facility for years. The costs are so minimal that we have never charged unions for it. Attempting to change that is an extraordinary attempt to control how we as a Government act as an employer. It demonstrates that, fundamentally, the UK Government wants to discourage union membership and in turn to curtail the ability of the Scottish ministers to effectively administer devolved public services as we see fit.

It is clear from the UK Government’s actions that it does not care about the impact of the bill on Scotland. In fact, the UK Government seems to have no interest in the impact on any of the devolved nations, and it is showing little respect for the parliamentary processes in England, as most of the bill will be delivered by regulations, which we have yet to see. That is an increasing

trend from a UK Government that is trying to push through unpopular policies that do not stand up to scrutiny.

The Devolution (Further Powers) Committee highlighted in its report the need for good working relationships between Governments, with parties seen as equal partners, and for adequate consultation on matters that have an impact on each other’s jurisdiction and competences. I agree entirely but, as I discussed last week with my counterpart in the Welsh Government, Leighton Andrews, the reality is that that is most certainly not the case. A Government debate on the bill is taking place today in the Welsh Assembly. The Welsh Government is taking a different approach to its opposition in a way that reflects the differences in the Welsh devolution settlement. Both Governments are exploring all the options that they can through the processes that are available.

I have called on UK ministers to make clear their intentions regarding how the legislation and the supporting regulations will impact on the devolved nations and in particular the devolved public services, but there has been no response from the lead UK minister. As I said, the First Minister is now making similar representations to the Prime Minister.

I echo the committee’s recommendations that the UK Government should stop the bill in its entirety or reconsider its position on legislative consent, in recognition of the widespread opposition across Scotland. Unfortunately, however, I completely understand and share the committee’s view that such a call will in all likelihood fall on increasingly deaf ears. We must therefore continue, with the Scottish Trades Union Congress, local government, the national health service and others in the Scottish public and private sectors, to oppose and challenge the bill and its effects in Scotland. In the truest spirit of the trade union movement, we must work together if we are to succeed.

The Scottish Government sees trade unions not as opponents but as partners. We want to work with unions and businesses to create a more productive, prosperous and equal society. To do that, we have established a relationship not of conflict but of co-operation. The UK Government’s proposals are deeply damaging to that approach. They represent an attack on the union movement and an assault on the rights and practices that workers have fought to protect over generations.

I fully endorse the Devolution (Further Powers) Committee’s rejection of the UK Government Trade Union Bill, and I commend to members the motion of support.

I move,



That the Parliament unreservedly supports the report of the Devolution (Further Powers) Committee that reaffirms the Parliament's opposition to the UK Government's Trade Union Bill; notes that the Bill, if enacted, has the potential to significantly damage Scotland's good industrial relations record; welcomes the committee's recommendations that the Scottish Government continue to use all avenues to remove Scotland from the territorial extent of the Bill or, as a minimum, seek that the regulation-making powers relating to facility time and check off be conferred on the Scottish Ministers as they directly relate to public services in Scotland, and notes that the Scottish Government is working with the STUC, COSLA and others who oppose the Bill.

**The Deputy Presiding Officer:** I call Neil Findlay to speak to and move amendment S4M-15414.1.

14:57

**Neil Findlay (Lothian) (Lab):** I declare an interest, in that I am a member of Unite the union, the Educational Institute of Scotland and the West Lothian Trade Union Council. I also chair the Public and Commercial Services Union parliamentary group, and I am a member of the RMT parliamentary group. Throughout my time in the Parliament, I have consistently worked on trade union issues, because that is where my politics come from.

A few weeks ago, when we debated the substance of the Trade Union Bill, there was a great deal of common cause across the Parliament, with Labour, the Scottish National Party, the Greens, the Liberals and the independents all uniting to reject the bill. Only the nasty party, the party that seeks to divide and victimise and marginalise working people—the party that has a pathological hatred of trade unions and organised labour—supported this dreadful bill. No one was surprised by its actions. It is the party of regressive reactionary politics, personified today by Attila and Genghis, who have been sent out on the front bench to face up to the debate.

**The Deputy Presiding Officer:** Stick to parliamentary language, please, Mr Findlay.

**Neil Findlay:** It was clear from that previous debate that an overwhelming majority of members in the Parliament are opposed to the bill. The bill was referred to the Devolution (Further Powers) Committee, which raised serious concerns about it and its impact on Scotland. I believe that the vast majority of members of the Parliament accept those concerns and will, like Labour, support the Government motion at decision time today.

In our previous debate, the cabinet secretary set out the reasons why she believed that the provisions of the bill and its impact on Scotland, Scottish workers, Scottish businesses and Scottish services meant that a legislative consent

motion was necessary. She was right to refer to the way in which regulations are to be made and the impact on devolved services and public bodies. To back up her case, she referenced the Scottish Agricultural Wages Board and, critically, she mentioned the potential breach of human rights legislation.

In that debate, Labour members pointed to the impact on the NHS, local government, the police, the fire service, transport, the civil service and all other devolved responsibilities. The cabinet secretary said:

“Ultimately, it will be for the parliamentary authorities to decide on the need for a consent motion, but the political will of the Government is clear. In my view, it is entirely right that the Parliament has the opportunity to vote on proposed legislation that I believe is aggressive, regressive and an unwarranted ideological attack on workers' rights.”

I agreed with that analysis.

The cabinet secretary also said in that speech:

“I have asked our legal advisers to explore several possible bases for a legislative consent memorandum and motion.”—[*Official Report*, 10 November 2015; c 23, 22.]

However, the Presiding Officer rejected that motion, and that ruling prevents the Parliament from acting. That was wrong in process and in the decision made, but we are where we are and we have to deal with the hand we have been dealt. Therefore, rather than say “If only this could happen or that had happened” or “If only we had this power or that power,” we should use the powers and procedures that are available to us to ensure that the Parliament's will is respected and that we have such a debate and vote.

In the previous debate, the cabinet secretary said that she had taken legal advice. I presume that the Government lawyers approved the LCM and could justify it. I contend that that was on the basis that facility time, check-off, the impact on the administration of services, the contracts of employees and competition law all impinge on the Scottish ministers' executive competence and duties. There is little doubt in my mind that they do that but, despite all that, the LCM approach was rejected.

In that debate, the cabinet secretary also said that it was the first time that the Scottish Government and UK Government had disagreed on the need for an LCM. Given what is happening on the devolution of powers, it may be the first time but I question whether will be the last. We have to do something about that. Should the situation arise again, the Parliament must have the power to deal with it and put the power in the hands of its democratically elected members.

Given the new powers that we are going to get, such disputes are likely to arise more frequently, but we should not leave the decision in the office

of the Presiding Officer, whoever he or she is, and leave them exposed, as they would have to put their name to such a ruling. Therefore, we propose that, where there is disagreement between the two Parliaments on whether a legislative consent motion is required, or where any member of this Parliament believes that one is required, members should have the right to lodge such a motion and have the Parliament vote on it. That would put power into the hands of MSPs and increase the democracy and accountability of the Parliament.

**Kevin Stewart (Aberdeen Central) (SNP):** Would it not be easier if we had all the powers in this Parliament so that we did not have to rely on LCMs?

**Neil Findlay:** Mr Stewart makes my case for me: he says, "If only this, if only that." The reality is that we have the opportunity to take practical steps that will prevent the worst aspects of the bill from impacting on workers in Scotland.

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

**Neil Findlay:** No. The cabinet secretary is right to work with us on that; I am just a bit disappointed that Mr Stewart appears not to want to go down that route.

My colleague Mary Fee has submitted a proposal, like the one that I outlined, to the Standards, Procedures and Public Appointments Committee. If there is political will, that proposal could move through our parliamentary system very quickly and allow us to have such a debate and reject the bill's impact on Scotland before the Scottish election.

I am absolutely ready to sit down with the cabinet secretary, as are my colleagues—we can do it tonight, if she wants—to discuss how we move forward as quickly as possible. I extend that invitation to any member of this Parliament who wants to speak to us, even members of the Conservative Party, if—God forbid—they should accept the amendment. We want to take a practical step.

Today, the Welsh Assembly is debating an LCM on the Trade Union Bill, and the Labour Government there has said that it will take action to reverse the effect of the legislation. That shows that the issue is all about political will.

If there is no movement with regard to what we propose, the Labour Party, working with the Scottish trade unions, will pursue every option, including, if necessary, a legal challenge. However, it would be quicker, cheaper and better if we did not need to go down that route.

I welcome the Government's support for our amendment. I hope that all members of the Parliament will support it at decision time this evening.

I move amendment S4M.15414.1, to insert at end:

“; further understands that the National Assembly for Wales will debate a legislative consent motion on this Bill and its impact on Wales and Welsh devolved public services on 26 January 2016, and calls on all parties represented in the Scottish Parliament to support the proposal from Mary Fee MSP to amend the Standing Orders to allow a similar process to take place here”.

15:06

**Alex Johnstone (North East Scotland) (Con):** The Trade Union Bill gives effect to manifesto commitments that the Conservative Party made in advance of being elected as the majority Government of the United Kingdom last May.

Trade unions are an important part of our society. The trade union movement has a proud history of campaigning for workers' rights and for improvements in health and safety in the workplace and of representing members when they are in need of support.

However, people have concerns about the balance between the right to strike and the misery that such action can cause to the public, particularly in vital public services such as the NHS, the fire service, transport and schools. No one wants to undermine the right of unions to call a strike as a last resort, but that should be based on the views of the union's membership. It is not right that strikes can be called with the support of as few as one in 10 members, on the basis of very low turnouts.

**Kevin Stewart:** Will the member take an intervention?

**Alex Johnstone:** No—I will not be taking interventions.

It is not unreasonable to require an opt-in process for union political donations. Often, members are unaware that they can opt out of the political part of their union subscriptions. It is only right that people can make a clear decision about who they donate money to and what that money is to be used for.

On the timing and duration of industrial action, the bill will extend the notice that must be given to employers from seven days to 14. At present, the action must begin within four weeks of the ballot, although that can be extended to eight weeks by agreement with the employer, or 12 weeks by a court. The bill will impose a four-month limit on industrial action before a new ballot has to be held. That means that the action must start within that period, but it will be able to start at any time within those four months.

The bill will put into law some of the provisions of the picketing code of practice. The current

version of the code is from 1992, although it originated several decades earlier. It is well followed by responsible trade unions, but one of the catalysts for the legislative change is the inappropriate intimidation tactics that have been used during disputes such as the one at Grangemouth last year or the year before that.

The bill does not propose to stop so-called facility time—time that an organisation's staff spend on trade union duties and activities during working hours. However, it will ensure greater transparency by extending the requirements on the public sector to publish information on the time and money that is spent on facility time.

Under the so-called check-off process, a number of public sector trade union members have their union subscriptions deducted from their salary by their employer and transferred on their behalf. That also happens occasionally in the private sector. The practice was introduced when many working people did not have a bank account. In the 21st century, it is just as easy to set up a direct debit.

**Neil Findlay:** Will the member take an intervention on that point?

**Alex Johnstone:** No, thank you.

Taken together, the proposed measures are not an unreasonable addition to the provisions that previous Governments put in place to facilitate good industrial relations.

I turn to the issue of a legislative consent motion. The Scottish Government has set out in detail its position on the bill. It lodged a legislative consent memorandum in relation to the bill and the Presiding Officer responded with a letter to Roseanna Cunningham in which she stated:

“Having given the matter careful consideration and applying the tests set out in the rules, my view is that the Parliament's legislative consent is not required and it is not competent to lodge a legislative consent memorandum.”

The UK Government has set out in detail why it believes that it is not necessary to obtain the Parliament's legislative consent. It believes that that is the case because the subject matter of the bill is not devolved to the National Assembly for Wales or the Scottish Parliament. Unemployment law, industrial relations and trade union legislation are expressly reserved under the Scotland Act 1998.

The constitutional law expert Alan Trench has commented:

“There can't be any argument that the UK Parliament has the power to legislate regarding the operation of trade unions, balloting requirements, the operation of political funds and the like which make up the bulk of the bill, which operate equally in Scotland as in other parts of the UK.”

It is therefore reasonable for the bill to proceed.

The Devolution (Further Powers) Committee reported on the bill on 18 January. The minister has expressed her views on that report. I should make it clear that I dissented from its conclusions and its recommendations. I believe that the bill is reasonable and that the process is legal, so we should continue with the bill and support it.

**The Deputy Presiding Officer:** We move to the open debate. I call Bruce Crawford to speak on behalf of the Devolution (Further Powers) Committee.

15:12

**Bruce Crawford (Stirling) (SNP):** Thank you for giving me the opportunity to speak in my capacity as the convener of the Devolution (Further Powers) Committee. As members are aware, the Scottish Government referred its policy memorandum on the UK Government's Trade Union Bill to my committee for consideration. I start by emphasising that the committee's report was agreed by an overwhelming majority of its members, with Alex Johnstone—as he just said—being the only dissenting member. It is fair to say that that was not a surprise to him, and it was certainly not a surprise to the rest of the committee. Nevertheless, I thank him for the way in which he made his views clear and enabled the rest of us to agree the report.

The context for the introduction of the UK Government's Trade Union Bill is that, since 2007, the number of industrial disputes in Scotland has decreased by 84 per cent. The number of days that are lost to industrial disputes in Scotland is the lowest of the four nations of the UK. Therefore, the bill is not so much a sledgehammer to crack a nut; put simply, it seeks to solve a problem that does not exist.

The evidence that the committee took emphasised the positive working relationship between unions and employers that has existed over decades in some of Scotland's largest public sector organisations, such as local government and the national health service. I was struck by the comments on behalf of the Convention of Scottish Local Authorities that were made by Billy Hendry, who is a Conservative councillor on East Dunbartonshire Council. He said:

“COSLA leaders are extremely concerned that the changes that are proposed in the bill are being brought in without any evidence to back up the assertion that they would modernise industrial relations between councils and trade unions.”—[*Official Report, Devolution (Further Powers) Committee*, 7 January 2016; c 4.]

Councillor Hendry's remarks demonstrate well the broad-based opposition that there is across all sectors of Scottish society to the bill, although not everyone opposes it—I note that the TaxPayers

Alliance and the Confederation of British Industry support it.

