



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Meeting of the Parliament

Thursday 15 March 2018

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Thursday 15 March 2018

CONTENTS

	Col.
GENERAL QUESTION TIME	1
Sectarian-related Crime.....	1
Disabled People (Plastic Straw Ban).....	2
Community Asset Transfers.....	3
Cold Weather Payments.....	5
Schools for the Future.....	7
Antisocial Behaviour.....	7
Affordable Housing (Support for Social Landlords).....	8
FIRST MINISTER'S QUESTION TIME	10
Salisbury Nerve Agent Attack.....	10
Scottish Business Pledge.....	13
Dr Gray's Hospital (Children's Ward).....	15
Babcock International (Job Losses).....	16
Childcare Fees (Glasgow City Council).....	16
Continuous Glucose Monitoring (NHS Dumfries and Galloway).....	17
Mental Health.....	18
Chancellor of the Exchequer's Spring Statement.....	19
University Staff (Industrial Action).....	20
Pain Relief Services (NHS Ayrshire and Arran).....	20
Crown Office and Procurator Fiscal Service (New Procedure in Rape Cases).....	21
Food and Drink Sector (Brexit).....	22
Prime Minister (Meetings).....	22
Suicide Prevention Plan.....	23
Land Ownership.....	25
DRIVERLESS CARS	28
<i>Motion debated—[Ivan McKee].</i>	
Ivan McKee (Glasgow Provan) (SNP).....	28
Kenneth Gibson (Cunninghame North) (SNP).....	31
Jamie Greene (West Scotland) (Con).....	33
David Stewart (Highlands and Islands) (Lab).....	34
Ash Denham (Edinburgh Eastern) (SNP).....	36
Jamie Halcro Johnston (Highlands and Islands) (Con).....	38
Tom Arthur (Renfrewshire South) (SNP).....	39
Alex Rowley (Mid Scotland and Fife) (Lab).....	41
Emma Harper (South Scotland) (SNP).....	42
Finlay Carson (Galloway and West Dumfries) (Con).....	44
The Minister for Transport and the Islands (Humza Yousaf).....	46
POINT OF ORDER	50
BUSINESS MOTION	50
<i>Motion moved—[Joe FitzPatrick]—and agreed to.</i>	
SOUTH OF SCOTLAND ECONOMIC PARTNERSHIP	51
<i>Statement—[Keith Brown].</i>	
The Cabinet Secretary for Economy, Jobs and Fair Work (Keith Brown).....	51
OFFENSIVE BEHAVIOUR AT FOOTBALL AND THREATENING COMMUNICATIONS (REPEAL) (SCOTLAND) BILL:	
STAGE 3	63
OFFENSIVE BEHAVIOUR AT FOOTBALL AND THREATENING COMMUNICATIONS (REPEAL) (SCOTLAND) BILL	84
<i>Motion moved—[James Kelly].</i>	
James Kelly (Glasgow) (Lab).....	84
The Minister for Community Safety and Legal Affairs (Annabelle Ewing).....	86
Liam Kerr (North East Scotland) (Con).....	89
Daniel Johnson (Edinburgh Southern) (Lab).....	92
John Finnie (Highlands and Islands) (Green).....	94
Liam McArthur (Orkney Islands) (LD).....	95
James Dornan (Glasgow Cathcart) (SNP).....	97

Maurice Corry (West Scotland) (Con)	99
Johann Lamont (Glasgow) (Lab)	101
George Adam (Paisley) (SNP)	103
Neil Findlay (Lothian) (Lab)	104
Margaret Mitchell (Central Scotland) (Con)	106
Annabelle Ewing	108
James Kelly	110
BUSINESS MOTION	112
<i>Motion moved—[Joe FitzPatrick]—and agreed to.</i>	
DECISION TIME	113

Scottish Parliament

Thursday 15 March 2018

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

General Question Time

Sectarian-related Crime

1. **Fulton MacGregor (Coatbridge and Chryston) (SNP):** To ask the Scottish Government what it is doing to tackle sectarian-related crime. (S5O-01877)

The Minister for Community Safety and Legal Affairs (Annabelle Ewing): Sectarian-related crime and the attitudes that underpin it have no place in modern Scotland. That is why we have made an unprecedented investment of £13 million since 2012 to address the issue. That investment has supported a wide range of work, including work by Nil by Mouth, which challenges sectarianism in our schools and in private, public and third sector workplaces across Scotland.

We continue to tackle sectarian attitudes through education and have worked closely with Education Scotland to deliver and roll out Scotland's first national educational resource on tackling sectarianism. In addition, I have commissioned Lord Bracadale to conduct an independent review of existing hate crime legislation in Scotland, including that which tackles sectarianism. The review is due to report shortly.

Fulton MacGregor: The minister will be aware of the recently reported incident in Coatbridge when the monstrosity and blessed sacrament at St Patrick's church were vandalised. In a separate incident, a local fast-food shop owner became embroiled in online abuse between rival fans following last Sunday's old firm game. Those incidents follow an attack on the town cenotaph last year, when graffiti that was left at the scene pointed to a sectarian element.

Given that Parliament is likely to repeal the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 later today—admittedly, that is only one part of how we are tackling sectarianism—what other proactive steps is the Government taking to combat this problem, which blights communities across Scotland, particularly in the west and the central belt?

Annabelle Ewing: I am aware of the terrible incident that occurred in Coatbridge. It was an act of mindless vandalism that was deeply offensive to the local community.

The Government is clear that any form of hate crime is totally unacceptable and will not be tolerated. We have been working consistently with communities to address the attitudes that can lead to such behaviour, and we will continue to do so. Of course, it takes time to change attitudes, but we are determined to continue to invest in the many groups that seek to work with communities to help us move on from these attitudes of the past.

Elaine Smith (Central Scotland) (Lab): Is the minister aware that, although successive Scottish Governments have put significant resources into tackling the symptoms of sectarianism, there has been an increase in religious hate crime during that period, with the latest figures showing that Roman Catholics were subject to more attacks than all other religious groups combined, and that that is an increasing trend? Will the minister now accept Archbishop Tartaglia's words from some years ago, when he said that

"our problem is not so much sectarianism but anti-Catholicism",

and take targeted action to specifically address discrimination against Roman Catholics in Scotland?

Annabelle Ewing: I assure Elaine Smith that we take religious bigotry, whatever its form, very seriously indeed. It is unacceptable in 21st century Scotland. We will continue to work with all churches and faith groups and with others to ensure that we are working together collectively to further implement the recommendations of Dr Duncan Morrow and his independent advisory group on tackling sectarianism in Scotland—which recommendations, I believe, received cross-party support.

I am, of course, happy to meet Elaine Smith to discuss the issue further if she wishes to do so.

Disabled People (Plastic Straw Ban)

2. **Jeremy Balfour (Lothian) (Con):** To ask the Scottish Government what measures it is taking to ensure that disabled people are not disadvantaged by the ban on plastic straws. (S5O-01878)

The Cabinet Secretary for Environment, Climate Change and Land Reform (Roseanna Cunningham): On 7 February 2018, during a parliamentary debate, I made it clear that we would ensure that a disability adviser was appointed to the expert panel on single-use plastics that we are already committed to putting in place. I cannot recollect whether the member was present for that debate, but I am happy to say that I have now appointed Professor Kate Sang, professor of gender and employment studies at Heriot Watt University, to that position. She will advise on the implications for disabled people of all proposed action, including on plastic straws.

Jeremy Balfour: I thank the cabinet secretary for her answer. Paper alternatives have had a mixed response from many disabled people, as such straws often go soggy and give a taste that is not acceptable. Greener straws are also often more expensive. Does the cabinet secretary agree that, whatever scheme is proposed, people who require to use straws because of disability or infirmity should not be financially penalised by any changes?

Roseanna Cunningham: That is the purpose of the commitment that I have given to ensure that all disability issues are taken on board when we look at items that are under review in respect of action against single-use plastics. I am very conscious that straws are not the only issue. There might be very specific concerns with each of the categories of items that we are looking at. There might also be potential solutions from the disabled community, which was an issue that Kate Sang raised when I spoke to her earlier this week. I absolutely agree with the member that nothing that we do should negatively impact the disabled community. We will be looking very hard for solutions and alternatives between now and the time of any action that might be taken on plastic straws.

Community Asset Transfers

3. Stewart Stevenson (Banffshire and Buchan Coast) (SNP): To ask the Scottish Government how many community asset transfers there have been since the Community Empowerment (Scotland) Act 2015 came into force, and how this compares with previous numbers. (S5O-01879)

The Cabinet Secretary for Communities, Social Security and Equalities (Angela Constance): The first annual report since the asset transfers part of the Community Empowerment (Scotland) Act 2015 came into force last year is due by the end of June 2018. Until that time, we will not know how many asset transfers under the act have taken place across Scotland.

In the early summer of this year, we will undertake an evaluation of asset transfers, which will tell us the number involved and provide more detail on the experiences of community bodies and the impact of the act. We are unable to compare with previous numbers, because we do not hold information on the number of asset transfers that took place before the act came into force.

Stewart Stevenson: Is the cabinet secretary aware of the plans of the Tory independent council in Moray to dispose of halls in Buckie, Findochty, Cullen and elsewhere in Moray? The communities would like to acquire and take on those halls, but

the council appears to be very reluctant to provide them with adequate support in the very short period of time in which something could be done. Is that example something that will usefully inform the Government's consideration of the operation of the Community Empowerment (Scotland) Act 2015? It appears to show that the act is falling short of its intention.

Angela Constance: Mr Stevenson raises an important point. I agree that, for community empowerment and asset transfers to work, help and support need to be provided to community bodies, including by local authorities. He might be interested to know that the Scottish Government funds the community ownership support service to support community-based groups in Scotland to take a stake in, or ownership of, land or buildings that were previously publicly owned. The community ownership support service has an active presence in Mr Stevenson's area and offers individual community groups and public bodies a bespoke support service. If it would be helpful, I can put Mr Stevenson and/or his constituents in touch with the community ownership support service.

Alexander Stewart (Mid Scotland and Fife) (Con): Councils have long had the chance to transfer buildings and land into community ownership. The benefits of transfers are clear: community empowerment for local people and asset disposal for local authorities. What reassurances can the cabinet secretary give to Parliament that the Scottish Government has carried out recent assessments that outline the short-term benefits that transfers can bring, compared with the long-term commitments involved?

Angela Constance: Mr Stewart raises an important point. The *raison d'être* of the Community Empowerment (Scotland) Act 2015 was to create opportunities for communities—on their own terms, not on terms enforced by statutory bodies—to be proactively involved in improving outcomes relating to the issues that matter most to them and, where they choose, to become involved in issues that need to be addressed. It is also about enabling those grass-roots community voices to have that response from the ground up, given that evidence shows the value of locally led solutions.

As I said in my initial answer to Mr Stevenson, the first annual report will be produced later this year. That will give us valuable information about progress with the 2015 act at a local level, which will enable the Scottish Government to take further steps in evaluating the overall progress of the act, particularly with regard to improving community outcomes and reducing inequality at a local level.

Ivan McKee (Glasgow Provan) (SNP): The Glasgow East Alcohol Awareness Project and Glasgow North East Carers Centre have been based in Trondra Place in my constituency for more than 20 years. Last October, they submitted a community asset transfer request, which was refused because the site is owned by Jobs and Business Glasgow, which is an arm's-length external organisation and thus exempt from the 2015 act. The organisations are now also under threat of eviction by Jobs and Business Glasgow.

The Government can make individual bodies subject to asset transfer provisions by introducing an order. Will the cabinet secretary undertake to look into the situation and consider whether an order would be appropriate in this case to enable the organisations to stay in their current premises?

Angela Constance: I would be very to understand more about the situation that Mr McKee describes. I will ask my officials to investigate further and I will endeavour to keep Mr McKee fully updated. What is and is not possible in relation to ALEOs is very much dependent on the legal form of the ALEO, but I will endeavour to investigate matters further and report back to Mr McKee.

Cold Weather Payments

4. **Linda Fabiani (East Kilbride) (SNP):** To ask the Scottish Government what discussions it has had with the Scottish fuel poverty strategic working group regarding cold weather payments. (S5O-01880)

The Minister for Social Security (Jeane Freeman): The Scottish fuel poverty strategic working group was a short-term, independently chaired group that was convened between November 2015 and October 2016. Cold weather payments were discussed a number of times at the group's meetings, and the minutes were published on the Scottish Government website. The group published a report in October 2016, which included recommendations relating to cold weather payments. Both that report and the Scottish Government's response are available online. We will be mindful of those recommendations as we develop our approach to cold weather payments when that benefit is devolved.

Linda Fabiani: I ask the minister to recognise, when she is having further discussions about the devolution of this benefit and considering its implementation, that the calculation of cold weather payments for East Kilbride, which everyone knows is a very cold part of the country, is done from Bishopton weather station, which is highly inappropriate and disadvantages those on pension credit in East Kilbride, who should be entitled to payments.

Jeane Freeman: As Ms Fabiani says, East Kilbride is perhaps colder than the weather station that applies to it—although I am sure that, like many communities, it has a warm heart.

The current agreement is between the Department for Work and Pensions and the Met Office, which provides for each postcode area to be allocated to one of 94 weather stations, which cover all parts of Scotland, England and Wales. A range of issues and difficulties have been raised with me by communities and members with respect to how cold weather payments operate in Scotland, and we will take all of those into account as we develop our approach to the benefit and its delivery and move to take responsibility for it.

Mark Griffin (Central Scotland) (Lab): As the minister set out, current eligibility for cold weather payments is based on weather station mapping, which can produce some absurd results, as we have heard. I have been told of households in Coatbridge and Bellshill receiving just two payments due to the use of the Bishopton weather station, while residents in Airdrie and Holytown have just received their fourth. There are differences between people living in towns—and sometimes houses—that are right next to each other. The cost on the Coatbridge side was £50 this year, which sometimes represents the difference between heating and eating.

Can the minister give an assurance that cold spell heating assistance regulations will rely on localised forecasts rather than the postcode-to-weather-station mapping that the DWP uses at present?

Jeane Freeman: Mr Griffin reinforces the point that I am making, which is that we understand those difficulties and differences. There are other issues with cold weather payments, not least factors such as wind chill. It is not simply about the temperature that is recorded; other factors play a part, particularly in some of our more rural and island communities, and we are mindful of that. However, we need to identify how we will best get the robust data that will be used to trigger payments, taking account of the points that Mr Griffin and Ms Fabiani have made.

That is what I mean when I say that we are mindful of those issues. They have been raised with me many times by local communities and I am clear about their importance, but we need to work through the basis on which the social security service in Scotland secures the data in order to trigger the payments. Of course, we do not want a system that is so complicated that people then have to wait too long to receive the support. We will work through those matters, and I will happily discuss that with members in due course.

Schools for the Future

5. Gordon MacDonald (Edinburgh Pentlands) (SNP): To ask the Scottish Government how much it has invested in the schools for the future programme since 2011. (S5O-01881)

The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney): Since 2011-12, through the schools for the future programme, the Scottish Government has provided £269.6 million in capital investment and £41.6 million in revenue investment.

Gordon MacDonald: The City of Edinburgh Council is proposing to close two high schools in my constituency—Currie community high school and Wester Hailes education centre—and amalgamate them on a new site, which is causing great concern among parents at both schools, who want the schools to be refurbished at their existing locations. Under the schools for the future programme, what proportion of rebuilding or refurbishing costs is met by the Scottish Government, and how much of the current wave of funding to March 2020 is unallocated?

John Swinney: The issues that Mr MacDonald raises in relation to Currie community high school and Wester Hailes education centre are issues for the City of Edinburgh Council to consider.

The schools for the future programme is a shared funding programme between national and local government. The Scottish Government provides two thirds funding support to all secondary school projects and 50 per cent funding support to primary school projects. The programme is fully committed at present, supporting 117 school projects across Scotland.

Antisocial Behaviour

6. Gordon Lindhurst (Lothian) (Con): To ask the Scottish Government what action it is taking to reduce antisocial behaviour. (S5O-01882)

The Minister for Community Safety and Legal Affairs (Annabelle Ewing): The Antisocial Behaviour etc (Scotland) Act 2004 provides a wide range of measures for dealing with all forms of antisocial behaviour. Our national strategy is based on prevention, early intervention and diversionary activities. The Scottish Government is currently working with a group of local authorities to use their expertise and knowledge to inform, refresh and update all the guidance documents on tackling antisocial behaviour.

Gordon Lindhurst: In 2016-17, nearly 900 incidents of antisocial behaviour were reported every day to the police in Scotland, and the total increased by about 10,000 from the previous year. Antisocial behaviour features in my casework quite commonly, and in Edinburgh there was a 3 per

cent rise in that period. Despite that, we have seen a 50 per cent reduction in fixed-penalty notices during the same period. Does the minister see fixed-penalty notices as a valuable tool for the police, and can she explain the trend?

Annabelle Ewing: A number of powers are available to relevant authorities to deal with antisocial behaviour, depending on the nature of the behaviour, and fixed penalties, which are a quick way of dealing with certain levels of antisocial behaviour, form part of that suite of powers. I do not have the detailed statistics that the member cited in front of me, but I will look into that and get back to him. Of course, we have to remember that, although antisocial behaviour is of extreme irritation to many of our constituents across Scotland—I know that from my own casework—at the same time, antisocial behaviour-related crimes are continuing to fall. We have to look at the picture in the round, but I undertake to write to the member vis-à-vis the specific issue of the current statistics on fixed-penalty notices.

Affordable Housing (Support for Social Landlords)

7. Ruth Maguire (Cunninghame South) (SNP): To ask the Scottish Government how it supports social landlords in providing affordable housing that is allocated according to need. (S5O-01883)

The Cabinet Secretary for Communities, Social Security and Equalities (Angela Constance): The Scottish Government provides guidance to support social landlords to develop allocation policies that comply with the legal framework for allocations and meet the needs of their communities.

Ruth Maguire: This year, along with the usual yearly rent increases, some of my constituents are facing additional increases due to a rent restructure and will be paying an additional 6 per cent rent for no obvious additional service. Does the cabinet secretary agree that, although social landlords such as Irvine Housing Association have a responsibility to maintain a sustainable business model, that must not ignore the real-life experience of their tenants, many of whom have seen little or no increase in their wages, and that any increase or restructure should take account of the impact of rent rises on all tenants, including those on low incomes who are not eligible for housing benefit?

Angela Constance: All social landlords must understand the importance of keeping rents affordable and meeting the needs of the people whom they serve. Landlords need to demonstrate transparency in how rents are calculated. They should set rents in a consistent and transparent way across their stock and should not increase

them without regard to affordability. Although the Scottish Government does not direct individual social landlords on setting rent levels for their tenancies, those landlords have a legal duty to consult their tenants and registered tenant organisations on matters that significantly affect them, such as rent setting and restructuring.

First Minister's Question Time

12:01

Salisbury Nerve Agent Attack

1. Ruth Davidson (Edinburgh Central) (Con):

On 4 March, two individuals were targeted in Salisbury in an attack using a weapons-grade nerve agent. A total of 21 members of the public have been treated as a result of the nerve agent attack, with hundreds directly affected in its aftermath. The attack could just as easily have happened on the streets of Edinburgh, Aberdeen or Glasgow. Yesterday, the United Kingdom Government announced a range of measures including further sanctions against Russia, the suspension of all high-level bilateral engagement between the UK and Russia, new powers to bar people suspected of hostile state activity from entering our country and the expulsion of 23 Russian diplomats. Will the First Minister join me in welcoming those robust and proportionate measures?

The First Minister (Nicola Sturgeon): I agree whole-heartedly that the Salisbury poisoning is a gravely serious issue. It puts potentially large numbers of people at risk and therefore demands a very serious response. In a democracy, people are right to ask questions and scrutinise the evidence. The investigation is, of course, on-going and will continue. However, on the basis of what I have been told, which includes briefing directly from the national security adviser, at this stage I believe that the conclusion that Russia was responsible is a reasonable one. Therefore, the matter demands a proportionate but very firm response.

As I said yesterday, that is why I support the initial steps that the Prime Minister outlined in the House of Commons. As further action is proposed, we will scrutinise that carefully, as I hope all parties will, and, as the investigation progresses, we will apply the same scrutiny to any emerging evidence. The key point, which I and others made yesterday, is that attacks of this nature simply cannot be allowed to take place on the streets of this country with impunity.

Ruth Davidson: It is important that members in this chamber are seen to speak with unity of purpose on the matter. As I said in my question, there is no doubt that this kind of attack could have happened—and could still happen—anywhere in the United Kingdom. With that in mind, will the First Minister update the chamber on the preparedness of our emergency services, and can she make it clear that they have the resources that are required to keep people safe?

The First Minister: Scotland's preparedness to respond successfully to attacks of this nature—chemical, biological or radiological attacks—has been developed over a number of years. In relation to the type of incident encountered in Salisbury, our excellent emergency services would be in a position to respond to the initial incident.

As the investigation progresses and more information comes to light, we will continue to discuss matters directly with our emergency services. We will, of course, look at our resilience arrangements more generally to make sure that they have the capability and the resources that are required.

When I was in London yesterday, I had the opportunity to discuss those matters with the Prime Minister, the First Minister of Wales and the national security adviser. If further action is proposed, such as asset recovery or sanctions, although that is the responsibility of the National Crime Agency in other parts of the UK, in Scotland it is the responsibility of Police Scotland, the Crown Office and Procurator Fiscal Service and the civil recovery unit, in particular, so it is important that there is on-going discussion and dialogue on those matters as well.