We heard that there has been a lack of consultation with Scottish stakeholders and the Scottish Government on this UK bill. In his evidence to the committee, Dave Moxham of the STUC said:

“There was a failure to consult, a very rushed process, a committee stage that was, in our view, very poor and the introduction of a couple of key additional aspects of the bill in that process. We did not know about the introduction of the check-off arrangements until well after the first reading. That was not subject to any consultation or any assessment of costs.”—[*Official Report, Devolution (Further Powers) Committee, 7 January 2016; c 13.*]

The bill seeks to provide UK ministers with the power to limit the amount of time that union representatives in the public sector can spend on union duties or activities. The Scottish Government estimated that in 2014-15 the total cost of facility time across the entire Scottish public sector was £5.8 million. That is around 0.002 per cent of the Scottish Government departmental expenditure limit budget.

**Neil Findlay:** Will Bruce Crawford respond to the point that I made about what happens in principle when the two Parliaments disagree and how we can bring forward a procedure to change that?

**Bruce Crawford:** I am speaking on behalf of the Devolution (Further Powers) Committee as its convener. That point was not subject to any of the processes that we went through to reach our findings, so I am not in a position to comment on it.

More important, the evidence that we took stressed that facility time should be viewed not as a cost but rather as an investment in effective workplace management and as something that is essential to effective public sector delivery and reform. Shirley Rogers, who is the workforce director of NHS Scotland, said:

“Some years ago, we in the NHS took the view that we wanted to invest in co-production; we wanted to front-load our investment in facility time to allow us to have a better product rather than to spend our time in conflict resolution and dispute management.”—[*Official Report, Devolution (Further Powers) Committee, 7 January 2016; c 6.*]

The witnesses before the committee raised a number of concerns about the check-off provisions, which ranged from concern about the bill’s placing of regulation-making powers in the hands of UK ministers to questions about how check-off provisions would apply to arm’s length bodies that are set up by local authorities.

The overwhelming majority of the committee agreed with the view of Conservative councillor Billy Hendry that the bill is an

“unnecessary and unjustified imposition, which could ultimately lead to more industrial unrest across Scotland.”—[*Official Report, Devolution (Further Powers) Committee, 7 January 2016; c 5.*]

Having reached that conclusion, the committee made a series of recommendations. First, the UK Government should refrain from proceeding with this unnecessary bill, which lacks any real evidence for its need in any part of the UK. Secondly, if the UK Government rejects that recommendation, the bill should be amended in the remaining stages in the House of Lords so that it does not apply to Scotland. Thirdly, if the UK Government is unwilling to make such amendments, the Scottish Government should seek to encourage such amendments by any means available to it.

Lastly, if all those recommendations are rejected, the committee recommends that, as a minimum, the regulation-making powers in relation to facility time and check-off should be conferred on the Scottish ministers. That might sound a bit technical, but without it the bill would, for instance, provide Jeremy Hunt with control over significant aspects of industrial relations in the NHS in Scotland. Given that 89.5 per cent of public sector workers in Scotland are accounted for by employment in the devolved public sector, the bill—if it extends to Scotland as passed—will fly directly in the face of the spirit of devolution.

I say to Parliament that such a situation is not acceptable and should be rejected. I commend the report to Parliament.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** On a point of order, Presiding Officer. I wish to raise a point of order that concerns chapter 12 of standing orders, in so far as it relates to the operation of committees. In doing so, in no sense do I make any comment on the selection of amendment S4M-15414.1, and nor do I speak on behalf of the Standards, Procedures and Public Appointments Committee, which has not yet considered the substance of Mary Fee’s proposed amendment to standing orders.

I seek from you, Presiding Officer, an assurance that in the event of the Parliament’s passing amendment S4M-15414.1, which I suspect it shall, the committee will retain the freedom to consider the purpose of Mary Fee’s proposed amendment while not being bound to take the formulation of that amendment. The initial advice appears to be that the formulation of the amendment would have no effect in changing the standing order powers to the Parliament. Therefore, I believe that the committee would wish to be able to consider as wide as possible a range of standing order amendments or other amendments that it might

bring forward to give effect to the purpose of Mary Fee's amendment.

It would be helpful to Parliament and the committee to have your assurance, Presiding Officer, that amendment S4M-15414.1, which calls on political parties to take action, does not bind the committee in its detailed consideration of the issue.

**The Deputy Presiding Officer:** I thank Mr Stevenson for the advance warning of his point of order. He is correct that the Parliament cannot compel a committee to take any particular course of action. It would be for the committee to decide how to respond to the amendment if it is agreed to.

15:20

**Margaret McDougall (West Scotland) (Lab):** I express my disappointment that, on the day that the Welsh Assembly is debating a legislative consent motion that will restrict the imposition of the anti-trade union bill on Welsh public services, we in the Scottish Parliament are unable to do similarly as a result of the Presiding Officer's ruling.

Members have debated the undemocratic Trade Union Bill in the chamber before and, barring Conservative members, a sizeable majority has expressed opposition to it. All members who have done so have a duty to do all that they can to stop the bill and they should therefore do what the Labour amendment calls for and support my colleague Mary Fee's proposal to amend the standing orders.

**Sandra White (Glasgow Kelvin) (SNP):** Will the member take an intervention?

**Margaret McDougall:** I have just started. Perhaps I will take an intervention later.

Let us be clear: this anti-trade union bill is bad for business and bad for workers. The only people who will benefit are bad bosses, while the rest of us suffer. The bill undermines the fundamental right of workers to remove their labour to fight for and defend jobs, pay and terms and conditions.

I will take Sandra White's intervention now.

**Sandra White:** With reference to what the member said when she opened her speech, will she and her colleagues support employment law being devolved to the Scottish Parliament, so that this would not be necessary at all?

**Margaret McDougall:** That is not what we are here to discuss and it is not an issue.

Removing the ban on the use of agency workers to break strike action—that ban was introduced by a Tory Government, no less, in 1973—is a

dangerous precedent that would undermine the rights of all workers. I fear that, if bad employers are able to use low-paid temporary workers to break strike action, that could lead to a new era of protracted industrial ill health. Bad employers would most certainly use that provision to push down pay and terms and conditions. We should also acknowledge the unacceptable position that many agency workers who are desperate for work will be placed in when they are pressurised by agencies to accept work in those most stressful of situations.

There are concerns that the use of agency workers could have an impact on the quality of public services and on health and safety. Would it really be acceptable, for example, for a business to break strike action with less-qualified temporary workers in heavy jobs where the safety of that worker and the wider public could be put at risk? We in the Parliament should be making it clear that we respect the right to strike—that should be a fundamental right in all democratic societies—and that we do not want devolved public bodies in Scotland to use agency workers to undermine industrial action for the reasons that I have outlined. We should also do all that we can to defend trade union facility time and check-off arrangements.

The Tories always omit two key points in all their rhetoric about those matters. Trade union facility time is not, as the Tories would have us believe, a costly burden on employers that provides no benefits. The reality is very different. Facility time is already tightly defined. It includes undertaking duties, such as negotiating with employers and representing members—duties that I am sure all of us in this chamber would expect trade unions to carry out. In enabling the carrying out of those duties, facility time provides a substantive benefit to employers by reducing work-related illness, stress and injury. It saves employers and the Exchequer money by reducing employment tribunal cases; it helps employers retain staff, saving them money on recruitment and training.

Let us be clear that check-off is not free. Local authorities, for example, charge trade unions an administrative fee for check-off arrangements. In recent years, as local government cuts have taken their toll, many local authorities, including those where the Conservatives are in power—South Ayrshire for example—have raised the check-off fees.

We on these benches have always acknowledged the importance of trade unions. We know that in workplaces with trade union recognition workers benefit from better pay and terms and conditions and, as I have just said, employers can benefit from good industrial relations. We believe in the key trade union value

of solidarity and the principle of united we stand, divided we fall.

Members on these benches will do everything that we can to oppose the bill and to protect the right of trade unions to represent their members. Labour councils across Scotland have taken decisive action against the bill and have pledged not to co-operate with it. The councils have pledged not to implement the changes to check-off and facility time arrangements; they will also not use agency workers to undermine strike action.

**The Deputy Presiding Officer:** The member should draw to a close, please.

**Margaret McDougall:** I am just closing, Presiding Officer. I am delighted that, in my area, North Ayrshire Council last month became the first Scottish National Party-led local authority to make such a commitment after a successful campaign by Labour councillors. We need to see that approach rolled out across the whole of the public sector in Scotland. We must see a legislative consent motion brought before this Parliament—

**The Deputy Presiding Officer:** You must draw to a close, please.

**Margaret McDougall:** —so that members are not only setting out their opposition to the bill, but making sure that it is not imposed on Scottish public services.

I hope that we can all work together across this chamber—

**The Deputy Presiding Officer:** Doubtless.

**Margaret McDougall:** —to amend our standing orders to allow us to debate that legislative consent motion.

**The Deputy Presiding Officer:** Right. Thank you very much. We are very tight for time today. I call Christina McKelvie. You have up to six minutes, please.

15:27

**Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP):** What is wrong with this bill? Dave Moxham from the STUC beautifully summed it up when he gave evidence to the Devolution (Further Powers) Committee:

“You will not be surprised to hear that the STUC’s view is that the bill is designed to fix a problem that does not exist, given that strike levels are at an historic low across the UK. As the Scottish Government has pointed out, the levels are even lower in Scotland. We consider the bill to be an ideological attack on the very basis of trade unionism. Trade unionism is designed to provide an effective balance in the workplace between the interests of workers and the interests of managers.”—[*Official Report, Devolution (Further Powers) Committee*, 7 January 2016; c 2.]

I could not agree more. Westminster clearly has not managed to get a handle on the idea “If it ain’t broke, don’t try and fix it.”

What is wrong with the bill? Practically everything. We have heard quite a lot of examples already. The bill not only tries to repair a problem that does not exist—we have more than enough real problems to be getting on with—but cuts to the heart every worker’s basic human rights.

The Law Society of Scotland and the Equality and Human Rights Commission Scotland have drawn attention to what the Government in London seems to feel is a minor impediment. Although the Secretary of State for Business, Innovation and Skills, Sajid Javid MP, is convinced that there is no such threat, he finds it hard to clarify just how he arrived at that conclusion.

The secretary of state has made a statement about the bill’s compatibility with the European convention on human rights—as he is rightly required to do—but he has avoided addressing the obligations under the United Nations and the International Labour Organization treaties ratified by the UK or its obligations as a signatory to the European social charter. Perhaps we should not be surprised by that. The Westminster Government has an astonishing ability to not answer any difficult or challenging questions. We have seen that not just in the context of the Trade Union Bill, but in everything from immigration and refugee policies to flood defences and the Barnett formula. We do not need to go back to the Tolpuddle martyrs in 1834 to concede that the exploitation of workers is bad for workers, bad for employers and bad for the economy.

Currently, the law protects the right of a trade union to organise and encourage its members to take part in peaceful picketing, provided that it meets certain requirements in the Trade Union and Labour Relations (Consolidation) Act 1992. The bill might be in breach of article 11 of the ECHR, which deals with freedom of assembly and association, particularly if it is read alongside article 14, which is about freedom from discrimination in the enjoyment of ECHR rights.

Trade Union officials in the public sector are accustomed to having some facility time to deal with members’ interests—I used facility time when I was a trade union activist. Clause 13 would limit that time and would probably restrict the proportion of the employer’s pay bill that is dedicated to facility time. The powers are dangerously open ended and could readily be used to interfere with freedom of association rights.

The STUC said:

“With less facility time, members would get a poorer service and workplace disputes could increase. Some

private sector employers might reduce facility time even though they're not forced to. Devolution means that employers such as the Scottish Government, councils and health boards should be free to spend resources without interference from the UK Government. We are calling on all public sector employers not to co-operate with the legislation. And many have already agreed to do this."

The House of Lords is an unelected and unrepresentative body, but it is encouraging that it decisively defeated the Government over trade union funding of political parties, even though there was some self-interest in doing so.

Nothing hobbles an organisation as effectively as the creation of unnecessary but—according to the Government—essential paperwork, and trade unions are no different in that regard. Many people have pointed out that the bill seeks to make everything more time consuming and to take a more old-fashioned approach, while cutting back the time available to comply with the regulations. Westminster is making things more old fashioned; who would've thunk it?

Baroness Smith of Basildon rejected the Government's claims that the bill will not hurt her party financially. She told peers that democracy would be damaged if the Government pushed through the changes on funding without the changes being fully scrutinised by a select committee. To require union members to opt into paying a levy, rather than enabling them to opt out if they want to do so, is a great way of increasing bureaucracy and reducing the budgets that help union members.

As we heard, the First Minister is seeking exemption for Scotland from this destructive, negative bill, which seems designed to damage constructive relationships between employers and staff. The First Minister is absolutely right to take that approach and I think that she has the backing of most MSPs.

That effort is only the tip of the iceberg. What we need is full control over employment legislation. If some members of the Smith commission had supported that, we might not be here debating the Trade Union Bill. What the Scottish Parliament needs is the power to work in Scotland's interests. A bit of discussion in the meantime would help.

The late Jimmy Reid said:

"From the very depth of my being, I challenge the right of any man or any group of men, in business or in government, to tell a fellow human being that he or she is expendable."

We should never forget those words as we debate the Trade Union Bill.

15:33

**Liam McArthur (Orkney Islands) (LD):** In her speech, the cabinet secretary made much of the

fact that the bill has no place in Scotland. Frankly, it has no place anywhere in the UK. The cabinet secretary at least acknowledged that.

Trade union reform is not in and of itself unreasonable, but the Trade Union Bill is not about improving democracy, accountability or even the effectiveness of trade unions. Rather, it is a petty attempt to neuter unions and prevent them from properly representing the legitimate interests of their members. It is driven not by the demands of business or the needs of the public sector but by a determination to undermine the Labour Party.

As for the provisions on political funding, if the Tories were at all interested in tackling the distorting effects of money in our politics and elections, they would agree to calls from Liberal Democrats and others for genuine reform of party funding, rather than simply manipulating the rules in their favour. Rigging the deck in the way that the Tories are doing is nakedly political.

UK ministers claim that the bill is necessary in the face of increased strike action in recent years. However, given the profound economic shock that we have collectively been through in recent times, it is scarcely surprising that more people have been in dispute with their employers. To pin the blame, somehow, on irresponsible trade union activity is wrong, and deliberately so. It is also dangerous. Trade unions are vital in standing up for workers' rights, improving productivity and protecting against workplace abuse and bullying.

Is it the case that some individuals in some unions act irresponsibly on some issues? Yes. Are there even those who make more of a habit of it? Perhaps. But is there anything that suggests that the reforms in the Tory Government's bill are either justified or proportionate? Not at all, in my opinion. Yes, recent polls indicate that 29 per cent of people believe that trade unions are too powerful, but the same polls show that 77 per cent agree that they are essential to protect workers' interests. UK ministers would do well to reflect on that.

Of course, it is no coincidence that the bill is appearing only now. As my colleague Willie Rennie reminded the Parliament back in November, the bill is made up almost entirely of measures that were proposed by the Conservatives over the five years of the previous coalition Government but blocked by Liberal Democrats, notably my former colleague Vince Cable.

However, it is not just about measures that Liberal Democrats blocked. In the run-up to last year's election, Vince Cable drew up proposals on e-balloting that were aimed at helping to increase democracy and participation within trade unions. Those plans, which it seems are good enough for

the Tories in selecting London mayoral candidates, are nevertheless off the table when it comes to union reform.

It is not simply trade unions and the Labour Party that stand to lose. A number of the measures risk damaging industrial relations in this country, as almost all the members who have spoken so far have mentioned. That is madness. Good industrial relations not only protect workers from abuse and intimidation but deliver better productivity, and effective relationships between employers, workers and trade unions are in the interests of all three, as well as of our economy as a whole. Trade unions work actively with management to deal with industrial disputes before they go too far. As Unison and others have made clear, if that balance of power is shifted, more serious grievances and greater detriment to that relationship in the workplace could be the result.

An example is facility time, which has been highlighted by the RCN—an organisation that even the most right wing of UK Tory ministers would struggle to demonise as Trotskyite troublemakers. In Scotland, trade union facility time is agreed as part of the NHS staff governance framework, but the changes that are proposed in the bill would, among other things, give ministers the power to impose a cap on the time that trade union representatives are allowed to carry out their duties. The underlying assumption appears to be that there are too many trade union representatives in the public sector, yet independent research suggests that the bill is attempting—as others have said—to solve a problem that does not exist.

As the Devolution (Further Powers) Committee argues, if the issue cannot be resolved at a UK level—Bruce Crawford helpfully set out the ways in which that may yet be achieved—we will need to ensure that Scotland is enabled to take a different approach, and the same applies with regard to the provisions on check-off. I say that as someone who believes that employment law is ideally consistent across the UK—indeed, a European Union-wide approach has delivered significant benefits in recent times.

On political funds, just as English votes for English laws is a self-interested, piecemeal and counterproductive way of dealing with the serious constitutional reform that our country needs, so, too, is picking off the Labour Party and trade unions for special measures instead of addressing the pressing need for fundamental reform of how all our political parties are funded.

The SNP Government often stands accused of legislating not because it should or it needs to but because it can, and of fixing problems that do not exist. Sometimes that criticism has emanated

most vociferously from members on the Conservative benches, yet I can think of few more egregious examples of wrong-headed law-making than the Trade Union Bill. UK ministers propose to act not on the basis of what is in the interests of our country, our economy or our workforce, but for other reasons. They have made a political calculation about what they think will damage the Labour Party financially and politically. The fact that their proposals risk damaging workplace relations, workers' rights and productivity seems to matter little to the UK Government.

On the grounds of civil liberties, workplace harmony and higher productivity, Liberal Democrats will continue to work with others here and at Westminster to oppose the Trade Union Bill, and I will support the motion and the amendment at decision time.

**The Deputy Presiding Officer:** I ask members to keep to their six minutes, please.

15:39

**Kevin Stewart (Aberdeen Central) (SNP):** I refer members to my entry in the register of members' interests and declare that I am a member of Unison.

The Trade Union Bill seems to be part of a wider Tory agenda to restrict employees' rights. We have already seen the removal of legal aid access for personal injury claims, and anyone who started working after 6 April 2012 must work for their employer for at least two years before they meet the qualifying period for unfair dismissal. Changes to employment tribunals have restricted access to workplace justice, and tribunal fees of up to £250 just to register a case have been introduced. Those changes—all attacks on employee rights—were bad enough, but now we have the Trade Union Bill, which seems to be an outright ideological attack on worker representation.

In its briefing for the debate, the British Medical Association has provided us with an excellent summary of the bill. The BMA does not have a political fund and is not affiliated to any political party or to the Trades Union Congress. No one—unless their name is Hunt—could ever accuse the BMA of being a reactionary, militant organisation. The briefing states:

“The BMA believes that the Trade Union Bill risks diminishing not only the important role trade unions play in the work place, but also their legitimate right and need to represent their members' interests. The imposition of tighter restrictions on trade unions may have the inadvertent effect of prolonging workplace disputes, thereby making it more difficult to resolve disputes amicably.”

A similar view is held by Shirley Rogers of NHS Scotland, who stated at the Devolution (Further Powers) Committee that



“the NHS took the view that we wanted to invest in co-production; we wanted to front-load our investment in facility time to allow us to have a better product rather than to spend our time in conflict resolution and dispute management. The proof of that pudding is that, during the past 10 to 15 years, we can count on one hand the number of disputes that we have had.”—[*Official Report, Devolution (Further Powers) Committee*, 7 January 2016; c 6.]

My experience of facility time is similar—it has been beneficial to some organisations that I have been involved with, including Aberdeen City Council, in which it has been beneficial in areas such as health and safety, input to the local education committee—including work on the three Rs project, which built 10 new schools in Aberdeen—and budget setting. Trade union colleagues were at the forefront in those examples. I hope that that continues throughout the country for ever and a day.

The bill undermines workers’ rights to representation: of that we can be in no doubt. The BMA briefing tells us:

“The Secretary of State for Business, Innovation and Skills has stated that ‘this Bill is not a declaration of war on the trade union movement’. However, this Bill, alongside the measures introduced by the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, appears to be another ideological attempt by the Government to curtail the legitimate activities of trade unions.”

Esther Lynch, who is a confederal secretary of the European Trade Union Confederation, recently wrote:

“The very fact that the Trade Union Bill has been proposed is shocking. Attacks on the fundamental right to strike, recognised as a basic human right, are not just an attack on workers and their trade unions, they are an attack on society as a whole. Weaker unions mean greater inequality. By interfering with trade union collective action Governments prevent workers from effectively participating in the choices involved in their workplace, society and economy. The deck becomes firmly stacked in favour of the powerful and the privileged.”

Should we be surprised that, once again, the Tory party is attempting to stack the odds in favour of the powerful and the privileged? Probably not. However, in the Scottish Parliament, we should be doing all that we can to ensure that such draconian laws cannot be implemented here. We must all support the call from the Devolution (Further Powers) Committee that Scotland be excluded from the bill.

We have heard today from Mr Findlay that he would like to explore every avenue to combat the bill. Margaret McDougall said that we should take every measure required to do so. The measure that we must take—the avenue that we need to go down—to protect trade unionists and employees across the board, to protect human rights and to defend our freedoms, is ensure that all aspects of employment law are devolved to this Parliament.

15:45

**Lesley Brennan (North East Scotland) (Lab):**

I first note my interest as a member of Unite the union.

As we have heard already, a significant number of local authorities have debated motions, including my Dundee City Council where, thankfully, the SNP administration supported a Labour motion that said how much we are against the Trade Union Bill. Scottish trade unions, trade unionists and other stakeholders including NHS Scotland are opposed to the bill.

The extent of the opposition to the bill in Scotland was made clear, as we have heard, when the bill was debated in Parliament on 10 November and there was a significant majority of support for the motion against the bill, with only 14 members voting against that motion.

It is disappointing that the Scottish Government’s legislative consent memorandum was rejected, because there is evidence that the Trade Union Bill will have an impact on devolved functions. For example, the proposed changes to facility time, which I would like to concentrate on today, will impact on the NHS, on local authorities and on other organisations that come under the remit of the Scottish Parliament. There is therefore a strong argument that the bill encroaches on the legislative competence of this Parliament.

It is important to remember why the current UK Government is taking the bill forward. Let me quote the Institute of Employment Rights, which has said:

“It is a fact that workers in unionised workplaces enjoy better terms and conditions.

Why? Because trained trade union reps are active in the workplace, negotiating, representing and promoting the wellbeing of the workforce.”

Facility time is an important component of the role of trade union representatives. Time off from an individual’s job is granted by the employer to enable a union representative to carry out his or her trade union role. It has been a right since 1975. As Margaret McDougall has said, union representatives’ duties are tightly defined. We must acknowledge the work that they do on top of their own workload—especially those in the public sector—and how much their workload has expanded over the past seven years. Many representatives do casework and preparation for meetings in their own time; facility time is not the complete amount of time that is involved in resolving issues. We need to be mindful of the contribution that union representatives make.

The proposals on facility time in the Trade Union Bill are very concerning because, if it is passed, all public sector employers in Scotland will be required to publish information on the amount of

money that is used for trade union facilities, including paid time off, and trade unions will have to publish the amount of money that is spent on facility time and how much time is taken up with trade union activities. The critical point is that the UK Government will have the power to introduce a cap on the amount of money that local authorities can spend on facility time. The cap could also apply to various other trade union activities.

It is very important to remember that facility time is not some altruistic action by employers; there is a clear business case for facility time. According to the Royal College of Nursing,

“The Trade Union bill could have serious consequences for productivity and morale in the NHS, as new research shows that trade unions are saving the NHS across the UK at least £100 million every year. Independent evidence has revealed that staff turnover in organisations without union representatives is three times higher than in those with union representatives.”

When it is added up, the saving comes to £100 million year.

Evidence from a survey for the TUC and the “Personnel Today” website notes that the majority of

“HR professionals ... agree that unions are an essential part of modern employer/employee relations”.

However, the Tories at Westminster want to weaken seriously the effectiveness of unions rather than promote industrial harmony and business efficiency, so the evidence of those beneficial outcomes is not being considered. No plausible case can be made for regarding the Trade Union Bill as constructive. It is not constructive; it is destructive. Facility time benefits not just trade union members, but everyone.

The Scottish economy is weak, and further reductions to the public sector will further weaken the economy. Scotland therefore needs a robust response from the Scottish Parliament on the Trade Union Bill, because Scotland cannot afford the bill. The Scottish Government acknowledges that the bill will have an impact on devolved functions. It will have devastating implications for Scottish public services, which benefit from facility time. Research that was published earlier this month in the journal *Work, Employment & Society* notes:

“In NHS Scotland, union participation in strategic decisions produced extensive co-operation to ... improve services and enhance staff terms and conditions.”

There is overwhelming opposition to the Trade Union Bill. I feel that we have a unique opportunity today to move beyond the rhetoric and instead genuinely to work together for Scotland. I was heartened to hear that the minister will support Neil Findlay’s amendment to support the proposal

from Mary Fee to amend standing orders to allow thorough debate of the Trade Union Bill.

**The Deputy Presiding Officer (Elaine Smith):** You really must come to a close.

**Lesley Brennan:** The proposed changes to facility time will impact on devolved matters and the productivity of the organisations that I mentioned. I am therefore delighted that the Scottish Administration will support Neil Findlay’s amendment today.

**The Deputy Presiding Officer:** Again, I ask members to keep to their six minutes; otherwise, members who speak at the end of the debate will lose time.

15:52

**Clare Adamson (Central Scotland) (SNP):** I declare an interest as a member of the National Union of Journalists and as a member of the SNP trade union group, which is now over 16,500 strong.

I was born and brought up in industrial Lanarkshire, and the trade union movement and industrial relations have often been prominent in my life. The traditions of solidarity and unity in Lanarkshire were brought home to me last year when I stood with representatives from the trade union movement, the STUC and people from the communities of Motherwell and Wishaw at the unveiling of the steelworkers memorial, which is a beautiful sculpture by Andy Scott and a fitting tribute to the many workers in the steel industry who lost their lives or were injured in the workplace. However, the site of Ravenscraig on which the statue stands will forever be remembered by me as the place that epitomised in my formative years the failure of industrial relations.

I remember the miners’ strike and picketing at Ravenscraig. I fully believe that that conflict, as it is in my mind, was orchestrated by a Government that had an agenda to damage irreversibly the trade union movement. I thought that the anti-trade-union legislation that followed was the worst that a Tory Government could do to a movement that has done so much to secure workers’ rights, to improve health and safety, and to protect workers. Unfortunately, I was wrong.

The proposals in the Trade Union Bill will further restrict the fundamental rights of workers to organise, to bargain collectively and, where necessary, to withdraw their labour. One has only to look at the position of junior doctors in England and Wales to see how important that last right is when one is faced by an unjust Government. In Scotland, we have good industrial relations. The trade unions are well recognised; they are a

hugely important part of our society and are indicative of a healthy modern democracy.

As convener of the cross-party group on accident prevention and safety awareness, it has been my absolute pleasure to work with Scottish Hazards in its endeavours with the STUC to raise awareness, and to train and support workers with the aim of reducing the amount of work-related injury, ill health and death. The group aims to increase knowledge and awareness and, most important, to improve practice and develop workers' involvement in the most important part of their lives—their working environment.

How many of those hard-won protections for workers would exist, however, without the efforts of an effective trade union movement? We have heard the mantra from other parties in the UK, particularly from the United Kingdom Independence Party, about the red tape of health and safety, but it is not so. Those are hard-fought-for protections that were put in place for workers through the endeavours of a strong and effective trade union movement.

In Lanarkshire, unfortunately, we all understand the dangers and the legacy of those industrial days—mesothelioma, pleural plaques, chronic obstructive pulmonary disease and vibration white finger. The list goes on and on. If we do anything that further diminishes the rights of workers and the trade unions in the UK, we do it at our peril.