If any criticism is to be made of the past behaviour of the UK, it is perhaps that there has not been a stronger response to the influence of Russian money. All such matters require to be looked at carefully, and I hope that there will be support for the so-called Magnitsky private members' bill, which is co-sponsored by Ian Blackford, the leader of the Scottish National Party in the House of Commons.

Ruth Davidson: I thank the First Minister for updating the chamber on the emergency and security preparedness. There is another issue: how the Russian state seeks to interfere in the affairs of this country and of others, notably through the state-backed television network Russia Today, which is little more than a propaganda mouthpiece for Vladimir Putin. Its editor-in-chief is on record as saying that its purpose is to fight

"An information war against the whole Western world."

The television network has declared that the hard evidence linking Russia to the attack in Salisbury is "fanciful".

This week, RT was placed under review by the broadcasting regulator, Ofcom. Does the First Minister agree that that review is long overdue and that we should all unite against propagandist channels that spread misinformation and undermine our values?

The First Minister: Matters relating to licences for Russia Today—or for any other broadcaster—

are rightly a matter for Ofcom, and they should be considered independently. Perhaps one of the differences between this country and Russia is that it is not for politicians here to decide who gets to broadcast, because freedom of speech matters greatly to us.

On Russia Today generally, I have made my view known in the past and I have not changed that view. It is fair to say that there are a number of issues. If Ruth Davidson wants to take the debate to the matters that she raises, a number of other issues also require to be looked at, such as the influence of Russian money in our society and, indeed, Russian donations to political parties. I know that Ruth Davidson may herself be reflecting on such issues.

Bigger issues have been raised by what happened in Salisbury, and I hope that we can all continue to unite in saying that such attacks are simply not acceptable and will not be tolerated. Perhaps all of us should resist the temptation—we all succumb to such temptation from time to time—to reduce the issue to party political point scoring.

Ruth Davidson: It is the duty of elected representatives to make their positions clear, and I hope that I have done so in this chamber. Russia Today exists for the sole purpose of promoting the agenda of Putin's regime. It serves him well in that purpose—it acts as an apologist for a Government that all the evidence shows has directly or indirectly been culpable in a chemical attack on British soil.

In this country, we have a proud tradition of a free press that acts without fear or favour and media that seek to meet the highest standards of objectivity so that people get the truth. Does the First Minister agree that that objectivity is poisoned when state agents pump propaganda into the households of this country?

The First Minister: I do not support state propaganda. I have made my view on Russia Today clear in the past and, as I have said, I have not changed—and I will not change—that view. I said to Ruth Davidson that, if we want to look at the issue from that perspective, other issues require to be addressed, too. The difference between me and Ruth Davidson is that I have made known my view on Russia Today whereas I am not aware that she has made her views known on matters such as Russian donations to political parties. Perhaps she will take the opportunity to do so today. All these issues require to be looked at if one of them is going to be raised.

Let me repeat the point that I have made—and, in doing so, agree with the statement in Ruth Davidson's first question—that what happened in Salisbury is a very serious national security matter that has grave implications. Those are the kinds of

issues that I discussed with the national security adviser on Tuesday, and again yesterday with the Prime Minister, in London, and they are the issues that we should be focusing on. That is why I have given the Prime Minister support for the initial actions that she has taken, and we will continue to scrutinise any further actions.

That is the basis on which we should respond and, indeed, address all the other issues as they arise. The simple point that I am making is that, in seeking to do so, we should not be one sided.

Scottish Business Pledge

2. Richard Leonard (Central Scotland) (Lab):

This Government's big idea for delivering fair work standards is the Scottish business pledge, a voluntary scheme that companies sign up to if they are willing to commit to fair work practices. Following the collapse of Carillion, can the First Minister tell Parliament how many of the major outsourcing firms have signed up to the pledge?

The First Minister (Nicola Sturgeon): I am happy to provide the precise information on that in writing to Richard Leonard—I do not have it to hand here. However, a large number of companies have signed up to the pledge. It is, of course, voluntary, but we have been encouraging companies to sign up to it. We have had debates on the issue in the chamber; indeed, I think that Patrick Harvie has led calls for the Scottish business pledge not to be so voluntary in future. We keep such matters under review.

Of course, the Scottish business pledge is only one aspect of our approach to fair work. Other aspects have been taken forward by the fair work convention; in fact, in my regular meetings with the Scottish Trades Union Congress, the most recent of which was last week, we discuss how we can raise the profile of fair work in general, and we have agreed to carry out further work in that respect. One of the things that I committed to at that meeting was that the Cabinet would discuss the matter in future and look at how we further mainstream the fair work approach in everything that we do in Government. I hope that that work will be supported right across the chamber.

Richard Leonard: My question was about how many of those companies have signed up to the Scottish business pledge, and the answer is: not one—not G4S, not Mitie, not Capita, not Interserve and not Serco. Perhaps that is no surprise when we see how those companies operate.

In Scotland, Carillion had a system under which workers on the Shotts rail electrification project were charged up to £100 a week simply to be paid their wages. We know that construction companies do the same thing across Scotland through a system of umbrella companies set up by

employment agencies, which allows them to dodge tax, cut costs and exploit workers. Does the First Minister think that it is acceptable for workers to be charged up to £100 a week simply to be paid their wages?

The First Minister: No, I do not. I think that it is absolutely outrageous, and I would condemn any company that pursued any practice of that nature. I also take the opportunity—and I hope that, in this, I will be echoed by voices across the chamber—to encourage the kinds of companies that Richard Leonard has cited to sign up to the Scottish business pledge and to take action on their own practices that enables them to do so.

However, perhaps the most important and pertinent point that I can make to Richard Leonard is this: many of the practices that he has cited and which he and I agree are unacceptable and outrageous are, of course, matters relating to employment law, which remains reserved to Westminster. I would therefore put the issue back to him, given that the Scottish Labour Party has long opposed the devolution of employment law to this Parliament. If the Scottish Labour Party wants to enable the Scottish Government to take tougher action on such practices, will Richard Leonard now join me in calling for employment law to be devolved to this Parliament so that we can do exactly that?

Richard Leonard: This is not about employment law—this is about public procurement. The First Minister's Government is handing over millions of pounds of public money to these companies, and they are treating workers shamefully.

Here is what that means in the real world. Today, Labour will release redacted payslips from workers on the flagship Aberdeen western peripheral route, which will show that they have been charged for the privilege of being paid. Therefore, on a contract funded by the First Minister's Government, workers have blatantly been exploited. Given the collapse of Carillion, what is her Government doing to ensure that no worker will be charged simply for receiving their wages?

The First Minister: I will make a number of points that I hope will be helpful. First, we will look at any information that Richard Leonard wants to make available. Secondly, this Government has gone further than any other in the United Kingdom in embedding fair approaches to matters such as the living wage, zero-hours contracts and blacklisting in the public procurement process. We will continue to look at how we can take further action to do so. However, I am sorry to say to Richard Leonard that how companies operate and the legal context in which they do so are very often matters of employment law. If he wants to join us

in asking for that to be devolved, I would welcome that.

There is another issue here. On employment law, our approach is to argue for additional powers to be devolved. However, it cannot have escaped Richard Leonard's notice that, in the context of the European Union (Withdrawal) Bill, one of the powers that the UK Government wants, in effect, to re-reserve is that over public procurement, which would restrict the Scottish Government even further. Therefore, it is not enough for Richard Leonard simply to come to the chamber and raise problems; he also has to join us in equipping the Scottish Government with the solutions to them. When he starts to do that, perhaps he will be taken a bit more seriously.

Dr Gray's Hospital (Children's Ward)

Richard Lochhead (Moray) (SNP): The First Minister will be aware that, despite the best efforts of local management and staff, overnight admissions to the children's ward at Dr Gray's hospital in Elgin have once again been suspended—only temporarily, I hope—due to a shortage of paediatricians, which has been compounded by on-going issues with attracting trainee doctors to the hospital. That means that families face the possibility of their children being transferred all the way to Aberdeen for treatment, and it places more pressure on ambulance crews, who are waiting for a decision on an additional emergency ambulance and crew for Elgin. I am told that, on Monday evening, a crew had to hang about for four hours, waiting for a vehicle to return to Moray so that it could take over and answer local calls.

Will the First Minister urgently investigate further solutions that could be put in place to help to attract paediatricians to work in more northerly hospitals and doctors to places such as Dr Gray's, where they are required? At the same time, will she seek a quick decision on the hoped-for increase in local ambulance provision?

The First Minister (Nicola Sturgeon): I thank Richard Lochhead for raising the issue. As he knows and, indeed, has alluded to, NHS Grampian has been working, and continues to work, to fill posts in its paediatric services at Dr Gray's hospital in Elgin. While it seeks to build on the three paediatric consultants who currently work in the hospital, the board has reluctantly introduced a temporary model on safety grounds. I stress that the grounds for its doing so relate to the safety of children. The board has set out that its decision has been taken in the best interests of children and their families, and I am sure that everyone would agree that clinical safety should be the primary consideration.

The board is doing everything that it can to fill vacancies and it continues to review its staffing model. Richard Lochhead also raises important issues about the ambulance service, which I will ask the Cabinet Secretary for Health and Sport to consider in more detail and discuss with him. However, we hope that the situation at Dr Gray's will be restored to where people want it to be as quickly as possible.

Babcock International (Job Losses)

Mark Ruskell (Mid Scotland and Fife) (Green): The news of 150 job losses at Babcock International in Rosyth is a further blow for west Fife communities who are already reeling from the 250 job losses that were announced in November 2017. The yard supports not just the jobs of today but young people who will fill the jobs of tomorrow, with apprenticeships and a partnership with Fife College delivering courses in engineering and renewables at the dockyard campus.

Will the First Minister confirm that the downscaling will not impact on the training opportunities on site? Will the Scottish Government commit to supporting an action plan for the dockyard's future that does not rely entirely on Ministry of Defence contracts?

The First Minister (Nicola Sturgeon): I am very concerned to learn of the redundancies at Babcock International in Rosyth. I know that this will be a very difficult time for those employees and their families. The Scottish Government will continue to do everything that we can to support those who are affected through our partnership action for continuing employment team, which has already been in contact with Babcock, which has confirmed that the company will accept a full package of tailored partnership action for continuing employment—PACE—support.

Although it is very disappointing that the company is making job losses as a result of its internal restructuring, we hope that the decision will help to secure a sustainable future for the company for years to come. Scottish Enterprise is working with the company to support that.

The member is right to point to the need to make sure that we continue to support training opportunities and that we support the company to diversify. Those are issues on which Scottish Enterprise will be very much focused.

Childcare Fees (Glasgow City Council)

Johann Lamont (Glasgow) (Lab): The First Minister will recall that she told her own party conference that childcare is

“the best investment we can make in Scotland's future.”

Will she explain why her council colleagues in Glasgow have decided, without any consultation, to increase childcare fees, with some families, such as my constituents, paying an extra £190 a month, and others paying up to an extra £300 a month? Does she agree with my constituent who said that if a family's mortgage, rent, gas or electricity bill was suddenly to rise by £190, there would be an outcry? Will she confirm whether her Glasgow colleagues have sought extra resources for her city to avoid that unfair increase? Will she use her influence to encourage her colleagues to rethink a decision that is short-sighted, unjust and utterly unacceptable to the families of Glasgow?