I have talked about my formative teenage years. I remember the 1979 devolution referendum and the late amendment that required 40 per cent of the electorate, not just a simple majority, to support the proposal. That was an affront to democracy then, and clauses 2 and 3 of the Trade Union Bill are an affront to democracy now. There has been talk about how the bill will be debated in the Welsh Assembly today, and Liam McArthur said that he is in favour of a UK-wide employment legislation solution, but we do not have that now: the bill will not be discussed in the Northern Ireland Assembly, because the matter is devolved to the Northern Ireland Assembly. Had we had support in the Smith commission, the bill's subject matter might well have been in Scotland's power too. It is a shame that we do not have that power, because it would make such a difference to the future and to today's deliberations.

One of the reasons that have been mooted for the need for the Trade Union Bill is that through it the number of days' productivity that are lost in the UK economy can be limited. I would like to see the UK Government look to what the Scottish Government has done by introducing the living wage—which research has proved increases productivity, motivates workers and benefits people. We can do things differently here; we can take different decisions. We need the power to do

so, and we should use every way that we can find to reject the bill that is being promoted by the Tory Government.

15:58

**Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab):** It is widely recognised that the Trade Union Bill is one of the most ill-judged, unnecessary and ideologically driven pieces of legislation since the days of Margaret Thatcher. It is ill judged because it will take away the last resort that is industrial action by workers and will force them to take more direct political action; it is unnecessary because days lost to strike action are at an all-time low; and it is ideologically driven because it seeks to give Government and employers more power and working people less. In short, it is a bad bill and we must do everything in our power to oppose it.

We debated the issue in November so I do not intend to rehash all the arguments that were used then. They still stand and are a matter of public record. Today, I want to look at where we now stand and what options are open to this Parliament to make its view on the bill known to the UK Government and, crucially, to seek change. Ideally, the UK Government would drop the bill, but we know that that is unlikely to happen.

The report by the Devolution (Further Powers) Committee is a welcome addition to the discussion around the bill. As we know, one of its recommendations was that we should have this second debate on the Trade Union Bill, so that the committee's conclusions could be aired. The committee took evidence from relevant people with a direct interest in the bill's provisions and their evidence backs up the view that the proposed legislation was rushed into Parliament and has not been properly consulted upon.

Indeed, the committee quotes the conclusions of the UK Government's Regulatory Policy Committee, which stated that the Department for Business, Innovation and Skills's impact assessment on the bill said that it is "not fit for purpose" and

"lacks evidence to support many of the quoted figures".

The committee concluded that the provisions on check-off and facility time will not lead to savings or efficiencies.

I was struck by something that Clare Adamson said about health and safety and the Scottish Hazards movement. As members know, I have been greatly involved with the Stockline factory. That was not a unionised workplace; I like to think that if it had been, and if the trade union officials and lay trade union members had been able to go

on a health and safety course, parts of the build-up to the incident that happened that day and which cost the lives of nine people would not have happened. People would have been alive to the dangers that were so apparent if one just cared to look.

The Devolution (Further Powers) Committee noted that the UK Government does not believe that a legislative consent memorandum or motion is needed, in spite of the fact that the proposed legislation seems to confer powers on UK ministers over the operation of check-off and facility time in the public sector. The committee suggested that it wants to encourage the UK Government to think again about that, but it recognises that it is unlikely to do so.

As we know, our debate is taking place at the same time as the same debate is taking place in the Welsh Assembly. Although the Welsh Assembly has considerably fewer powers than the Scottish Parliament, it is debating an LCM. As matters stand, an LCM in the Scottish Parliament has been ruled out by our Presiding Officer and her legal advisers. Consequently, Scottish Labour has suggested a change to standing orders that would alter the way in which an LCM is handled in the Scottish Parliament. If there is a will to do so, there is no reason why Parliament cannot quickly change its standing orders to allow any member to lodge an LCM.

I am pleased that the Scottish Government has said that it will accept our amendment. I say to my colleague Mr Stevenson, who is not in the chamber at the moment, that the Labour members who are on the Standards, Procedures and Public Appointments Committee will be happy to work with him and other colleagues to ensure that the amendment that we come up with is absolutely right for the purpose.

Parliament's Devolution (Further Powers) Committee suggested that Scotland should be removed from the territorial extent of the bill by amendment. As we know, time is running out so the committee suggested the further fallback that, as a minimum, the regulation-making powers relating to facility time and check-off should be conferred on Scottish ministers as they relate directly to public services in Scotland. I know that my Labour colleagues Eluned Morgan, Peter Hain and George Foulkes, as well as Jeremy Purvis of the Liberal Democrats, have tabled amendments to do just that, but perhaps the minister can tell us what discussion and engagement she has had with them about those issues. I understand that the amendments will be taken in the House of Lords on 8 February.

The UK Government seems to see the bill as some kind of demonstration of its virility. To me, it is a sign of weakness to seek to reduce the rights

of workers and attempt to silence their voices through process rather than argument and discussion. It is symbolic of the UK Government's attitude to trade unions, the ECHR and democracy.

Symbols can be important, so I suggest that we, as a Parliament, might like to make a small symbolic gesture. Perhaps the business managers of all the parties represented in the Parliament that oppose this anti-trade-union bill should go to Downing Street, taking with them copies of the *Official Report* of the two debates that have been held here to hand in, in order to make a practical and symbolic demonstration to the UK Government that a strongly held contrary view is held by the majority of Scots and their representatives.

**The Deputy Presiding Officer:** I am sorry, but you must close.

16:04

**Mark McDonald (Aberdeen Donside) (SNP):** My colleague Kevin Stewart spoke of his time at Aberdeen City Council as the convener of the finance and resources committee. He mentioned the important role that trade unionists played in a number of the budget discussions and in resolving the vexed issue of single status and equal pay in modernisation—regrettably, that remains unresolved in a number of local authorities. If the Trade Union Bill were to be passed at Westminster, I wonder what the impact would be on the ability of unions to effect a resolution to that issue.

During my time at Aberdeen City Council, I convened the appeals committee. I saw at first hand the benefits of trade union facility time in enabling the provision of appropriate support and representation for staff members who were lodging appeals against disciplinary procedure. I have serious concerns that, if the bill is passed, the ability of trade union officials to work on behalf of their membership in such appeals or in matters of grievance will be severely restricted, which could remove some recourse to justice for those members.

I also spent time on the council's corporate health and safety committee. That was an important forum that brought together council officers, union representatives and elected members in order to drive forward the health and safety agenda. My colleague Clare Adamson spoke of that agenda in its wider context. At local authority level, again I have concerns that those union voices could be lost to that process if the changes concerning facility time in the bill are introduced.

Recently at Aberdeen City Council, my colleague Councillor Jackie Dunbar, who leads the SNP group, tabled a motion that was worded similarly to motions passed by other local authorities across Scotland, seeking to express the council's explicit opposition to the Trade Union Bill and to put the council in a position in which it would not take action that would undermine union rights as a consequence of some of the bill's measures. Regrettably, the motion was ruled to be incompetent by the Labour Lord Provost, despite it being along the same lines as those that have been passed by other councils. An attempt to lodge a motion with different wording, in a bid to get consensus, was not included on the agenda of the council's urgent business committee.

My hope is that that was not a narrow consideration that a motion put forward by the SNP was the issue, and I hope that a resolution can be found so that Aberdeen can join those other councils that have, I believe quite rightly, expressed their opposition to the Trade Union Bill.

I was interested to hear Margaret McDougall speak about regressive union legislation that was passed by the Conservatives in the 1970s and remains on the statute books to this day. I regret the fact that that regressive legislation remains on the statute books despite 18 years of unbroken Labour Government from 1997 to 2015. That raises a secondary concern for me. Were the Trade Union Bill to be passed—I hope that it will not be, but we have to work with the reality that there is a majority Tory Government at Westminster—and were there to be a change of Government, we have no explicit guarantee that the legislation would be reversed, given what we saw following 1997.

**Neil Findlay:** The member really needs to keep up with the news. Jeremy Corbyn is absolutely committed to reversing that legislation.

**Mark McDonald:** First, we will see whether Mr Corbyn is prime minister after 2020 and, secondly, we will see whether he keeps to his word in that respect.

Mr Findlay and his colleagues have spoken about the legislative consent motion, and we will accept the Labour amendment at decision time. However, until the UK Government changes its position around the requirement for legislative consent, the passing of an LCM will have no meaningful effect. The legislation can still be passed at Westminster and the parliamentary supremacy that Westminster commands means that a challenge to legislation that it has passed is almost certain to fail.

No amount of hand wringing can deflect from the fact that the Labour Party, in the Smith commission and during the debate on the

Scotland Bill following it, argued to leave employment law and trade union law in the hands of the Conservative Party at Westminster. Labour rejected the proposal by my colleagues at Westminster to devolve employment rights. I heard the argument that union movement solidarity transcends national borders. However, as my colleague Clare Adamson pointed out, the bill will not affect unions in Northern Ireland, because the decision has already been taken to devolve those matters to Northern Ireland. The simple and clear fact is that the Trade Union Bill is not an example of better together; it is an example of suffer together.

**The Deputy Presiding Officer:** I call Sandra White.

16:10

**Sandra White (Glasgow Kelvin) (SNP):** Is my microphone on, Presiding Officer? I thought that it was like the nightmare that we had last week when the lights went out and that perhaps my microphone had gone off, too. Maybe some folk would have preferred it if it did but, never mind, it is on now, anyway.

I echo the views of those who have spoken in opposition to the Trade Union Bill. It is important that we speak up against this regressive bill. I believe that it is a direct attack not only on trade union rights but on human rights, and it must be seen as that. As a former shop steward, I was proud and privileged to represent and serve my members in the Union of Shop, Distributive and Allied Workers. We not only raised issues that trade union members raised with us; we facilitated meetings with management. That is the crux of a lot of the argument about the bill. I think that we actually prevented strike action through those meetings with management. We put the voices of union members and their concerns first, and we won a lot of concessions. That is one of the jobs of the trade union movement.

To reiterate what the cabinet secretary said, trade unions are an essential part of the workforce, not just because they represent their members but because of the training that they provide and the fact that they put people through colleges. Trade unions do an absolutely fantastic job, and the bill is a very bad proposal for legislation. Some of the issues that members have mentioned obviously worry me, and I will probably pick up on some of them.

The UK Government's lack of dialogue with not only the Scottish Government but the other devolved legislatures in the UK is deeply troubling for a number of reasons. Given devolution as it stands, many of the dealings that we have with trade unions in Scotland relate to sectors for which

responsibility is already devolved, and further powers and responsibilities will I hope transfer to Scotland. That is important. Over the past 16 years, relations with those sectors have been largely influenced by the actions of consecutive Administrations in Scotland. We have a distinct relationship with those sectors and the employees in them. The proposed legislation will have a direct impact on that relationship, so I believe that the Scottish Government and the Parliament should have had a major say in it. As members have said, Dave Moxham and others mentioned that they were not consulted in any way whatever. It is troubling that the present Conservative Government is more interested in bypassing Parliament to implement what I would call its ideological drive against the poor in favour of the rich.

The conventional guarantees against autocratic rule in any democratic society are the rule of law, the separation of powers and public access to legitimate scrutiny of action. However, the Tories want to restrict that. As has been said, they introduced the Criminal Justice and Courts Bill, which would have made it more difficult to challenge unlawful Government decisions or subject public bodies to effective scrutiny. That bill was defeated in the House of Lords. At the time, the Labour peer Lord Beecham said:

"In the unlikely event of Mr Putin becoming aware of the Government's approach, he would be lost in admiration."—*[Official Report, House of Lords, 9 December 2014; Vol 757, c 1742.]*

I love that wee quote. I do not think that that is the kind of admiration that we want. I would hope that even those on the Conservative benches would not want that.

The Conservatives then wanted to bypass Parliament to introduce new freedom of information laws. Incredibly, the Information Commissioner described that as an attempt by the Tories to return to "private government". Since the elections, the Tories have increasingly used statutory instruments to try to introduce swathes of significant new laws and measures such as benefit cuts without debate in the House of Commons.

The Trade Union Bill is another way of removing people's voices and making it more difficult for them to challenge Government decisions. It comes on the back of a concerted war against workers by the Tories, who have removed legal aid for employment tribunals, changed the rules governing unfair dismissal, changed the rules for employment tribunals and cut back on health inspectors, all to the detriment of workers.

That is all part and parcel of the Tory plan. It is another way of rolling back democracy and rights that, as we know, are hard fought for. The lack of proper discussion and scrutiny shows that it is also

another example of the Tories' lack of respect for Parliament, whether in Westminster or Holyrood. The Tories are keen to go to war in Syria and, covertly and without parliamentary approval, in Yemen. Their new war is the war on democracy.

We must oppose this badly thought-through legislation. It is a fundamental attack on workers' rights and, more insidiously, a further attack on our democracy by an increasingly secretive and totalitarian Tory party that is hell bent on eroding fundamental rights throughout the UK. In addition, as other members have said, we must call for the devolution of employment law because, regardless of its stance against the Trade Union Bill, the Labour Party fails to support the one measure that would defeat it.

16:16

**John Wilson (Central Scotland) (Ind):** I declare an interest in relation to the debate, as I am a registered member of Unite the union and a member of the RMT parliamentary group.

I thank the Scottish Government for bringing the debate to the chamber and the Devolution (Further Powers) Committee for its report. It is a vital debate and of particular interest to me. Trade unions are a vital resource for workers across a broad range of industries. The Trade Union Bill represents nothing less than an attack on the rights of trade unions and, as a result, the rights of workers throughout Scotland and the rest of the UK.

As I said in the recent debate on the oil and gas industry, I applaud the role that the trade movement played in securing and defending the rights of workers in that industry, especially on health and safety issues. We have a duty to listen to the trade unions that represent workforces throughout Scotland. The STUC, COSLA and other organisations have made their professional opinion on the matter clear: the Trade Union Bill is a draconian, archaic and politically motivated piece of legislation. It is an attack on trade unions and nothing more.

Trade unions organise workforces, represent the workforce and ensure that workers are protected in more ways than just earnings. They protect workers on health and safety and make representation on behalf of workers. The facility time that we are talking about the Trade Union Bill eroding is time that trade unions take to represent their members on a wide range of issues to their employers and others.

The right to strike has had a long and proud tradition in Scotland and the UK. It is a fundamental right. People who take strike action do not do so lightly. When we went on strike when I worked in industry, the majority of workers lost

financially by doing so but won the right to protect their rights and the health and safety conditions for which they had fought.

The right to stand up to employers and businesses and demand a certain standard of rights and welfare in employment is fundamental to our society. It is fundamental to creating a just and fair society for all. The Trade Union Bill comes from an incorrect assumption that striking is a problem in modern-day UK. According to the STUC,

“Last year there were only 151 strikes. Less than 2 per cent of workers participated in a strike. The days lost due to strikes were less than 3 per cent of the 28.2 million days lost due to work related accidents and ill-health.”

If the Tories wanted to stand up for working families, as they keep on claiming that they do, they would protect health and safety legislation and ensure that workers have safe, fair contracts that allow them to work in a consistent and stable manner. They would also ensure that workplace health and safety representatives were protected against employers who wished to undermine hard-fought-for protections in the workplace.

The Trade Union Bill is undemocratic and anti-worker. The imposition of a minimum 50 per cent turnout of eligible voters is a nonsense. The UK Government would not have been elected if it had required 40 per cent of the eligible voting public to support it. The UK Government has claimed that it is attempting to increase democracy in the workplace by imposing these restrictions. However, greater restrictions on vote results will serve only to strangle democracy.

The UK Government is consulting on draft regulations that will allow employers greater freedom to employ strike-breaking temporary workers. That fundamentally undermines the right to strike and the purposes of striking. Undermining the purposes and actions of the strike undermines the democratic principle behind the strike, once again showing how the legislation does not increase workplace democracy, as the Tories have claimed, but instead simply serves to undermine and attack trade unions and their right to collective action.

A lot has been said today about political funds, and I suggest that Alex Johnstone, in particular, goes and looks at the relevant legislation that the Tories introduced in the 1990s to undermine the political representation that unions can make on behalf of their members. Political funds are not about funding political parties; they are about allowing unions to protect their members and represent them in relation to electoral and other campaigns, and they enable unions to put across their members' views in those elections.

On the issue of whether the legislation that goes through Westminster is legal, it can be legal, because it may be passed by Westminster, but I would argue about whether it is legitimate to put in place some of the legislation that is currently being proposed. The embarrassing thing for the UK Government at the moment is the fact that the junior doctors—a sector that is the least organised in our workforce—have highlighted the role that the UK Government is playing in undermining the rights of workers not only in industry but also in the NHS.

This legislation is a precursor to attempts that will be made by the Westminster Government in the coming months and years to undermine the fundamental rights of workers to withdraw their labour and of unions to represent their members and campaign for better rights, better health and safety and better workplace security. This legislation clearly shows that the Conservative Government is interested only in protecting the rights of employers and undermining all the other rights that have been hard fought for by the trade union movement over the centuries.

16:22

**Gordon MacDonald (Edinburgh Pentlands) (SNP):** I thank the members of the Devolution (Further Powers) Committee for their comprehensive report on the impact on Scotland of the UK Government's Trade Union Bill. I believe that, if it is enacted, the bill will have a detrimental effect on labour relations in Scotland for many years to come.

In my contribution to the debate on this subject that was held in the autumn, I highlighted the problems that would be created by introducing a general voting threshold, reducing facility time, making it difficult to collect union dues and undermining democracy by not allowing electronic voting. Those concerns still stand, so today I want to raise my concerns about clause 3 of the bill, which relates to ballot thresholds for “important public services”.

Clause 3 would require that at least 40 per cent of those eligible to vote would have to vote yes before any industrial action could take place. The areas of public employment that would fall under that clause is yet to be defined but it is likely to include the NHS, education, fire service and transport.

In its policy memorandum, the Scottish Government stated that that provision

“is wide enough to affect and have a negative impact on trade unions and their members who work in the public sector in Scotland in the important public services”.

The 40 per cent rule has been used to Scotland's detriment before, back in the 1970s,

but what would it have meant for the Tory Government if it had been introduced for Westminster elections? In 2015, the Tories received 11.3 million votes across the UK, or 37 per cent of the vote. That fails to meet the 40 per cent level, but that is not even the criterion that the Tories are seeking to impose. The turnout at the 2015 general election was 66 per cent of 46.4 million potential voters. Therefore, the Conservatives were voted for by only 24 per cent of eligible voters. Is it not a nonsense for them to impose a threshold for union ballots that they failed to reach?

In a submission to the relevant committee at Westminster, the BMA said:

“the ballot threshold levels ... are arbitrary, unnecessary and inappropriate. We have seen no evidence as to why an additional 40% threshold in ‘important public services’ has been chosen; the purpose of this double threshold appears only to be to make it more difficult for unions to organise industrial action.”

Even the Fire Brigades Union, which has met those thresholds in its recent ballots, stated in its written evidence to Westminster:

“These restrictions have no basis in domestic or international law or in other voting systems.”

The Devolution (Further Powers) Committee’s report highlighted the evidence of Dave Moxham of the Scottish Trades Union Congress, who argued:

“it is fundamentally and democratically wrong that an abstention should be counted as a no vote.”—[*Official Report, Devolution (Further Powers) Committee, 7 January 2016; c 18.*]

It is not as if we have a strike problem in Scotland. Since 2007, the number of industrial disputes has decreased by 84 per cent. The Scottish Government’s policy memorandum on the bill highlights that

“the Scottish trend in days lost to industrial disputes is the lowest of all the UK nations. If enacted as it is the Bill has the potential to destabilise the balance of the employer/employee relationship.”

Of course, the way to ensure that the number of days lost to strikes continues to fall is to improve dialogue between employers and employees. Clause 13 of the bill seeks to create a reserved power whereby a UK minister may make regulations to restrict facility time. As the Scottish Government has argued,

“Restricting facility time is likely to limit the Scottish Government’s ability to work effectively with trade unions on a range of issues as they will not have the capacity to engage.”

The justification for cutting facility time is explained in a letter from the UK Minister of State for Skills to the Westminster committee considering the Trade Union Bill in answer to a request from the SNP MP Chris Stephens. The UK

Government seeks to cut facility time from 0.14 per cent to 0.07 per cent of the public sector pay bill but, as Bruce Crawford has highlighted, facility time in Scotland is already lower and costs the public purse less than the target that the Tories have set. Once again, the bill tries to resolve a problem that simply does not exist.

On 17 January, the First Minister told the Unite Scotland conference that the bill

“is nothing short of a full frontal attack on the rights and freedoms of trade unionists. It is, in my view, an attack on basic human rights.”

Of course, if all the political parties that opposed the bill had supported the devolution of employment law, as the STUC called for at the time, we would have been able to address the problem instead of just talking about it.

I believe that the devolution of employment law would be the most effective means of preventing the imposition of punitive and regressive Tory attacks on workers’ rights in Scotland. Last June, Labour refused to support a Scottish Government motion that called for the immediate devolution of employment law in order to ensure the protection and promotion of the rights and responsibilities of workers in Scotland. The Labour Party has repeatedly refused to support the devolution of employment law. I am sure that Labour does not prefer to leave power over workers’ rights in the hands of the Tories at Westminster but, unfortunately for Labour, people are judging it on the basis that actions speak louder than words.

16:28

**James Kelly (Rutherglen) (Lab):** My constituency has a strong industrial heritage—it has a strong history of mining, steel making and manufacturing, through which was born strong trade unionism. There was a need for collectivism because, historically, some of the employers in the constituency had very bad employment practices.

If we fast forward to the 21st century, although industrial relations and working conditions have improved substantially, even just a cursory glance at recent news cuttings shows that we still have major issues to deal with.

Last week, the Resolution Foundation reported that one in five Scots earns below the low pay threshold, and we have seen the reports about Sports Direct, where thousands of workers are on exploitative zero-hours contracts. The role of trade unions in giving a voice to people in the workplace is more relevant than ever. When we look at the logic of the Trade Union Bill, we must ask what it does for those who need the strong voice of trade unions. The bill undermines that voice.



The bill has been introduced by the Conservative Government because it operates on the basis that trade unions are not a force for good. A lot of members have mentioned the attempt to restrict facility time, which is all about shutting down trade unions' opportunities to organise and assist workers. However, trade unions also assist employers. Lesley Brennan pointed out that the benefits of facility time include lower exit rates, lower incidences of people going to employment tribunals, and lower rates of illness and injuries. There are clear benefits.

This afternoon's debate is about how the Parliament can move the issue forward and express a view that is legally binding in Scotland. Bruce Crawford made a very relevant point when he said that an implication of the bill was that Jeremy Hunt could have responsibility for a substantial amount of trade union activity in the Scottish NHS. To me, that makes the point that the Scottish ministers do have executive competence over areas of the bill, so it is regrettable that the Presiding Officer ruled that we were not able to debate an LCM.

Mary Fee's proposal to the Standards, Procedures and Public Appointments Committee is helpful. I note the contributions from experienced members of the committee—Stewart Stevenson and Patricia Ferguson—which demonstrated the committee's political will to explore how an LCM could be brought before this Parliament. That could be very helpful indeed.

I do not agree with Mark McDonald, whose analysis was that if this Parliament debated an LCM it would be a moot point.

**Mark McDonald:** I do not think that I said that it would be a moot point—indeed, we will back the Labour amendment at decision time. My point is that, unless the UK Government takes the view that legislative consent is required, an LCM will have no practical effect because it will still be able to force the bill through at Westminster.

**James Kelly:** I do not agree with that. I draw Mark McDonald's attention to the Welsh example. The Welsh Assembly's standing orders allowed an LCM to be debated. The legally binding aspects of that LCM should be considered. Members should look at the Supreme Court's ruling in 2013 on the Agricultural Sector (Wales) Bill, which was in favour of the Welsh Assembly. It can be broadly interpreted from that that there is a strong argument to debate an LCM in not only Wales but Scotland. That is helpful. [*Interruption.*]

**The Deputy Presiding Officer:** Order, Ms Fabiani. If you wish to request an intervention, perhaps James Kelly will consider it; if not, I ask James Kelly to continue speaking.

**James Kelly:** Thank you, Presiding Officer.

**Linda Fabiani (East Kilbride) (SNP) rose—**

**James Kelly:** No, thank you; I am in my last minute.

I emphasise that it is important that we move things forward and explore how to oppose the bill. When I read the Devolution (Further Powers) Committee's report, I was interested to see the Law Society's contribution in relation to ECHR. Although it noted that the UK Government had published a statement of compatibility, it questioned whether the bill, if all its measures were considered together, would be compatible with ECHR. That is another basis on which the Scottish Government could oppose the bill.

There have been a lot of strong speeches in opposition to the Trade Union Bill, which is understandable. The key issues to take forward are the ECHR point and the Standards, Procedures and Public Appointments Committee's opportunity to explore whether the standing orders could be changed to allow an LCM to be brought to the floor of the chamber.

16:35

**Alex Johnstone:** There are one or two things that I can say with some conviction. The first is that the past couple of hours were a couple of hours of my time that I will never see again.

Members have failed to notice that there is an alternative interpretation of the bill and have debated a bill that does not exist. The truth is that members have been more interested in out-lefting one another for political reasons than in debating the bill. That has come across in a number of ways, not least in the fact that a bit of name calling has gone on. At various times, I or my colleagues have been described as Genghis Khan, Attila the Hun or, latterly, Vladimir Putin. I am not sure about that last one, but I might show a degree of pride in the first two.

Nevertheless, there is a case for talking about the bill in the way that it is meant to be implemented, and we have failed to do that. It is unfortunate that we have got too tied down in dogma and that not enough has been said about the bill itself.

During the debate, a specific interest arose in me about the different interpretations of where we are coming from and what the status quo is. We heard in Roseanna Cunningham's opening statement that she appears to believe that things are going rather well in industrial relations in Scotland. However, that has been established on the basis of reforms that were introduced 20 years ago, when, if I am not much mistaken, she was a member of the House of Commons and argued

against the very reforms whose achievements she is now willing to claim credit for.

Another strange thing has gone on during the debate.

**Christina McKelvie:** Will the member take an intervention?

**Alex Johnstone:** No, thank you.

Others have been willing to highlight the hypocrisy of the Labour Party. Much of the current trade union regulation in this country was introduced against fierce opposition by the Labour Party in the House of Commons. That same party then served in government for many years and never at any time did anything to reverse any of those regulations.

**Iain Gray (East Lothian) (Lab):** Will the member give way?

**Alex Johnstone:** No, thank you—not at this point.

**Mark McDonald:** Nor at any point, for that matter.

**Alex Johnstone:** I will give way briefly. Come on—move quickly.

**Iain Gray:** Will Mr Johnstone acknowledge that the party that he is talking about introduced the right to join a trade union and the right to trade union recognition where the workforce demands that?

**Alex Johnstone:** That is a perfect example of how Governments work with and facilitate changes in how trade unions operate. The UK Government is simply doing what it feels is appropriate to change the position of trade unions, as the preceding Government did in its own way.

**Patricia Ferguson:** Will the member take an intervention?

**Alex Johnstone:** I am afraid that I must make some progress.

On that subject, we have to take it into account that we are talking about something that is being deliberately misinterpreted for political effect.

**Kevin Stewart:** Will the member give way?

**Alex Johnstone:** No, thank you.

Nowhere is that more obvious than in an assertion that one or two members have made, including Patricia Ferguson, who offered the interpretation that the bill will confer on UK ministers powers over the implementation of restrictions on facility time and check-off. That case has not been made at all. There are opportunities to ensure that there is proper implementation and that we do not see a reversal taking place. We need to allow the bill to make

progress and make up our minds on it at the end of that process, and we must not make the mistakes that we could make by not giving it time.

It is a fact that industrial relations in this country have progressed in different ways at different times. I remember forming opinions on trade unions as a young man that were based on the activities of the trade union movement in the early 1970s, during Edward Heath's Government; in 1978, during a Labour Government; and in the 1980s, when a Conservative Government returned to office.