The First Minister (Nicola Sturgeon): Glasgow City Council, in common with all councils across the country, has had from this Government a real-terms increase in its revenue budget for next year to enable it to continue to support services. Glasgow City Council, in common with all councils across the country, is also receiving additional funding to extend its childcare provision en route to the doubling of free childcare. That expansion will do more than anything else to reduce the costs that parents bear for childcare. I would hope that Johann Lamont and others across the whole chamber would support that whole-heartedly.

Continuous Glucose Monitoring (NHS Dumfries and Galloway)

Finlay Carson (Galloway and West Dumfries) (Con): In my constituency, Dumfries and Galloway NHS Board is not prescribing the continuous glucose monitoring system for which the First Minister announced £10 million of funding back in 2016. It is totally unacceptable that we are still expecting some children, depending on where they live, to prick and test at all hours of the day and night, when a more affordable solution is available that would massively increase the quality of life and health outcomes for not only the patient but the patient's family.

Given that NHS Lothian is already prescribing the latest flash glucose monitoring system, which is a step ahead of the CGM system, what action will the First Minister take to end that postcode lottery, particularly for the young people in my constituency who face a lifetime of diabetes?

The First Minister (Nicola Sturgeon): I agree very much with the sentiment behind the question. As Finlay Carson rightly said, the Scottish Government has funded health boards to increase the prescribing of diabetes monitoring equipment and I would expect all health boards to do so, because we know that that can often transform the lives of young people who are living with diabetes. I will personally look into the situation in Dumfries and Galloway and write to the member once I have had the chance to do so. I reiterate that I

would expect all health boards to be doing the right thing to support young people with diabetes.

Mental Health

3. Willie Rennie (North East Fife) (LD): Last year, the Minister for Mental Health said that performance on children's mental health waiting times was encouraging. Only a year later, however, performance is at an all-time low. Children have never waited longer since the targets began, and for the first time in years, the number of people committing suicide in Scotland has increased, with two people every day ending their lives. It is also one of the biggest killers of young men. Every time I raise the issue of mental health in this Parliament, the First Minister tells me that she is determined to tackle it, but performance continues to decline. Does she really have this under control?

The First Minister (Nicola Sturgeon): First, I take the view that one suicide is one too many. We will see fluctuations year on year, but it is important to stress that the long-term trend in suicides is downward, and we want that not just to continue but to accelerate.

With regard to waiting times for mental health treatment for young people and adolescents, we absolutely recognise that there is more work to do, and we are working closely with health boards to deliver improvements. The Minister for Mental Health is meeting a number of boards where current delivery against the standards continues to fall short of what we expect.

However, it is also important to point out that average waits are at 10 weeks and that 11 out of 14 NHS boards have an average wait time of between five and 12 weeks, which is, of course, within the 18-week target. Seven boards have recorded an average wait time of under nine weeks, which is half the 18-week waiting time target. Our mental health strategy, which is backed by additional investment of £150 million over the five years of the current parliamentary session, sets out clearly how we also improve early intervention and ensure better access to services.

Willie Rennie: I do not doubt the First Minister's sincerity on this, but it is just not backed up by the results. She talks about the long-term decline in the number of suicides but, this week, Samaritans made it very clear that this is a clear warning sign for the Government. The First Minister has previously talked about more people coming forward. I am surprised that she is surprised about that, because it is no comfort to the people who need treatment now that her Government is not ready for them.

The First Minister has also mentioned that the suicide prevention plan came out this week, but we have been waiting a year for that, and all we have is a draft, which Samaritans has said is disappointing. The mental health strategy was also delayed by the Government for a year, as a result of which important mental health spending was delayed. We were promised that child and adolescent mental health services were getting better, but only one in three people in Grampian is seen on time. All of that is truly terrible. Why do people have to wait until this Government gets its act together?

The First Minister: Although I accept Willie Rennie's sincerity on this matter, I simply do not accept some of his characterisation. A great deal of hard and good work is being done to improve services for those who need mental health treatment.

It is important to be accurate about matters as serious as trends in suicide. During the past 10 years, for example, we have seen an overall decrease of 17 per cent in the rate of suicide in Scotland. In my view, that is not enough, and we want it to go down even further. I know that there is a question later on today about the draft strategy, so I will not say too much about it at the moment, but the reason why we publish strategies in draft is to allow organisations such as Samaritans to feed into the process. Moreover, as I have said to Willie Rennie in the past when he has talked about the so-called delay to the mental health strategy, one of the reasons for that delay was, as I recall it, that the Health and Sport Committee of the Parliament asked for further time to properly scrutinise it.

When we are dealing with matters that are as serious and complex as this, it is right for us to take the time to listen to, understand and reflect the views of expert organisations. I make no apology whatsoever for that.

Chancellor of the Exchequer's Spring Statement

Kenneth Gibson (Cunninghame North) (SNP): What is the First Minister's response to the chancellor's spring statement?

The First Minister (Nicola Sturgeon): Unfortunately, the spring statement demonstrated the UK Government's on-going commitment to austerity, which I deeply regret. More social security cuts are coming into effect next month, and there was nothing in the statement to alleviate their effects on the most vulnerable in society. The Resolution Foundation estimates that by 2022 the UK Government's policies will have left the poorest third of households worse off by more than £700 a year on average and that average pay

will not return to its pre-crisis levels until 2025, or 17 years after the pay freeze began.

It is fair to say that the chancellor missed an opportunity to follow the Scottish Government's lead on public sector pay. Indeed, he also missed an opportunity to put an end to austerity once and for all, something that is well overdue.

University Staff (Industrial Action)

Iain Gray (East Lothian) (Lab): As the First Minister will be aware, a proposed agreement on changes to certain university sector pensions was overwhelmingly rejected this week by university staff. As a result, industrial action by staff is continuing. Will the First Minister support the determined efforts of University and College Union members to protect their pensions, and will she speak with the principals of affected universities in Scotland to urge them to ensure that an acceptable solution is found—and quickly?

The First Minister (Nicola Sturgeon): Shirley-Anne Somerville has been engaging and will continue to engage with both sides in this dispute. I have great sympathy with the position of the university lecturers. Obviously, the current industrial action is an issue of considerable and increasing concern, particularly with concerns that it will start to impact on students' assessments.

Everyone will agree that strikes are not in anyone's interests, least of all those of students, and we have said repeatedly that a resolution will only be found round the negotiating table. Earlier this week, it looked as though a resolution was close, but it did not come to fruition.

I urge both parties to continue working together to find a solution. I hope that, as a first step, employers in the dispute will make further movement, and enough to allow the union to suspend the strike while talks continue. Indeed, I call on them to do so. Such a move would allow assessments to be protected and avoid unnecessary damage to the learning of students.

Pain Relief Services (NHS Ayrshire and Arran)

John Scott (Ayr) (Con): As the First Minister might be aware, pain relief services in NHS Ayrshire and Arran have been failing, with only 6 per cent of new patients being seen within the waiting time targets. Those figures are the worst in Scotland. Does the First Minister share my view that it is unacceptable that too many Ayrshire people are enduring pain for too long before receiving treatment? What can she do to help?

The First Minister (Nicola Sturgeon): According to the most recent statistics, waiting times for chronic pain services reduced in the last quarter in general across the country. That is

positive; we welcome it and encourage health boards to continue that progress.

I know that there is a particular issue in NHS Ayrshire and Arran, where progress has not been what we would want to see. The health secretary is engaging with the health board to make sure that it understands what it needs to do for progress to continue and, once she has had that engagement, she would be happy to have discussions with John Scott.

Crown Office and Procurator Fiscal Service (New Procedure in Rape Cases)

Kezia Dugdale (Lothian) (Lab): The Crown Office and Procurator Fiscal Service has produced a new procedure for dealing with what it calls reluctant complainers in rape cases, with the goal of increasing prosecutions. However, campaigners believe that the new rules, which would compel victims to give evidence in court, are more likely to put women off coming forward in the first place. What is the First Minister's direct response to Sandy Brindley from Rape Crisis Scotland, who described the move as

"a step backwards and one that could have significant, lasting, negative implications"?

The First Minister (Nicola Sturgeon): I understand the concerns that have been raised and the sensitivity of the issue. The first thing that it is important to say—and I know that members will understand this—is that this is a prosecution policy issue, which is a matter for the Lord Advocate and the Crown Office acting independently. That is an important principle.

That said, this is a sensitive issue. As I understand the policy, the views of complainers will still be taken extremely seriously, as we would all want and expect them to be. It is incumbent on us all—and it is certainly a responsibility for Government—to continue to work more with organisations such as Rape Crisis Scotland and Scottish Women's Aid to support women who come forward, so that they feel that they have, where necessary, the support and confidence to give evidence that will see perpetrators brought to justice.

This is, as I understand it, a matter for the Lord Advocate acting independently, and I have discussed it with him, simply to make sure that I understand the reasoning. The Crown considers that it needs discretion. For example—this is only one example that I can put to the chamber—if an accused person was thought to pose a risk to other women and a complainer's evidence was needed to prosecute that person, that factor would be taken into account. Of course, weight must continue to be given to the views of complainers. Overall, the responsibility of Government, working

with everybody in the criminal justice system, is to continue to do more, as we have been doing, to support people in the system as they bring forward complaints.

Food and Drink Sector (Brexit)

John Mason (Glasgow Shettleston) (SNP): I understand that Scotland's food and drink exports hit £6 billion last year. A large part of that is clearly linked to the protected status of, for example, salmon and whisky, which is guaranteed by the European Union. Does the First Minister consider that there is any risk of imitation products entering the market after Brexit?

The First Minister (Nicola Sturgeon): We should take the opportunity to celebrate the outstanding success of our food and drink industry. The figures that John Mason has just cited are further evidence of that success, and I want to congratulate everybody in the sector on their work.

However, Brexit poses a real risk to that sector, as it does to many sectors across our economy, and one such risk might well be around imitation produce. It is vital that we can get our produce to markets, and anything that puts barriers in the way might be hugely detrimental to the industry. That is why I—and those of us on this side of the chamber—argue so strongly that we should remain within the single market and the customs union. It is right for our food and drink industry, and I believe that it is right for our economy as a whole.

Prime Minister (Meetings)

4. Joan McAlpine (South Scotland) (SNP): To ask the First Minister what the outcome was of her meeting with the Prime Minister. (S5F-02154)

The First Minister (Nicola Sturgeon): Yesterday, I attended a plenary meeting of the joint ministerial committee that was chaired by the Prime Minister and I also had a short bilateral meeting with her. At both meetings, we discussed the Russian security situation as well as matters relating to Brexit.