We have seen the dark days of such activities put behind us. We have seen changes in trade union regulation by successive UK Governments that have made it possible for us to have much more effective ways of working in the workplace and facilitating trade union activity. The changes under the bill are capable of having the same effect and of being positive in the longer term. Failure to deliver the bill would be a missed opportunity. Everyone who has participated in the debate must think long and hard about whether their interpretation of it is accurate.

16:40

**Iain Gray (East Lothian) (Lab):** I declare an interest: I am a member of Unite the union. We might have spent the debate largely reiterating arguments that we have made before, but I make no apology to Alex Johnstone for forcing his party to listen to them, because he is not hearing them. He must understand that we will keep returning to the bill again and again until it is finally discredited and defeated.

Let there be no doubt that, in the end, the bill will be defeated, because even if the UK Government—flying in the face of reason, argument and principles—forces the bill on to the statute book, it will be resisted as law and ultimately repealed. That is the sure and certain fate of legislation such as this, which is unnecessary, undemocratic, inflammatory, petty and vindictive.

The bill is unnecessary because this is a period of modern, partnership trade union organisation, as Mr Johnstone has acknowledged. This is not the winter of discontent. Thirty-five years ago, as many as 29 million working days were lost to strike action in a single year; the total is now barely a hundredth of that figure. The implication of the bill—that the trade union movement is one of mindless militancy—is absurd. The bill is not needed.

The bill is undemocratic because it seeks to impose outrageous thresholds on ballots for strike action, particularly in key public sectors. There are 6 million workers who are members of trade

unions, which is more than the membership of any political party, yet one party—the Tories—seeks to manipulate the democratic rights of those 6 million in a way that it would not countenance applying to itself.

The bill is inflammatory because, as many members have said, the changes to ballots will reduce, not increase, the likelihood that disputes will avoid strike action. It will also allow agency staff to be used to replace striking workers. That is the industrial relations of the 19th century, not the 21st century.

The bill is petty because it attacks the simple good practice of check-off and facility time, and it is vindictive because it seeks to cut off a source of income to the Labour Party. That unilateral attack on one party's funding by another in government has long been considered unacceptable, not least by the likes of Winston Churchill.

**John Wilson:** In my speech I said that the political funds of many trade unions fund not just the Labour Party but vital work on behalf of those unions' members. Does Mr Gray accept that?

**Iain Gray:** The next sentence of my speech was to recognise that many trade unions that are not affiliated to any party will find their capacity to campaign, not least against such legislation, diminished by the bill's measures.

Such views are overwhelmingly, if not unanimously, shared across the chamber. It is regrettable then that so many speakers have chosen to use the debate as an opportunity to return to debates about constitutional powers.

I differ from SNP members: I believe that standards of workplace rights should be protected across the United Kingdom. I oppose the bill being applied in Scotland, and I oppose it being applied in London, Manchester, Liverpool, Newcastle and Cardiff, too.

**Sandra White:** Will the member take an intervention?

**Kevin Stewart:** Will the member give way?

**Iain Gray:** No.

To do otherwise is to fail the very principle of solidarity, which underlies the trade union rights that we seek to defend. [*Interruption.*]

**The Deputy Presiding Officer:** Order, please.

**Iain Gray:** I can do no better than to quote the STUC, which said:

“arguing for the devolution of workplace protection is an insufficient response to the Trade Union Bill”,

because we would still have to fight its imposition in the rest of the UK.

**Mark McDonald:** Will the member give way?

**Iain Gray:** No.

**Sandra White:** Will the member give way?

**The Deputy Presiding Officer:** Ms White, I do not think that the member is giving way.

**Iain Gray:** To use this struggle as a proxy for the constitutional debate is to betray the unity of opposition to the bill across party lines and national boundaries.

**Kevin Stewart:** Will the member give way?

**Iain Gray:** To make that the core of the argument—

**Kevin Stewart:** Give way!

**The Deputy Presiding Officer:** Mr Stewart, please sit down. The member is not giving way.

**Iain Gray:** For the SNP to make that the core of its argument, for party purposes, is to betray the interests of 6 million trade unionists.

It is far better to focus on where we agree. Back in December, Labour members and the Government strongly agreed that this Parliament should debate a legislative consent motion on the bill. The argument was clear and as far as we are concerned it remains correct: the bill might not impinge on the Scottish Government's legislative competence but it certainly impinges on the Scottish Government's executive competence in health services, education, fire services and elements of transport.

We welcomed the submission of a legislative consent memorandum by the cabinet secretary and we regret the decision that was taken that it was not competent. We remain frustrated that the lack of an LCM leaves the recommendations of the Devolution (Further Powers) Committee and any decision that the Parliament takes tonight without force.

**Kevin Stewart:** Will the member give way?

**Iain Gray:** No.

Our colleagues in Wales successfully brought a legislative consent motion to the National Assembly for Wales today. We are told that standing orders there are different from ours, which do not allow an LCM on the bill. Our view is clear: if that is the case, our standing orders are wrong and we should change them. That is the thrust of our amendment.

**Stewart Stevenson:** Will the member take an intervention?

**Iain Gray:** I assure Mr Stevenson that our intention is to ask the Standards, Procedures and Public Appointments Committee to find the best way to correct the situation in which we find ourselves and that we are not wedded to a

particular amendment. I welcome the Government's support and that of other members for that approach.

So far, so procedural. There is another, far more fundamental reason why we and the Scottish Government should not only oppose the Trade Union Bill but resist it. Christina McKelvie touched on the issue when she expressed concern about the breach of human rights that the bill constitutes. I agree with her. It is clear to us that the bill breaches article 11 of the European convention on human rights, which says that

"Everyone has the right ... to form and to join trade unions"

and that no restrictions can be placed on the exercise of those rights except

"in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others."

That test is not met by the bill.

Such rights are embedded in this Parliament in a way that they are not at Westminster, because under the Scotland Act 1998,

"A member of the Scottish Executive has no power to make any subordinate legislation, or to do any other act, so far as the legislation or act is incompatible with any of the Convention rights".

We will continue to pursue legal advice on that point. If the cabinet secretary agrees with and has the political will and determination to found on that view, not only should she reject the bill on moral grounds but she should be obliged to reject it on legal grounds.

There is a long way to go in opposing the bill, whether Mr Johnstone and his colleagues like it or not. We intend to stay the course.

16:49

**Roseanna Cunningham:** That was a spirited end to the debate. Iain Gray came close to making me change my mind about the Labour amendment, given the nature of some of the comments in his closing speech. I do not think that they reflected the whole of the debate, however, because it has been valuable and has reinforced a couple of messages. Of course, members come at the issue from slightly different perspectives and it is unfortunate if some members do not respect and understand that.

The first message is that trade unions play an essential progressive role in our society in developing safe, productive and fair workplaces. That point was made eloquently by both Clare Adamson and Patricia Ferguson. The second message is that the bill is misplaced and ill thought out and it presents dangers in undermining those valuable contributions. The almost unanimous

opposition to the bill is clear for all to see: it does not exist only in Scotland but is also happening in Wales and indeed in England, where the flaws in the bill, of which there are many, are continually being brought to light. I fear that, if the bill was passed, flaws would continue to be brought to light, perhaps including some that were unforeseen.

The bill is driven not by evidence or a commitment to creating better workplaces but by an out-of-date ideology and a dogmatic opposition to the fundamental principles of trade unions and workers' rights, and no amount of dressing it up to the contrary is going to persuade anybody of anything different. The refusal to listen is clear in the UK Government's response to the findings of its consultations and in the lack of response to this Government's representations to the UK Government. Despite its unwillingness to engage, we will continue to make those representations, working alongside all those who share our view.

Today's debate has shown once again the wide range of ways in which the bill will have a negative impact if it is passed. I would like to reflect on a number of the issues that have been raised.

It is clear from the UK Government's response to the findings of the consultations supporting the bill that it does not care about the views of the people that the bill will affect. Instead, it is bloody-mindedly determined to drive through the legislation regardless of impact. That scant regard for consultation is reflected in the Government's response to the findings of the "Consultation on ballot thresholds in important public services", which some members mentioned this afternoon. A majority of respondents disagreed with the categories that should be subject to the 40 per cent rule, but did the Government take any heed of that? Not a chance.

Kevin Stewart mentioned the BMA's response to the bill. It describes the plans as "arbitrary" and "unnecessary" and says that they

"place punitive restrictions on workers employed in specified public services."

It continues:

"Despite the Government's claim that these measures are 'not an attempt to ban industrial action', the purpose of the 'double threshold' appears simply to be to make it more difficult for unions to organise industrial action."

That is what the BMA had to say, but the UK Government chooses to ignore such evidence.

No doubt Alex Johnstone thinks that the BMA—and indeed his Tory Councillor Hendry—are politically motivated. Frankly, however, his analysis in his closing speech, which was interesting, cannot explain why Scotland's record on industrial relations is so much better than that

of the rest of the UK. If the legislation had been so wonderful, one might have expected to see the same kind of change in the rest of the UK, but Scotland stands ahead of all that.

Alex Johnstone might reflect on the measure of this Government's commitment to working with the STUC and the trade unions that is evidenced in the memorandum of understanding, which sets out the parameters of that relationship. It was first signed in 2002 and has been refreshed a number of times since then, including as recently as May 2015. That is how sensible Governments do things. It is how we achieve what we have in Scotland, and it is the kind of thing that the UK Government should be looking at and considering—if it actually intended to do anything about industrial relations in a partnership way.

I note that, despite Alex Johnstone's assurances and rhetoric, his speeches were singularly short on actual evidence. He might have taken the opportunity to lay that before us today, but its absence makes it clear once again that there is no such evidence. Bruce Crawford was unable to identify any such evidence, either. The clear lack of evidence, which has now been identified by so many organisations and individuals, must surely make even Alex Johnstone think again. We can conclude, therefore, that, however one might categorise the Conservative Government—many words spring to mind—it is clearly not in the business of evidence-led governing.

Christina McKelvie emphasised how detrimental the Tory Government's approach is to trade union issues as well as to healthy businesses and productivity, and Lesley Brennan referred to that in respect of the NHS. They are absolutely correct, and that is the view that the Government takes on healthy industrial relations in the workplace leading to healthy and productive workplaces. That view is one of the foundations of both the working together review, which was carried out some years ago, and the fair work convention, which is currently looking at fair work practices. It comes out of the understanding that, without that essential partnership, we will not get the improvements nor the increases in productivity that we seek.

Margaret McDougall mentioned the likely adverse impact of the use of agency workers. She may recall that, in the debate in November, I made it clear that the Scottish Government will absolutely not use agency workers to cover a valid withdrawal of labour. The First Minister reiterated that assurance at the trade union rally on 10 December.

Gordon MacDonald raised the issue of clause 3, which is on emergency workers, who will now need to reach a 40 per cent threshold for their ballot, abstentions being counted as no votes. I

wonder why that leaves a bad taste in people's mouths.

A number of members referred to the LCM process in this Parliament. I understand why members, including Neil Findlay, Margaret McDougall and Patricia Ferguson, want to focus on the issue of parliamentary process. However, I fear that they misunderstand the likely impact of any LCM in the circumstances that we are in with the bill. The assumption appears to be that Westminster will or must abide by a vote of this Parliament on an LCM; the difficulty is that there is uncertainty about that. The LCMs—formerly known as Sewel motions—are a convention that is not mentioned anywhere in the Scotland Act 1998, and, unfortunately, the Scotland Bill that is currently being debated at Westminster does not do anything to strengthen the position and role of LCMs. Leaving aside, for the moment, the issue of the devolution of all relevant employment powers, it might have helped had more attention been paid at the time of the Smith commission to the role of LCMs in the Parliament.

**Neil Findlay:** The cabinet secretary makes a number of fair comments. However, devolution is a developing process—[*Interruption.*]

**The Presiding Officer (Tricia Marwick):** Order. Let us hear the member.

**Neil Findlay:** Well, it is—we all know that. The situation is developing and, if we do not deal with this, it will arise again. It is better that we deal with it now on a cross-party basis to establish the principle.

**Roseanna Cunningham:** The point that I am making is that we must be a little cautious not to overstate the likely potential of LCMs. Reference was made to the Welsh Assembly, which is discussing an LCM this afternoon. However, the difference in the Welsh devolution settlement means that, in practice, there is a different constitutional interpretation from that in the Scottish Parliament when it comes to issues of competence. Sadly, the history of LCMs in Wales suggests that Westminster ignoring the outcomes is an all-too-real experience for our colleagues in Wales. I understand the motivation behind the suggestion, but I want us to be a little cautious about what the process might end up with.

Ultimately, today's debate will make clear the Scottish Parliament's opposition to the very idea of consent to the legislation. I sincerely hope that such a clear expression of the will of this Parliament and the voice of the Welsh Assembly will see the UK Government reconsider its position on the bill. To do otherwise would demonstrate little regard for the devolved Parliaments or the impact that the bill will have on industrial relations in the devolved nations.

I understand the challenges to the Parliament's procedures and recognise the need to consider a mechanism that can allow the Parliament to formally express its view on a reserved matter that impacts on devolved areas. I am happy to engage in any constructive dialogue around that. However, that must be done properly, through the Parliament's Standards, Procedures and Public Appointments Committee. We must all respect the role of that committee in this as in other matters. Such considerations will, of course, take time. Therefore, for now, our efforts must continue to focus on where we can make the biggest impact. That is why the Scottish Government will continue to make the case directly with the UK Government against the bill extending to Scotland, including through representations from the First Minister directly to the Prime Minister.

Once again, I thank the Devolution (Further Powers) Committee and its convener for the report, which gets right to the heart of the issues, the first of which is a response to the legislation. Let me make it clear that the Scottish Parliament fully endorses the committee's recommendations and will continue to make the case to the UK Government that the bill has no place in Scotland. If we cannot be fully removed from it, at the very least we should be able to set the regulations that will apply to devolved responsibilities in Scotland. If the UK Government truly respects the will of the Scottish Parliament and the spirit of devolution, it should work with us to reach such a position.