We all agreed on the need now for the JMC to undertake further urgent work on the role of the devolved Administrations in the next phase of negotiations with the European Union. Specifically on the European Union (Withdrawal) Bill, I reiterated the changes that the Scottish Government feels are required for that bill. No agreement was reached on clause 11 yesterday. The differences that remain between us on the clause are not insignificant, but with political will and respect for devolution, neither, in my view, are they insurmountable. We will continue to engage constructively with the United Kingdom

Government on those issues. However, I repeat what I have said many times before: we will not recommend approval of the withdrawal bill to the Scottish Parliament if that bill allows the powers of this Parliament to be restricted without its consent.

Joan McAlpine: I am encouraged by the positive nature of yesterday's discussion. Will the First Minister guarantee, however, that the Scottish Government will not recommend approval of any bill that might diminish or restrict the powers of this Parliament without its consent?

The First Minister: Yes, I will guarantee that. Obviously, it is for the Parliament to decide, but I, as First Minister, will not recommend that the Scottish Parliament approve the withdrawal bill if that principle of consent is not very clearly enshrined and protected. It is not a new principle that we are trying to introduce. If an order was introduced now to change the powers of this Parliament, it would require the Parliament's consent, and we have precedent for that.

If this Parliament's powers are to be restricted, even on a temporary basis, that must have the consent of the members of this Parliament. We have been very clear that there will be matters on which UK-wide frameworks make sense and we have never shied away from that. However, those UK frameworks should come about by agreement, not imposition. The principle of consent is absolutely vital and we will always stand up and protect it.

The Presiding Officer: Question 5 is in the name of Annie Wells, but I am aware that Ms Wells has lost her voice. There is a lot of public interest in this question—in fact, Mr Rennie has already raised the issue that it addresses—so with members' permission, I ask Miles Briggs to ask question 5 on behalf of Ms Wells.

Suicide Prevention Plan

5. Miles Briggs (Lothian) (Con): Thank you, Presiding Officer. It is not always Prime Ministers who lose their voice; sometimes it is even MSPs.

To ask the First Minister what the Scottish Government's response is to comments by Samaritans Scotland that the draft suicide prevention plan is very disappointing (S5F-02137)

The First Minister (Nicola Sturgeon): First, I am sincerely sorry that Annie Wells has lost her voice and I hope that she gets it back very quickly.

On the serious question that has been asked, as I said in response to Willie Rennie on the same subject, the purpose of publishing a draft plan is to get stakeholders' views and to allow those views to shape and, where necessary, improve the final version.

Suicide, as we all know, is a significant public health issue. In February, the Samaritans, working with the Scottish Government and other key partners, produced a report setting out the views of those affected by suicide. Over 100 people took part in engagement events to inform the report and we are grateful for their important contributions on what I know can be a very difficult issue to discuss. The final suicide prevention plan will fully reflect those contributions.

The Minister for Mental Health will work closely with the Samaritans to seek to address its concerns and we will carefully consider further feedback from the engagement events that are taking place in the coming weeks. I think that our goal is shared across this chamber: to deliver a plan that has the ambition of substantially building on the downward trend in suicides that we have seen in the past decade.

Miles Briggs: As the First Minister said, this is an extremely sensitive topic. Last year, as we have heard, suicide rates increased in Scotland for the first time in six years. Although it has been outlined that the suicide prevention plan is just a draft plan, it is clear that organisations believe that the Scottish Government needs to be more ambitious in taking forward the suicide prevention plan. For example, the current plan does not say anything about targets, timeframes or what resources will be allocated. I acknowledge the activity to which the First Minister referred in her earlier answer to Willie Rennie, but does she agree that a lot more work needs to be done before we have a comprehensive strategy that is fit for purpose?

The First Minister: I agree—there is always work that requires to be done between publishing a draft strategy and the final strategy. The purpose of publishing a draft strategy is exactly so that we can take account of all those views. The draft action plan is open for comment until 30 April, by the public as well as stakeholders, and I hope that we will all encourage people to take part in that.

Some of the issues that Miles Briggs raised will, of course, be reflected in the final plan. If we look at the example of funding, the final action plan is likely to include funding to support a number of suicide prevention initiatives—for example, NHS Health Scotland's national suicide prevention programme, NHS 24's breathing space telephone and web advice service, and the Samaritans in order to help it manage the additional costs that it is incurring since introducing its free call helpline. Those are important issues.

It is important to stress that suicides are on a downward trend in Scotland, but we should not be complacent about that. Indeed, as the most recent figures underline, the action plan is important for getting the next stage of our work right, and I

encourage members across the chamber to contribute their views, thoughts and opinions to it, in order that the action plan is as good and strong as we all want it to be.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): Milton in my constituency has had several tragic suicides in recent years. In particular, the area around its high flats may require to be designated as a location of interest—that is a technical definition in acknowledgement of the increased risk. I will shortly meet the relevant health and social work officials to discuss a possible local suicide prevention strategy. I ask the First Minister to take an active interest in that. How can the Scottish Government's draft suicide prevention plan help those who are at risk in the communities that I represent?

The First Minister: First, we strongly encourage people from communities across Scotland, including—and, perhaps, particularly—those with lived experience, to consider and respond to the engagement paper. An online consultation is running from 8 March to 30 April, and is being supplemented by a series of public engagement events. I will make sure that Bob Doris gets details of those events in order that he can make his constituents aware. Bob Doris raised an important issue for his constituency, including the issue of the technical definition. I will ask the Minister for Mental Health to get in touch with him directly to discuss that aspect further.

Land Ownership

6. Claudia Beamish (South Scotland) (Lab): To ask the First Minister what action the Scottish Government is taking regarding the transparency of land ownership in Scotland, in light of the recent investigation by the *Sunday Post*. (S5F-02147)

The First Minister (Nicola Sturgeon): We are committed to increasing the transparency of land ownership in Scotland. As Claudia Beamish knows, information about land ownership is published in the land register, which we have asked the Keeper of the Registers of Scotland to complete by 2024. We will also introduce regulations later this year to establish a new public register of controlling interests, which will further improve the information on land ownership.

The article in the *Sunday Post* highlighted the extent of land ownership in Scotland by overseas companies, and raised concerns about tax avoidance. We take tax avoidance very seriously and the Cabinet Secretary for Finance and the Constitution has previously written to the chancellor seeking assurances that the United Kingdom Government will take concrete action to combat it, given that Government's particular responsibility for capital gains and inheritance tax.

Claudia Beamish: As the First Minister knows, the Parliament made important improvements to the Land Reform (Scotland) Bill in 2016 during stage 3 consideration, as a result of representations. Those improvements required the introduction of the regulations to which the First Minister referred. There is international interest in the road that Scotland is travelling towards greater transparency on land and property ownership, and the prospect that Scotland could become an international exemplar of good practice.

Can the First Minister assure me, and those of us in the chamber across the parties who have a serious concern in the matter, that the regulations that are to be introduced will deliver the promises made to the Parliament during the passage of that bill—which is now an act, as we know—and that we, by our actions in this Parliament, using the powers that we have, can secure a system of readily accessible and transparent arrangements, which the article in the *Sunday Post* showed is required?

The First Minister: I am glad for the recognition that, in this respect, Scotland is in many ways leading the way, and is seen globally to be leading the way. We want that to continue to be the case. The regulations, which will create a new public register of controlling interests in landowners and tenants, will be introduced in the spring. The proposals are about delivering increased transparency about the individuals who are taking decisions on Scotland's land, including land that is owned by overseas companies. We are also liaising closely with UK counterparts on their related proposals for a register of overseas entities beneficial ownership. We will take account of their position as more details emerge.

I am determined that Scotland and this Parliament will lead the way in making sure that we have maximum transparency about the ownership of land. Our land is one of the greatest assets that we have as a country, and it is vital that we ensure that it is used for the benefit of all across our country.

Andy Wightman (Lothian) (Green): If the Scottish Government is leading the way, why does the overseas report, which formed the basis of the *Sunday Post* story, cost more than £1,500 to obtain when data is free in England and Wales? Why has the Scottish land information service, which was launched in October 2017, so abysmally failed to deliver the comprehensive information that was promised by John Swinney in 2015? Why does Historic Environment Scotland redact ownership information on scheduling documents? Does the First Minister agree with the Conservatives' 2017 manifesto that committed them to provide land information in England and Wales as open data?

The First Minister: I am delighted to hear of the new alliance between Andy Wightman and the Conservative Party. Andy Wightman should be more positive about the work that has been done, not least because he has been at the leading edge of much of the progress that we see being made.

It is true that Registers of Scotland operates as a trading fund and relies on incomes from fees but, as an open register, information on individual properties is available to all for between £3 and £24 per transaction.

Last October, Registers of Scotland launched the Scottish land information service—ScotLIS—which is a new map-based online land information service, which means that anybody can access information about land or property in Scotland. Initial searches are free of charge. ScotLIS will continue to be developed and improved based on customer feedback.

I hope that the Parliament, on those important issues and the wider issues about land reform, will continue to make the progress that we have seen being made in recent years.

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): What steps has the Scottish Government taken to ensure that fiscal incentives relating to land ownership, such as capital gains tax exemption, do not make land ownership and management practices in Scotland more unfair and unproductive?

I am the parliamentary liaison officer to the Cabinet Secretary for Finance and the Constitution.

The First Minister: Kate Forbes raises an important point, because some of the issues on taxation, particularly on capital gains tax and inheritance taxation, are not within the powers of this Government. At the moment, we need to try to persuade the UK Government to close loopholes and to take action that deals with the issues that are raised about incentives that relate to land ownership. Ultimately, it would be better if we had the ability in this Parliament, in the context of our wider land reform programme, to take action over those matters ourselves. I hope that people across the chamber will get behind us as we make that argument.

Driverless Cars

The Deputy Presiding Officer (Christine Grahame): The next item of business is a members' business debate on motion S5M-10471, in the name of Ivan McKee, on driverless cars bringing transformative change to Scotland. I ask members who wish to speak to press their request-to-speak button now. We do not have the aid of technology to do that yet, so members still have to use their fingers.

Motion debated,

That the Parliament notes reports that automated transport, including driverless cars, will be on the roads in the UK in 2021 and will be commonplace in Scotland by 2030; considers that this development will represent more than a simple transport revolution, with significant and fundamental implications for society, the economy, jobs, transport policy, environment and energy policy, space planning, safety and privacy, and notes the belief that steps must be taken now to explore all of the opportunities and challenges that these developments will bring so that people in the Glasgow Provan constituency and across Scotland can fully benefit from being at the forefront of what it sees as the coming transformative change.

12:49

Ivan McKee (Glasgow Provan) (SNP): I am delighted to lead the debate. It is not often that we get the opportunity to start with a largely blank piece of paper and shape our future. We are all aware of automation and understand that it is coming, perhaps faster than we think, but although automation offers opportunities, there are many threats, in particular to existing jobs. In general terms, the challenges can seem daunting and difficult to grasp. By focusing on one technology, as we are doing this afternoon, we can explore specific challenges and opportunities, and map out a path forward, with detailed actions and milestones to make sure that we take advantage of that new technology and it does not take advantage of us. Let us be clear: this debate is not about whether we think autonomous vehicles are a good or a bad idea. If they are coming—and all the evidence says that they are—our job is to find ways to mitigate their downsides and exploit the opportunities that they present for all of society.