## Point of Order

17:00

**The Presiding Officer (Tricia Marwick):** Mr Findlay has a point of order.

**Neil Findlay (Lothian) (Lab):** Presiding Officer, information that I have received from NHS Lothian has exposed how senior officers of that organisation colluded with senior civil servants and politicians to delay until after the election the publication of a critical report into the future of the children's ward at St John's hospital in Livingston, despite warnings that such a delay could damage the viability of that service even further. Is there an opportunity this week for a statement from the Cabinet Secretary for Health, Wellbeing and Sport so that she can be held to account for her actions and those of her officials?

**The Presiding Officer:** Thank you for the advance notice of your point of order. As you are aware, ministerial statements are a matter for the Scottish Government and for the Parliamentary Bureau. I suggest that you raise the matter of a statement with your business manager, who can then get in touch with the Government.

## Decision Time

17:01

**The Presiding Officer (Tricia Marwick):** There are three questions to be put as a result of today's business.

The first question is, that motion S4M-15130, in the name of Christine Grahame, on the Pentland Hills Regional Park Boundary Bill, be agreed to. Are we agreed?

**Members:** No.

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

### For

Finnie, John (Highlands and Islands) (Ind)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnstone, Alison (Lothian) (Green)  
 Keir, Colin (Edinburgh Western) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Wilson, John (Central Scotland) (Ind)

### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Brennan, Lesley (North East Scotland) (Lab)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Buchanan, Cameron (Lothian) (Con)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)  
 Davidson, Ruth (Glasgow) (Con)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Findlay, Neil (Lothian) (Lab)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)

Griffin, Mark (Central Scotland) (Lab)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hume, Jim (South Scotland) (LD)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kelly, James (Rutherglen) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McDougall, Margaret (West Scotland) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMillan, Stuart (West Scotland) (SNP)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Presiding Officer:** The result of the division is: For 8, Against 105, Abstentions 0.

*Motion disagreed to.*

**The Presiding Officer:** The next question is, that amendment S4M-15414.1, in the name of Neil Findlay, which seeks to amend motion S4M-15414 in the name of Roseanna Cunningham, on the Trade Union Bill, be agreed to. Are we agreed?

**Members:** No.

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

**For**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Brennan, Lesley (North East Scotland) (Lab)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hume, Jim (South Scotland) (LD)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kelly, James (Rutherglen) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)

Martin, Paul (Glasgow Provan) (Lab)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McDougall, Margaret (West Scotland) (Lab)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMillan, Stuart (West Scotland) (SNP)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wilson, John (Central Scotland) (Ind)  
 Yousaf, Humza (Glasgow) (SNP)

**Against**

Brown, Gavin (Lothian) (Con)  
 Buchanan, Cameron (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Davidson, Ruth (Glasgow) (Con)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)

**The Presiding Officer:** The result of the division is: For 99, Against 14, Abstentions 0.

*Amendment agreed to.*

**The Presiding Officer:** The final question is, that motion S4M-15414, in the name of Roseanna Cunningham, on the Trade Union Bill, as amended, be agreed to. Are we agreed?

**Members:** No.

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



**For**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Brennan, Lesley (North East Scotland) (Lab)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hume, Jim (South Scotland) (LD)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kelly, James (Rutherglen) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McDougall, Margaret (West Scotland) (Lab)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse)

**(SNP)**

McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMahon, Michael (Uddingston and Bellshill) (Lab)  
 McMillan, Stuart (West Scotland) (SNP)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wilson, John (Central Scotland) (Ind)  
 Yousaf, Humza (Glasgow) (SNP)

**Against**

Brown, Gavin (Lothian) (Con)  
 Buchanan, Cameron (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Davidson, Ruth (Glasgow) (Con)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)

**The Presiding Officer:** The result of the division is: For 99, Against 14, Abstentions 0.

*Motion, as amended, agreed to,*

That the Parliament unreservedly supports the report of the Devolution (Further Powers) Committee that reaffirms the Parliament's opposition to the UK Government's Trade Union Bill; notes that the Bill, if enacted, has the potential to significantly damage Scotland's good industrial relations record; welcomes the committee's recommendations that the Scottish Government continue to use all avenues to remove Scotland from the territorial extent of the Bill or, as a minimum, seek that the regulation-making powers relating to facility time and check off be conferred on the Scottish Ministers as they directly relate to public services in Scotland; notes that the Scottish Government is working with the STUC, COSLA and others who oppose the Bill; further understands that the National Assembly for Wales will debate a legislative consent motion on this Bill and its impact on Wales and Welsh devolved public services on 26 January 2016, and calls on all parties represented in the Scottish Parliament to support the proposal from Mary Fee

MSP to amend the Standing Orders to allow a similar process to take place here.

## Holocaust Memorial Day 2016

### **The Deputy Presiding Officer (John Scott):**

The final item of business today is a members' business debate on motion S4M-15216, in the name of Stewart Maxwell, on Holocaust memorial day 2016. The debate will be concluded without any question being put.

### *Motion debated,*

That the Parliament notes that 27 January 2016 marks Holocaust Memorial Day, the 71st anniversary of the liberation of Auschwitz-Birkenau and an opportunity for schools, colleges, faith groups and communities across Scotland to remember the six million men, women and children murdered by the Nazi regime in occupied Europe; further notes that the theme of Holocaust Memorial Day 2016 is Don't Stand By; values the Holocaust Educational Trust's Lessons from Auschwitz Project, which gives two post-16 students from every school and college in Scotland the opportunity to visit Auschwitz-Birkenau; applauds Lauren Galloway and Brandon Low, two students from Auchmuty High School in Fife, who took part in the project and will deliver the Parliament's Time for Reflection message on 26 January 2016; celebrates the Holocaust survivors who have enriched Scotland as a nation, and recommits to ensuring that racism, sectarianism and bigotry are never allowed to go unchallenged in Scotland.

17:06

### **Stewart Maxwell (West Scotland) (SNP):**

Tomorrow—27 January—marks the 71st anniversary of the liberation of Auschwitz-Birkenau. I would like to commend the work of the Holocaust Memorial Day Trust, which organises Holocaust memorial day, and the work of the Holocaust Educational Trust, which works hard to educate people, especially children, about the realities of the Holocaust and to make sure that we never forget what happened in the heart of Europe in the 20th century.

Together with the Scottish Government, the Holocaust Educational Trust takes two pupils from every secondary school in Scotland to Auschwitz every year. We heard very movingly earlier today from Lauren and Brandon from Auchmuty high school—two of the Holocaust Educational Trust's ambassadors—on their feelings and thoughts about their visit to Auschwitz.

Tonight, the gathering the voices project is holding a reception in the Scottish Parliament, to which I gladly invite all members here. It is a fantastic project that is recording the oral testimony of Holocaust survivors who came to Scotland, thereby ensuring that their voices never fall silent and that even after all the survivors are long dead, people can listen to them and hear a first-hand account of the atrocities that were committed.

It is important for us all to remember that genocide has eight stages and that the eighth

stage is denial—the perpetrators deny that any crime has ever been committed. The Nazis destroyed a great deal of the evidence of their crimes as it became clear that they were losing the war. Not only were records destroyed, but the extermination camps were dismantled, or partially dismantled, as the allied forces advanced. However, Majdanek was overrun before the Nazis could completely hide the evidence and although the crematorium was destroyed, the gas chambers were still standing.

The voices of survivors are vital in giving the lie to denial of the crimes of the Holocaust—a denial that continues among some people to this day. More than 1 million men, women and children were murdered at Auschwitz-Birkenau alone, and in total the Nazis murdered around 6 million Jewish people during the second world war. Auschwitz-Birkenau was one of the six extermination camps that the Nazis built with the express purpose of annihilating the Jews; the others were Belzec, Majdanek, Sobibor, Treblinka and Chelmno. All of them were built in the east, in Poland, in lands that were occupied by the Nazis.

The theme of this year's Holocaust memorial day is "Don't stand by". We remember the stories of the brave men and women who did not stand by, but saved lives—in particular, the lives of so many Jewish children. A few years ago, I was privileged to attend an event at which Mr Piotr Zetinger spoke. He had been rescued from the Warsaw ghetto as a very small child by Irena Sendler, one of the people whose story the Holocaust Memorial Day Trust is highlighting this year. Irena Sendler was a Polish social worker who smuggled approximately 2,500 children out of the Warsaw ghetto. Those children, including Mr Zetinger, were then sheltered by various ordinary people whose names we will perhaps never know who risked their lives and the lives of their own families to keep the Jewish children safe. Piotr Zetinger was one of the lucky ones because at the end of the war he was alive and, even better, his mother came and found him a few months after the war was over. His father, unfortunately, had perished, but he had one parent left.

It was different for most of the children who came on the Kindertransport to Britain, the majority of whom never saw their parents again. It is unimaginable for us to have to put our child on a train and to send him or her off into an unknown and unknowable future in a foreign country. It is an act of courage, love and desperation. We are lucky not to have had to face such a choice.

Another one of the people who have been highlighted by the Holocaust Educational Trust is Sir Nicholas Winton, who died last summer at the age of 106. Sir Nicholas Winton was responsible for rescuing 669 children from Czechoslovakia on

the Czech Kindertransport and finding them sponsors here in Britain. Sadly, the last group of 250 children that he tried to rescue were trapped in Prague. They were due to leave on 1 September 1939, but Germany invaded Poland, war was declared and they could not leave. Most of them therefore died. Of the 669 children whom Sir Nicholas Winton saved, however, many went on to live lives of great distinction, including Heini Halberstam, a distinguished mathematician, and Renata Laxova, a paediatric geneticist, to name but two. Their talents would have been lost to the world without Sir Nicholas Winton's intervention.

Let us consider, however, the fate of Jewish children who were orphans before war broke out, and who were already desperately vulnerable and alone. That brings me to another person who did not stand by—a lady called Jane Haining, who was a Scottish missionary originally from Dumfries and Galloway. She worked in an orphanage in Budapest looking after the children, both Jews and Christians, who were in her care. She did not come home to the safety of Scotland even when Germany invaded Hungary but stayed to care for her orphans. She was urged to come back to Scotland, but in another display of love and courage she refused to leave.

It is terrible to think of the vulnerability of Jewish orphans, without any relatives to shield them, in Nazi-occupied Europe. Eventually, Miss Haining was arrested by the Gestapo for spying, for working with Jews and for listening to the BBC. She admitted to every charge except the charge of espionage and for those crimes—the crimes of looking after Jewish orphans and listening to the BBC—she, along with many of her charges, perished in Auschwitz, one of a tiny handful of Scots who died in Nazi concentration or extermination camps. There are stained glass windows in memory of her in the Queen's Park Govanhill parish church, which is only about two miles from where I live and where she used to worship before she went to Budapest. I hope to go and view them some time soon.

The legacy of those who did not stand by continues into the future, long after they are dead, not only in the lives of the children whom they saved, but in those saved children's own achievements and offspring and in the shining example of love and courage that they present to us today. It is often said that Shakespeare has a quotation for every occasion, but this time I have to disagree with what one of his characters said. In "Julius Caesar", Antony says:

"The evil that men do lives after them;

The good is oft interred with their bones".

We can see today that that is not true: the good deeds of those who did not stand by continue to

bear fruit today and will do so long into the future. Good deeds are never done in vain. We must, in these rather frightening times, remember the heroism and courage of those in the past who did not stand by, but held out a hand of friendship, support and solidarity to imperilled children. We must not just remember them, but commit to doing the same.

17:13

**Ken Macintosh (Eastwood) (Lab):** I thank Stewart Maxwell—

**The Deputy Presiding Officer:** Mr Macintosh, your microphone is not on. Can we have Mr Macintosh's microphone switched on, please? That is better.

**Ken Macintosh:** Thank you, Presiding Officer. At least the lights did not go out again.

**The Deputy Presiding Officer:** We are making progress.

**Ken Macintosh:** I thank Stewart Maxwell for giving us the opportunity to mark Holocaust Memorial Day 2016. I also want to thank several organisations and individuals for the work that they do to mark this important day in our calendar, starting with the Holocaust Memorial Day Trust, which has supplied helpful and thought-provoking material to schools, voluntary organisations and local authorities across the country, and has supported a series of events, including a joint ceremony in East Renfrewshire and Renfrewshire on Saturday night, a national remembrance event in Falkirk tomorrow evening, and one that has been organised by Edinburgh schools in Firhill high school on Thursday evening.

The Holocaust Educational Trust runs the lessons from Auschwitz programme, the fruits of which we heard at time for reflection earlier today when two young ambassadors, Lauren Galloway and Brandon Low, spoke eloquently about their impressions and experiences of their visit to the infamous death camp. The HET's book of commitment is available in Parliament to be signed today and tomorrow; I urge members who have not had the opportunity to do so to sign it.

Members might also have seen the exhibition that is on display in the garden lobby from gathering the voices, which is a remarkable project that is collecting the testimony of Scottish survivors of Nazi persecution. As Stewart Maxwell said earlier, he is hosting a reception in Parliament immediately after the debate, and I am sure that gathering the voices would welcome every member's presence.

Just one of the faces that is staring out from the photographs and documents is that of a young Bob Kutner. For those who did not have the

pleasure of knowing him, Bob was a remarkable man. He was charming, engaging, funny and a survivor of the Holocaust. Bob's family fled Nazi Germany for fascist Italy before some of them finally reached the relative safety and security of the UK. Bob did not just write about the difficulties and horrors that he had lived through; he devoted long hours of his life to talking to pupils and others about his experiences. His tales of youthful espionage, fleeing across Europe and interrogating Nazis after the war held everyone enrapt. In fact, at this time last year, I heard and saw him do just that with a large group of young people at Williamwood high school. Two months later, in March 2015, he died at the age of 91.

As I represent East Renfrewshire, I have had the privilege of knowing several Holocaust survivors—Marianne Grant, the Rev Ernest Levy, Bob Kutner and Ingrid and Henry Wuga. What stands out about all those remarkable people is not the scars of their experiences but their warmth, generosity and humanity. Our world has been scarred by the apparent genocide of the Holocaust. In parts of the world today, the barbarity of killing people because of their religion or ethnicity continues. People are being thrown off buildings to their deaths because they are gay. Our response to that cannot be anti-Semitism and Islamophobia. It should be the tolerance, kindness and humanity that has been shown by survivors such as Bob Kutner.