Throughout history, disruptive transformations in transport technology have driven significant economic development, from the digging of the canal infrastructure in the 1790s, the roll-out of the railways in the 1840s and the rise of the automobile in the early 1900s, to the expansion of commercial air travel from the 1950s. From the 1990s, the internet, transporting information rather than people and goods, is the latest transport revolution to drive economic growth. We are due another such disruptive transformation and we need to be prepared.

Let us imagine for a moment what the average personal transport experience of the near future might look like. A person might own a car or have a contract with a car lease or car share company, either as a part share or as pay-as-you-go. A person who owns a car might send it out to work to generate income for them. People will use an app on their mobile device to order up a vehicle as needed. The total number of vehicles on the road will be much lower than it is today, but each car will do a lot more miles, and the number of vehicles available for hire will be 10 or 20 times what it is today. In most areas, no one will have to wait more than two or three minutes for a car to turn up at their door. In fact, a person might order several vehicles—one to take them to work, another for their spouse and a third to take their children directly to school, meaning no more school runs.

Without the need for driver interface, cars will look nothing like they do today. They will be a comfortable pod-type design, in which a person sits in the back, as they would in a hackney cab or a limo, perhaps working or relaxing. The vehicle will know what radio station or music a person likes to listen to, and their email, or a favourite film or television show, will be available on the in-car terminal. Travel time will become hugely more productive. Because the car is connected to all the other vehicles on the road, it knows the fastest way to work and how to avoid traffic. Traffic management systems, which at the moment involve expensive infrastructure that is designed to manage drivers' erratic behaviour, are far simpler.

Autonomous vehicles will not just affect our relationship with man's best friend—his or her car—but go far beyond our personal transport experience. Ninety-seven per cent of a car's time is spent parked. Self-drive will transform our cities, enabling higher housing density. Garages and multistorey car parks can become spare rooms and blocks of flats. Driveways and parking lots can become gardens and parks. Lines of parked cars can be replaced by cycle lanes. Ironically, self-drive will give us more space and scope to promote active travel solutions.

On energy, our concerns about sufficient charging points for electric vehicles and how to manage peak demand will be much reduced. Self-drive vehicles will take themselves to charging warehouses and top up their batteries to help smooth demand and meet supply. Infrastructure spend will be revolutionised. Interconnected autonomous vehicles, without erratic drivers behind the wheel, will use road space much more efficiently. The same amount of traffic that currently clogs up our three-lane highways will flow smoothly along a single lane. We can see that the advent of self-drive will affect all sectors; indeed it is only a matter of time until someone

writes a country and western song in which a guy's truck leaves him, too.

In the area of inequalities, the impacts could be significant and to our advantage if we grab the initiative now rather than let others exploit the technology first. People with disabilities, including sight loss, will be able to access personal transport on the same basis as everyone else. Those growing old and frail need not worry about losing access to their vehicles. Without the cost of the driver, the cost of private hire will come tumbling down, providing affordable connectivity to those on low incomes in peripheral housing schemes. Let us not forget the more than 1 million road deaths annually, 94 per cent of which are caused by driver error. We owe it to those to move towards this vastly safer technology as soon as possible.

Scotland was at the forefront of the first two transport revolutions that I mentioned earlier. Our canals enabled raw materials to move to population centres and ports, and our railways enabled movement of manufactured goods to market. The economic boost from both those innovations generated wealth that, to some extent and notwithstanding its unequal distribution, we are still living off today.

The innovators behind the last two transport revolutions came from these islands: Frank Whittle invented the jet engine and Tim Berners-Lee invented the internet. Sadly, we failed to take the lead in exploiting those 20th century technologies as we had done with other technologies in earlier centuries. We must not miss the boat next time round.

I am glad that so many members are taking part in the debate. Over the next 40 minutes or so, I look forward to hearing members raise impacts and opportunities that had not occurred to me.

I want to press the minister to consider taking specific actions. My asks would be that Government resource is applied to the technology not just to maintain a watching brief on autonomous vehicle developments elsewhere but to work with local government, think tanks, the private sector and others in Scotland.

The Government needs to identify at-risk sectors and businesses and to work with them to identify business transition plans supported by necessary investments. It also needs to identify business opportunities and careers of the future, and I set the Government's innovation unit a challenge to come up with a list of 100 such new careers. Perhaps it could run a competition to raise awareness and spark entrepreneurial innovation.

The Government also needs to quantify those impacts, introduce actions with a view to putting

Scotland in the driving seat—the self-driving seat—on the technology, and understand how our tax and social security systems would deal with that new world. At some point—sooner, rather than later—a moonshot statement setting out publicly a determination for Scotland to be the first country in the world to create a 100 per cent self-drive city would be very welcome.

Opportunities like this come along every half century or so. They can utterly transform our wealth and wellbeing, but only if we are proactive and move quickly. Let us not miss the boat.

12:56

Kenneth Gibson (Cunninghame North) (SNP): First, I congratulate Ivan McKee on securing the time to debate this fascinating topic. A few short years ago, this debate would have been relegated to sci-fi fan circles and online message boards; now, driverless vehicles and the wider topic of artificial intelligence are among the key issues that are being discussed in our universities, in the private sector and in our justice systems and political institutions.

Rapidly accelerating artificial intelligence and robotics research is transforming our world and our transport network is not immune to its advance. It was even suggested at last year's Scotland's Futures Forum programme launch that, by 2030, driving will be a pursuit of leisure alone and that all professional drivers will be redundant. That undoubtedly raises questions about the direct impact of the technology on Scottish jobs, particularly the tens of thousands of people in Scotland who are licensed heavy goods vehicle or taxi drivers, or who transport people, goods and even takeaway food.

Part of our preparation for the driverless revolution must be to ensure that the profits that are gained are not simply absorbed by car companies and technology giants but channelled back into our economy to drive investment and generate employment.

A driverless transport network could be good news for those who find driving inaccessible: the young, elderly, people with mobility issues or disabilities that prevent them from driving, and a number of MSPs who I understand do not have a driving licence.

Communication between automated cars could create a network that optimises traffic flow and eases congestion, meaning that we will be free to perform other tasks while travelling and get from A to B more quickly. Safety may also improve once human error is removed from the equation, even if many of us, including me, may still have doubts about putting our lives in the hands of a machine.

Automated vehicles will lead to a revolution not only in our transport network, but in our commercial and residential spaces, as Ivan McKee has mentioned. Just as the arrival of cars created huge demographic shifts and preceded the construction of motorways to connect our cities and parking spaces to facilitate commuter lifestyles, a fleet of driverless vehicles could dramatically reshape urban planning.

A report by engineering consultancy firm WSP suggested autonomous vehicles could free up 15 to 20 per cent of the United Kingdom's developable land, throwing up boundless opportunities for new homes, workplaces and green space. Given that, I am surprised that the Greens are not here to participate in the debate.

High-end cars are programmed with more than 100 million lines of computer code, which will increase exponentially with the arrival of driverless cars. That leads to interesting and unexpected questions about the practical and moral implications of the technology. How, for example, are we to programme cars with an understanding of moral philosophy? If an autonomous car is on a crowded motorway and knows that it is about to crash, how will it decide which other car to collide with?

That is a modern imagining of the old ethical puzzle known as the trolley problem whereby a runaway trolley barrels down railway tracks. Ahead are five people, who are tied up and unable to move, and the trolley is headed straight for them. Another person is standing some distance off, next to a lever; if they pull the lever, the trolley will switch to a different set of tracks, but there is someone else tied up on that side track. The person at the lever has two options: either do nothing, in which case the trolley kills the five people on the main track; or pull the lever, diverting the trolley on to the side track, where it will kill one. Which is the ethical choice? Of course, there are many variables. For example, who are the people who have been tied up? It is a difficult choice, so how would a machine fare?

Most of us are either excited about this new technology and the opportunities that it presents or afraid of its consequences for our economy and the fabric of society itself. However, with a proactive approach, I believe that Scotland can help to shape the development of automation. By investing in education and encouraging technological innovation, we can strengthen our talent base and guarantee that Scottish design and excellence are at the forefront of technological advances. We must also protect low-paid, low-skilled workers from being swept aside by the inevitable influx of automated labour.

What sets us mortals apart from machines is our creativity, and our ability to design innovative

solutions to problems, weigh up risks and take a leap of faith when we believe in our vision. Only by harnessing what makes us unique and making the right choices before the dawn of this technology can we lead the way instead of being left behind. This debate will be neither the beginning nor the end of the Scottish Parliament's discussion on the topic of automation, but rather the start of a serious and long-term consideration of the opportunities and challenges that it presents.

13:01

Jamie Greene (West Scotland) (Con): I apologise in advance to the chamber if my voice gives up halfway through this speech. I think that this week's events are taking a toll on my larynx.

The Deputy Presiding Officer: Where is Miles Briggs when you need him?

Jamie Greene: Indeed.

I am fascinated by the utopia that Ivan McKee has painted. The idea that our cars will talk to us and then take us where we want to go while we sit in the back, listening to our favourite radio show—in my case, "The Archers"—or catching up with our standard responses and motion signing sounds wonderful. It would free up so much of my time, given the hours of my life that I spend on the M8.

The Minister for Transport and the Islands (Humza Yousaf): Will the member give way?

Jamie Greene: The minister is welcome to tell me how wonderful the trains are.

Humza Yousaf: Can I suggest public transport—the trains, for example—as a solution to having to drive on the M8?

Jamie Greene: I commend the minister for his endeavours. However, the problem is that, with the jobs that we have, we need, like many other people, to get from A to B to C to D, and that might not be easy with public transport. It is a genuine concern, but the question of how we can get people out of cars altogether is probably one for another day.

It is not really true that this is a thing of the future—it is actually a thing of today. I have been in a Tesla car. If members have not done so, they should try what I found to be a fascinating and wonderful experience. These cars already have the technology and engineering to drive themselves, but they do not have the software, because legislation dictates that the cars cannot self-drive. The fact is that these cars can, in many cases, and in some countries, they do.

In this debate, though, we should look not only at the positive aspects but at what might be the consequences and implications of having more

driverless cars on the roads. The positive aspects include the environmental benefits, which have already been outlined. The fact that the majority of these cars will be hybrid or electric is also positive, because it means that they are safe and environmentally friendly. However, although we should welcome these changes, we should also be wary of the potential downsides of the technology.

Something that I noticed when I lived in London for a period was the way in which many of the terraced houses had had their gardens converted into driveways, simply because there was not enough parking. That led to a decline in London's bee population, and the idea that we could reverse those trends and get more green space is great.

As for the economic and industrial issues behind this, it is inevitable that driverless cars and vehicles will lead to a decline in paid driving jobs, which will have an effect. Of course, it will be argued that the people in that workforce will adapt and do other things with their time. However, before there were cars, people travelled by horse and carriage, and the introduction of cars did not lead to horses finding new jobs. It probably led to a decline in horse employment. Some might think that that would be a blessing—not least the horses. It creates an interesting dilemma. What do we do with people who currently drive for a living? So many people in Scotland currently drive for a living, whether they are taxi drivers, hauliers or delivery drivers.

Ivan McKee: I understand the member's point about horses, but we really should think about the people who looked after the horses, of whom there were many hundreds of thousands in those days, and who found new jobs servicing cars.

Jamie Greene: That is exactly my point. Those people had to retrain. We should be thinking about what we have to train the workforce today to be able to do tomorrow, when they are no longer able to drive cars or no longer want to. What are the new careers and opportunities? What infrastructure are we putting in place to ensure that people have the right skills?

We should also consider what happens when or if it goes wrong. I hope that other members will talk about that. What are the consequences for liability and culpability? What are the consequences for insurance and how we pay for that? What are the consequences for our roads and how we invest in road infrastructure? I hope that driverless cars are able to avoid potholes—particularly the ones in North Ayrshire.

13:05

David Stewart (Highlands and Islands) (Lab): I congratulate Ivan McKee on securing today's

debate. I thank him for his interesting and stimulating speech. I learned a lot from it. I particularly liked his reference to the country and western song. Could we call it “I lost my heart to a driverless Ford Mustang”? Perhaps I should not give up the day job.

For the past eight years I have championed the cause of road safety, not only across the Highlands and Islands, but across Scotland as a whole. As members may know, I became involved in the issue back in 2010 when two teenagers were tragically killed in a collision in Inverness. As part of that work, I set up the north of Scotland driver awareness scheme, which involved more than 25 road safety initiatives, such as the graduated licence scheme. I am interested in anything that makes roads safer, so I thank Ivan McKee for initiating the debate and the members who have spoken so far for their speeches.

Are autonomous vehicles and driverless cars safe and are they a step in the right direction? Although there is no doubt that fully autonomous self-driving vehicles are on their way, there is concern that many of us may confuse assisted driving technologies with automated driverless vehicles. Assisted driving technologies could include the use of cruise control, lane-changing systems, automatic braking, collision avoidance systems and so on. The key is that the systems are designed to help the driver.

Where do I stand in the debate? As cars are becoming more and more sophisticated and drivers are more and more supported by driving technology, it is only a matter of time before we see fully automated cars. As Ivan McKee said, the facts speak for themselves: 90 per cent of road collisions are caused by driver behaviour and driver error. That clearly shows that human beings are not totally up to the job, but it is a big step to go over to automated cars completely.

Many would argue that we need better education and more driver assistance from technology. In the debate so far, we have not looked at the possibility of hackers breaking into the systems of an automated car and making the car do things that it should not. I believe that the industry is starting to look at that issue, and voices on the pro-automated cars side of the debate are pointing out that humans cause road collisions, so surely it is safer to rely on technology.

However, is it safer to hand over total control of a vehicle? To determine whether automated vehicles are safer than humans, researchers will need to establish a non-collision rate for both human drivers and the emerging driverless vehicles. I am all for any action that improves road safety. I am excited by the possibility of our streets eventually seeing fully automated vehicles that have passed stringent testing. However, for now,

driver-assisted systems are with us for years to come, and those improved systems are very good.

For example, Volvo cars can detect a possible collision—be that with another vehicle or a pedestrian—and make the car brake and stop. We have cars that can alert us when we move out of a lane, and we have intelligent braking systems and cruise control. Those are all positive additions to making our roads safer for all.

In reality, the time for a person jumping into the rear seat of a vehicle and reading a newspaper while the vehicle drives off on its own is a long way off. There is much work on safety still to do. However, with our improved and increased high-tech support systems, we are moving in that direction. We will see automated vehicles on our roads in the not-too-distant future.

It is my belief that, to begin with, automated vehicles will form a system of automation that is similar to a tram system, in that they will be separated from other road vehicles and run along a set route between two points. The transport minister is in front of me, so I make a plea for an automated vehicle pilot between Inverness city and Inverness airport.

The chief executive of Tesla said:

“Where it gets tricky is that urban environment around 30 or 40 miles an hour. Right now it’s fairly easy to deal with things that are below 5 to 10 miles per hour, because we can do that with the ultrasonics—we just make sure it doesn’t hit anything”.

Things get more complicated at higher speeds.

In the immediate future, we will all benefit from partial autonomous technology such as lane-changing systems. Fully autonomous technology is still a distance away. It needs isolation, and testing in specially designed so-called cities, such as the one developed by the University of Michigan. As President John F Kennedy said,

“Change is the law of life. And those who look only to the past or the present are certain to miss the future.”

13:10

Ash Denham (Edinburgh Eastern) (SNP): I, too, congratulate Ivan McKee on securing this very interesting debate. The recent development of autonomous vehicles represents something of a transport revolution, and not just for those of us who had to take their driving test four times. Ivan is right to acknowledge that now is the time to consider the impact that autonomous vehicles will have on our society. Other members have drawn attention to the benefits that such vehicles offer, including reduced carbon emissions, less congestion and fewer road accidents, but there could be negative consequences, and a couple of members made note of those. Such improvements

in technology can and probably will have an impact on jobs, so we need to ensure that the benefits of those improvements are spread across many different providers and that they accrue to society, rather than being concentrated in the hands of only a few companies. We will need to take account of those issues as we look towards the future and the many possible advantages.

When I looked at the subject, what stood out for me is the way in which autonomous and self-driving cars will allow us to radically transform the cities in which we live. For members who represent a city, as I do, that is a very exciting potential opportunity. Although automated vehicles will rewrite the rules of transport, they will also offer us the opportunity to reclaim the environment that surrounds us and shape our cities for tomorrow. Cities today are often dominated by cars, overbearing traffic, congestion and expansive multistorey car parks. The future of autonomous vehicles reimagines private car ownership—vehicle pods, as Ivan mentioned, capable of carrying several people at once, and less a personal car than a robotaxi. Summoned by phone, transport in future would centre around those shared journeys. By 2035, it is predicted that 80 per cent of people will use robotaxis and that urban car ownership will have fallen by 70 per cent. Much of the meaningful impact of alternative vehicles therefore relies on promoting their shared-use aspect, which would reduce the number of cars on the roads. That has to be a good thing.

What does that mean for our cities? It means an opportunity to reclaim the space that is currently used for traffic lanes, car parks and on-road parking. That would be a huge benefit in my constituency, Edinburgh Eastern. Cities that use only autonomous vehicles would need 90 per cent less space for parking, and by reclaiming almost all the 15 to 30 per cent of space that is used for car parks in cities, we open up possibilities for innovative development in urban areas. No longer would we need to choose between necessary housing and community spaces. We could offer not only creative housing but sports facilities, art projects, public squares and spaces. In doing so, we can create cities and public areas that prioritise the people who live in them, not their cars.

We can create city spaces and centres that are characterised by extended pedestrian areas, designated cycle lanes and green parks. In Brooklyn, in New York, the introduction of protected cycle lanes led to three times the number of cyclists and reduced injuries to road users caused by speeding and crashes by 60 per cent. In Copenhagen, four times as many people now cycle as drive. By encouraging those alternative uses for car space, we will be able to create healthier, greener towns and cities. For me,

what is of particular interest is the prospect of future technological advances being used in that way to regenerate our communities and improve quality of life for all of us.

13:14

Jamie Halcro Johnston (Highlands and Islands) (Con): I congratulate Ivan McKee on securing today's debate, which has verged between something from "Tomorrow's World" and "The Jetsons". It is quite clear that driverless cars will be an important development for the future.

There has been a deal of discussion on connected and autonomous vehicles—or CAVs—in recent years. A number of systems with varying levels of automation have already been demonstrated. I welcome the action that has been taken by the United Kingdom Government in investigating the future benefits of such vehicles and in equipping the UK for the regulatory change that the introduction of such vehicles might involve. The Department for Transport obviously has a key role, but many of the future benefits have been championed by the Department for Business, Energy and Industrial Strategy. As the department's secretary of state, Greg Clark, has highlighted, the UK industrial strategy will be a key driver—excuse the pun—of innovation in such new technology around our country, and it was welcome that it featured in the industrial strategy white paper. Greg Clark has set out a key ambition of making the UK the best place in the world in which to develop CAV technology.

As has been mentioned, some elements of the innovations are already emerging as assistive technologies in today's vehicles—advanced road braking and lane-changing assistance spring to mind. In that role, they prevent accidents and lower the harm that can come from accidents. We have a proud record in that respect, as Britain's roads are among the safest in the world. Much has changed over the decades since car ownership became commonplace. There will be much on our roads that will change in the future, and Ivan McKee is right that we should plan early to make changes for new technology.

There are clearly many such areas in which the Scottish and UK Governments can work together in making progress on preparing for the future and in sharing information to ensure that regulatory frameworks are in place to enable development and progress. Therefore, I welcomed the answer that the minister, Humza Yousaf, gave to my colleague Jamie Greene in 2016 in which he indicated that Transport Scotland was already working closely with the Department for Transport and the centre for connected and autonomous vehicles.

From the perspective of my Highlands and Islands region, there is enormous potential. In rural areas, driverless cars would be a positive development, helping to connect remote communities, lowering costs and making travel easier. The economic and social benefits could be significant and touch all parts of our local economy. The House of Lords Science and Technology Committee cautioned that there was too great a political focus on driverless cars, when the benefits of autonomous vehicles were most likely to appear first in sectors such as the marine and agriculture sectors. I am aware that those sectors have been considered by colleagues around the chamber, but it is worth emphasising their importance in a region such as mine. We have a significant reliance on agriculture in particular, and new technology can have a major impact on efficiency.

It would be shortsighted to overlook the fact that significant barriers remain at this stage to the mass roll-out of driverless vehicles. As a result, I caution against too many glances into crystal balls today. The technology aspect is only one consideration among many. How our society and market forces respond to such vehicles will be interesting. Emergent technology is often accompanied by concerns, and there is little that is more unnerving than passing one's safety entirely into the hands of an automated system. Surveys have shown a reluctance among many people, especially the older generation, to move towards such a loss of control on the roads.

The gains might be different from what we expect. It has been observed that a number of the benefits of automated vehicles will become apparent only when a critical mass of vehicles are automated—or, indeed, when all vehicles are automated. We can envisage far more precise and efficient movement on our roads, but those vehicles will, at least initially, still have to cope with human error and behaviour.

For some years now, there has been a move away from road transport, yet increases in road travel might again be a feature of our future transport planning. How our roads, town centres and businesses adapt to that will need an early response from the Scottish Government.

13:18

Tom Arthur (Renfrewshire South) (SNP): I congratulate Ivan McKee on securing the debate. I welcome the tone that he took, which was very positive and energetic. Sometimes it is easy in Parliament and, I imagine, in the Government to deal with day-to-day business by becoming managerial, but we have to set a vision and an agenda for the future.