One of the most encouraging lines that Lauren and Brandon delivered today was on this year's theme for Holocaust memorial day: "Don't stand by". As Lauren said, she would not stand by and let the Holocaust be forgotten. I can think of no finer tribute to Bob Kutner and his efforts on behalf of others and the millions who never lived to tell their own stories.

17:17

**Kenneth Gibson (Cunninghame North) (SNP):** I congratulate Stewart Maxwell on securing tonight's debating time.

It is vitally important to remember the 11 million men, women and children who were murdered by the Nazi regime in occupied Europe during world war two. More than half of those people were Jewish and they faced that mass extermination simply because they were Jewish. During world war two, two thirds of Jewish people who were living in Europe were killed by the Nazis, although in some countries, such as the Baltic states and Poland, more than 90 per cent were murdered in a few short years.

It is not just the deaths of those people that we must remember but the cruelty, torture and humiliation that many of them suffered and the

way in which they were hunted mercilessly by their fellow man. Auschwitz-Birkenau was a primary centre for the annihilation of Jewish people during the Nazi regime and those who were not too sick, young or old were worked to death on minuscule rations in horrific and inhumane conditions. Some were even experimented on and less than 1 per cent of them survived.

In other camps, such as Treblinka and Belzec, little if any work was required from prisoners. They were murdered almost immediately on arrival. Only two people survived Belzec of the 434,000 who arrived there and, in Treblinka, a few dozen survived following a prisoners revolt and escape; more than 800,000 were exterminated.

Holocaust survivors who are alive today vividly recall their horrendous experiences and, on Holocaust memorial day, it is just as important to take the time to remember the indescribable experiences that those people lived through and the lives that they built subsequently. The horror that the Jewish people faced during world war two is one that we truly struggle to understand. However, it is vital that we do not shy away from difficult issues and continue to educate communities across Scotland about the tragic events of the Holocaust.

The theme of this year's Holocaust memorial day, as Stewart Maxwell outlined, is "Don't stand by" and that is a message that we must face head on. Atrocities such as the Holocaust do not take place simply due to the actions of one person. Dark and horrific policy makers still gain power in the world, and while bystanders to genocide may not actively be involved in such violence, standing by because of indifference or simply fear obviously has an impact and allows those who are evil to move forward. One does not need to actively support state policies of persecution in order to have an adverse effect on the lives of innocent people.

The message of "Don't stand by" highlights the accountability that we face in modern society in terms of global responsibility for fundamental human rights and democracy. We must continue to remind ourselves of that message as we fight against any form of bigotry or racism.

We should remember that while the Holocaust was unique in terms of its industrial nature and in many other aspects, right up to the present day we know of many other genocides of the last century: the Armenian genocide, the Ukrainian Holodomor, the appalling genocide in Cambodia and, of course, we all know about Darfur. Darfur, Rwanda and, I believe, much of what is happening today in Syria, can be termed genocide—certainly in relation to the Yazidi population.

As Robert Burns said:

"Man's inhumanity to man  
Makes countless thousands mourn!"

By learning from the Holocaust we can educate people to ensure that such actions do not happen again, or at least that such ideas are kicked as far as possible into the realms where no-one even wishes to contemplate the evils that such appalling ideas generate.

Bigotry and racism have no place in the world, and we must challenge such ideas. We are a country that has been greatly enriched by the lives of Holocaust survivors, as Ken Macintosh mentioned, and we must celebrate and appreciate what they have brought to our society and our people, and the fact that many of them chose to settle here.

We are fortunate enough to live in a country that is not at risk of genocide, but discrimination is far from over and the language of exclusion must be challenged. Holocaust memorial day allows us to begin to work towards a safer future, here and in other societies and communities.

17:22

**Jackson Carlaw (West Scotland) (Con):** I, too, thank Stewart Maxwell for bringing the motion before us, and associate myself with the comments in the various speeches that have already been made.

Last year we commemorated the 70th anniversary of the liberation of Auschwitz. It would be tempting to think that the enormity of that crime, perpetrated by the Nazis, was brought to an end and that the persecution of the Jews stopped that day. I think that that is to misunderstand the deeply seated anti-Semitism that existed across Europe prior to the war, which the Nazi party fuelled and also fed off. The Jews from a dozen countries who were deported to eastern Europe to be exterminated were very often deported with the complicit support of local populations.

Of some 200,000 people who had survived the concentration camps, 160,000 were to survive into the new year in 1946, while 40,000 died in the immediate period after the war. In addition, there were some 300,000 Jews who had fled Nazi Germany into eastern and central Europe. Of a population of 3.25 million Polish Jews, 80,000 had survived, along with 175,000 Hungarians and 90,000 others. Many had fled to the Union of Soviet Socialist Republics and the USSR was keen for them to leave again. In fact, the only able-bodied adults who were able to leave the Soviet Union after the second world war and through 1946 were Jews. Many of them left; they fled, hoping to return to the homes that they had left behind. Their experience was anything but encouraging. Indeed, in the 12 months after the

war, more Jews were killed in central Europe than in the 12 years before 1939.

I draw to members' attention the experience of Jews returning to the village of Kielce in Poland. It had a pre-war population of some 20,000 Jews, of whom only 380 were left by the end of the war. Many of them gathered in a Jewish mission in the centre of town. A young boy who had left home and stayed out overnight explained himself to his parents by saying that he had been kidnapped by the Jews in that building and that many other children had been, too. In fact, the boy had simply been away looking for food and did not want to explain why he had raided food from somewhere else. There was no substance at all to his story. The mob stormed the building and, of the 380 Jews who had survived the Holocaust, 42 were killed and another 80 were injured. Young girls were hurled out of the top-floor windows of the building.

Scores of Jewish people were killed on trains trying to return to the properties that they had left behind. In many cases, they were shunned when they arrived and fled for their lives thereafter. It has to be understood that, in whole parts of Europe, a new middle class had evolved as a result of the opportunity that people had taken from the deportation of the Jewish community, and they had no interest in the Jewish community returning.

The deeply rooted anti-Semitism that preceded the war did not end with the liberation of the concentration camps—it carried on. That is why the lessons of the Holocaust, which we have heard about in Parliament today and which we commemorate with this anniversary, are so important that they must be restated at every opportunity.

I want to touch on the sentiment with which Ken Macintosh concluded about the attitude of many of those who survived. That coincides with an anonymous poem that was found in Ravensbrück concentration camp after the war, which says:

"Remember, Lord, not only the men and women of good will but also those of ill will. But do not remember all the suffering they have inflicted on us, remember the fruits we brought thanks to this suffering—our comradeship, our loyalty, our humility, the courage, the generosity, the greatness of heart which has grown out of this; and when they come to judgment, let all the fruits we have borne be their forgiveness."

It is a difficult thing, but the heart of many of those who went on to survive—this country has an honourable and proud record in that regard—is the legacy and memory that we must celebrate. We must never simply say that it cannot happen again; we must work to ensure that it does not happen again.

17:26

**Mark McDonald (Aberdeen Donside) (SNP):** I congratulate and commend my colleague Stewart Maxwell on securing the debate. I also commend Brandon Low and Lauren Galloway, who led time for reflection today and delivered powerful presentations to the Parliament. It has become traditional for us to hear from young people about their thoughts and experiences following a visit to Auschwitz to mark Holocaust memorial day. Every year, the presentations that we receive at time for reflection continue to be powerful and thought provoking.

I have stood in the gas chambers at Auschwitz and on the platform at Birkenau where individuals were sorted into lines—those who were considered to be productive for labour in the concentration camps and those who were to be sent unknowingly to an immediate death. Standing there, it is difficult to compute the enormity of that situation and the idea that human beings could do something like that to one another.

As has been said, the Holocaust did not simply appear out of the sky and arrive all of a sudden. There was a long lead-in to it and the Nazis capitalised on a wave of anti-Semitic sentiment that was often fuelled by prominent individuals and media outlets. That promoted and endorsed a certain view of the Jews, which allowed that view to gain public traction and desensitised many people to the horrors that would be committed in society, even before the final solution was enacted.

We often say that those who fail to learn the lessons of history are doomed to repeat them. What I take from today's presentation by Lauren and Brandon and from the "Don't stand by" call that is being made on Holocaust memorial day is that, I fear, we are reaching that stage again. If we look around, we see inflammatory rhetoric being put across in the pages of mainstream newspapers in relation to individuals of certain religions or ethnic backgrounds and we see the rhetoric of certain high-profile political candidates and politicians in relation to those of specific backgrounds.

I also fear that many of the lessons that have been learned and arguments that have been made since the Holocaust are lost and falling on some deaf ears as economic difficulty is once again blamed on a specific section of society. We must stand firm against that, and ensure that that rhetoric does not win the day and that people who put across those arguments and who would be susceptible to them are shown not only the error of the arguments but where they lead. They would have led in the past to the Kindertransport being turned away, in the way that many people are arguing that unaccompanied refugee children

should not be accepted into our borders. They led in the Holocaust to the mass extermination of people.

That all started from arguments about who was responsible for economic difficulties that society faced and with the idea that individuals of a certain religion or background should be identified publicly by some form of insignia. Those elements are all now creeping back into mainstream discourse so, as we were told today, we must not stand by but stand firm against that kind of creeping rhetoric and against such intolerance being allowed to come back into society.

I support the arguments that have been made. We have much still to do to ensure that such extremism does not rear its head in mainstream politics and society again.

17:31

**The Minister for Learning, Science and Scotland's Languages (Dr Alasdair Allan):** Like others, I thank Stewart Maxwell for again lodging a motion on Holocaust memorial day for discussion at a members' business debate. The debate is to remember the victims of genocide, to stand in solidarity with the survivors who live among us in our communities and to recognise our responsibility to raise awareness of what it means to live in an equal and just Scotland.

The theme of this year's Holocaust memorial day is "Don't stand by". It builds on the legacy of last year's reflections, which focused on the 70th anniversary of the liberation of Auschwitz. This year, the theme is forward looking with a clear call to action in the present.

As we focus on the contemporary relevance of the Holocaust and subsequent genocides, we should consider our individual responsibilities not to be bystanders to hate crime, prejudice or international threats of genocide. Nor should we be unaware of the suffering of people who flee from such persecution. Very sadly, we have recently seen instances of abominable hate crimes and killings of innocent people, including the Paris killings on 13 November and the Burkina Faso attacks on 18 January. Those and other incidents should be constant reminders to us of where intolerance and disrespect ultimately lead us.

Ken Macintosh, Kenny Gibson, Jackson Carlaw and Mark McDonald made memorable speeches. The debate clearly reaffirmed that we must ensure that the Holocaust, Nazi persecution and subsequent genocides are not forgotten, trivialised or—crucially—denied. Schools, colleges, universities, faith groups and communities across Scotland are remembering Holocaust memorial day with candle-lighting ceremonies, memorial events, music, drama and poetry. I thank the

Holocaust Memorial Day Trust and Interfaith Scotland for their partnership in organising the commemorative programme of events this week.

I also thank the Holocaust Educational Trust for placing the book of commitment in the Parliament this week and for the outstanding work that the trust does. The Scottish Government is pleased to have been able to provide funding for senior pupils from Scottish schools to visit Auschwitz for some seven years—since 2009. As a result, well over 2,000 school pupils have visited Auschwitz and learned from the experience. A few years ago, I had the honour of taking part in one of those visits, and I will not readily forget it. Mark McDonald described the experience well. I am pleased that the First Minister has recently announced the Scottish Government's continued commitment to the programme by confirming that the funding will continue in 2016-17, which will enable more young people in Scotland to take part in the lessons from Auschwitz project.

It is not only the experience of visiting Auschwitz that is powerful. The lessons from Auschwitz programme supports young people to go on to be ambassadors for the project. As the motion says, two of those ambassadors—Lauren Galloway and Brandon Low from Auchmuty high school in Fife—led a moving and eloquent time for reflection at the start of this afternoon's business in Parliament. We should be proud of young people such as Lauren and Brandon, who share their experiences and teach others about the importance of understanding and respecting different religions, beliefs, attitudes and behaviours—and, crucially, the importance of never forgetting what can happen without such tolerance.

As I said, events will be held in remembrance across Scotland. Tomorrow, my colleague Alex Neil will attend Scotland's national Holocaust memorial day in Falkirk town hall on behalf of the First Minister. He will be fortunate enough to hear from Inge Auerbacher, who was born in Germany and who, between the ages of seven and 10, was in the Terezin concentration camp in the former Czechoslovakia. Inge survived when the red army rescued her family in May 1945 and she has gone on to live a distinguished life and have a distinguished career.

We are fortunate in Scotland to live in a liberal society where there is less personal risk in challenging prejudice and discrimination. We cannot imagine the trauma of those who lived through the Holocaust or more recent crimes such as the genocide in Srebrenica—indeed, it almost seems impertinent for us to try to imagine what that experience was like.

In Nazi Europe or during the wars in the Balkans or elsewhere, challenges to authority would likely result in deportation or death. We cannot imagine

having to make such decisions, and it is important that we do not condemn what we did not experience. However, we should also not perpetuate the idea that only a certain type of person can stand up against discrimination and excuse ourselves by saying that we are not the right person. We should not absolve ourselves of our responsibility. Sometimes, in certain circumstances, ordinary people undertake extraordinary acts of courage.

Sir Nicholas Winton has been mentioned. I am sure that members will have been moved, as I was, when they learned of his death and heard about his amazing contribution to saving many young people through the Kindertransport in Czechoslovakia. As others have said, that is an example of one man's courage against a truly terrifying and pitiless regime.

Earlier today, the First Minister signed the book of commitment here in the Parliament, and I encourage my colleagues in the chamber to take the time to reflect and add their names.

We must never be complacent about intolerance and hatred. We must challenge and eradicate all forms of discrimination and prejudice wherever we can.

I am grateful for the opportunity to contribute to the debate. The speeches that have been made have reflected our personal commitments to education about and commemoration of the Holocaust and other genocides around the world. It is a fitting way for the Parliament to commemorate this important day.

*Meeting closed at 17:38.*



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

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