Although I recognise the comments that Jamie Halcro Johnston made about the issue sitting somewhere between “Tomorrow's World” and “The Jetsons”, Ivan McKee's motion makes reference to 2030, which is only 12 years hence. Members should think back 12 years ago to how many of us were using Twitter, Facebook and other social media platforms. Further, we could not have predicted the disruptive impact that Netflix would have not just on how we consume digital content but on how it is generated.

The issue of automation that we are talking about today is the way in which vehicles would be piloted by computers as opposed to people. However, automation has been with the automobile industry for a long time and automation of the manufacturing of automobiles is a significant part of that. I can relate to that. My constituency is home to Linwood, which is synonymous with a car plant being closed down because it was deemed to be economically inefficient and with the huge unemployment and other issues that followed from that. The concerns about disruption and the impact on existing jobs are serious and we must consider them carefully. It is important that we do not react to them in an alarmist fashion, but we must take cognisance of them. Ivan McKee made important suggestions about horizon scanning to ensure that we prepare and consider opportunities to reskill and retrain.

I will touch on some of the wider economic opportunities that the revolution will provide. It will necessitate the use of existing technologies, adaptations to existing technologies and, potentially, the development of new technologies.

One such example is the light detection and ranging—LIDAR—sensors that are essential to the way in which many driverless cars work. They are rather like a much more efficient and faster version of sonar in that they use light pulses to map surroundings. However, lately, there has been such demand for LIDAR sensors that producers of the devices have struggled to keep up and there have been six-month delays. The result of that is that a lot of start-ups could disrupt that market by moving to more solid-state technologies.

Scotland, of course, has had a strong sector for lasers and sensors. I am keen to consider ways in which our economy can benefit from the manufacturing of such devices. As the First Minister stated, we need not only to be consumers of the products of the future but to actively develop and engage with them.

There are economic opportunities, but there are also the economic threats that have been mentioned already, such as those posed to the haulage industry, public transport drivers such as bus drivers, taxi drivers and delivery drivers. We must consider how those threats interact with the

gig economy. That speaks to broader issues about how we design our social security and taxation systems.

Jamie Greene: The member makes some interesting points about the types of things for which we use cars. Does he accept that there is a move to use not necessarily driverless vehicles but drones to do those things and that that market could replace some of the driving?

Tom Arthur: Absolutely. That is an excellent point. Amazon is already pioneering that approach. We cannot consider the matter in isolation.

Ivan made a very interesting point about the flipside. We consider the gig economy as, ultimately, a threat, but he put forward the idea of people considering their driverless vehicles as assets to be monetised by letting them out. That raises issues about the regulation of that market.

As other colleagues said, it is important that we ensure that the benefits that come from driverless vehicles and increased automation are enjoyed by all, not simply the companies that are at the cutting edge at the moment. All society should benefit from the change, and that includes the wider social benefits.

The Deputy Presiding Officer: Due to the number of members remaining who wish to speak in the debate, I am minded to accept a motion without notice under rule 8.14.3 of the standing orders to extend the debate by up to 30 minutes.

Motion moved,

That, under Rule 8.14.3, the debate be extended by up to 30 minutes.—[*Ivan McKee*]

Motion agreed to.

13:23

Alex Rowley (Mid Scotland and Fife) (Lab): When I first read Ivan McKee's motion, I was struck by the number of areas listed as likely to be impacted by the new technology of driverless cars as it moves from the pages of science fiction straight into being part of our daily lives.

On Tuesday, I saw on the BBC that the self-flying air taxi has been unveiled in New Zealand. It is abundantly clear that the future envisaged by writers and film-makers is fast becoming a reality. It is the responsibility of Governments around the world to recognise the impacts—good and bad—that that future holds. Such innovation and the pace of change currently attract a large amount of media attention as well as public debate but the implications of the technology go far beyond changing the way in which we move goods and people locally or around the world. As has always been the case when the world has witnessed

massive technological change, there will be a wide-ranging impact as societies and economies around the globe learn to respond and adapt.

It is difficult to imagine all the potential consequences. However, we must anticipate the change that is coming and learn how best to work with it. Crucially, as the motion states, we must make sure that the benefits of the changing technology are available to all. By understanding the direction of change, we can anticipate any negative consequences, try to mitigate them and, at the same time, work with the positive consequences to deliver the best outcome for society as a whole.

There are benefits for individuals. Will Hutton, chair of the Big Innovation Centre and principal of Hertford College at the University of Oxford, has optimistically pointed out that

“Roads will be able to carry more traffic”

and be safer and

“your car will deliver you to your home or place of work and then park itself without you. Road accidents will plummet. Energy efficiency will be transformed. Insurance rates ... even the need for insurance”

will plunge. However, Mr Hutton also highlights the risks. All sorts of jobs involving maintaining conventional cars will disappear. The cars themselves will be made by robots in automated car factories. The new jobs will be in the design and marketing of the cars, and in writing the computer software that will allow them to navigate their journeys, along with the apps for our mobile phones that will help us to use them better.

Automation is a very real concern, and possibly one of the biggest issues facing us as a society as we move forward through the 21st century. As has always been the case, workers can suffer as a result of technological advancements. At the dawn of the industrial revolution, workers' rights were virtually non-existent. It was through the hard work of trade unions and the labour movement that safer, better working conditions were won.

The world that we live in today owes a great deal to those who fought for it from within our movement. As we move forward, we must work to ensure that technological advancements are to the benefit of all and that workers are not left on the sidelines. We know in which direction technology is moving, so we must plan accordingly. That means developing a skilled workforce now, from an early age, able to work in the world of tomorrow.

13:27

Emma Harper (South Scotland) (SNP): I add my congratulations to Ivan McKee on securing the debate. As an MSP for the rural South Scotland

region, I spend a lot of time in my car on the A75, A76, A77 and other roads, driving to visit farms and rural businesses. I know that the minister has those roads on his radar already.

I welcome Ivan McKee's description of the potential for my journeys to be more productive with the assistance of technology, perhaps making my journey about more than just driving from A to B. Although the technological developments behind the driverless-car revolution are fascinating, the implications for our society are perhaps even more interesting.

First, it might seem counterintuitive, but some of the studies show that driverless cars are actually safer. Some people might think that that would not be the case, but they might result in fewer people being killed in road accidents every year. Our streets might be clearer, too, and many experts predict that car ownership will become a rare phenomenon. Instead, people will hire cars, or transport may be delivered as a service by companies that own fleets of self-driving or driverless vehicles.

Because the cars will be electric, they will help us to cut carbon emissions dramatically. As a former member of the Environment, Climate Change and Land Reform Committee I would welcome the reduction in carbon emissions.

As a registered nurse, I am interested in how driverless cars can be revolutionary for healthcare. Experts predict that health-related sensors installed in vehicles could detect various medical and health-related conditions. As soon as the passenger enters the vehicle, the sensors can pick up their vital signs, for instance.

When an emergency medical situation develops, ambulance response times could be dramatically improved. In addition, ambulances, like any vehicle on the road, face obstacles, including drivers who do not obey the law when they see or hear an emergency vehicle coming. Self-driving automated vehicles that are controlled by an integrated system might open a path to allow an ambulance through.

Jamie Greene: I apologise; I seem to be intervening a lot, but it is a fascinating subject with lots of areas that we could probe. I have always been fascinated that cars do not contain automatic breathalysers that make it impossible to drive or even start a car if they detect alcohol on the driver's breath. Does the member have views on that?

Emma Harper: A driverless car would not need a breathalyser in it. I am not sure that I understand the intervention. Cars are available that require people to blow into breathalysers before the ignition can be turned on, but we are talking about

driverless cars, which I imagine would not need such technology.

I want to bring the debate back to driverless cars. I was talking about automatic vehicles that are controlled by an integrated system. We want to ensure that, in emergency situations, people can focus on support and healthcare.

I give another example. A person who needed dialysis could be picked up from their home on Monday, Wednesday and Friday and transported to hospital for their dialysis appointment. The health aspects of the technology could be good, in helping elderly drivers to get outside and engage. For example, a driverless vehicle could support a person with dementia to continue to go about their daily routine. As we age, our ability to react quickly can deteriorate, which can have an enormous impact on people's lives. A study in America showed that people who had had their driving licences taken away from them were more likely to experience depression. Driverless cars might support better care for people by enabling them to continue to access open spaces.

The legislative and regulatory frameworks on autonomous vehicles are reserved to the UK Government, but I am pleased that the minister has indicated support for and encouragement of research, development and testing. This is an exciting time, and I would love the Scottish Government to engage proactively on the issue. I welcome Ivan McKee's motion.

13:32

Finlay Carson (Galloway and West Dumfries) (Con): I thank Ivan for bringing this debate to the chamber—

The Deputy Presiding Officer: May I just stop you there? I have been letting this slip through, but we need full names in the chamber. I know that today's debate is quite chummy, but I do not want it to be as chummy as that.

Finlay Carson: I thank Ivan McKee, and I am pleased that there was a parking space left to enable me to contribute on an important subject. The only problem is that four or five minutes is nothing like enough time for me to talk about all the exciting possibilities. I think that driverless cars absolutely are the future and are just round the next bend in the road. Indeed, I think that we are accelerating in that direction.

As Jamie Halcro Johnston and other members said, the issue is not just the technology but the legal and social aspects of driverless cars.

I want to concentrate on where we are now. Many bog-standard family cars are already controlled to a great extent by technology that almost enables the car to drive itself. We have

satnav that provides pinpoint accuracy about where the car is placed on the road. We have lane-sensing radar, as we heard, which can adjust the steering wheel with minimal input from the driver. We have cruise control that speeds up or slows down the car with no manual intervention. No doubt anyone who has cruise control will have relied on the maximum speed option to ensure that they have not exceeded the 30mph limit, or that they have complied with the limit in an average speed zone.

Cars can park themselves—although in Edinburgh it might be more useful to have cars that can find parking spaces; I think that that technology is not far away. Automatic collision avoidance, which means that a car never collides with anything, is present in a lot of top-of-the-range models. We have the technologies; all we need to do is join them up to get fully autonomous cars.

As my party's spokesman for the digital economy, I can see that this technology has extremely wide-reaching benefits for all our communities, rural and urban. Car technology is constantly evolving, as is how we use data and big data. In the very near future, if it is not already happening in some of our cities, the data for our journeys will be stored anonymously and used in computer modelling systems to control air quality and cut congestion in our urban areas.

Furthermore, if we are looking to cut the number of vehicles on our roads, this is a perfect opportunity to consider driverless HGVs travelling in automated convoys, braking and accelerating together, and controlled by a driver in a lead vehicle. It would be a fantastic way to cut congestion and emissions. HGVs could use roads during the night and in the early morning rather than clogging up major routes at peak times. There are issues about lorry convoys, but they are not insurmountable, and as more vehicles become autonomous, computers will be able to manage traffic to minimise travel times and reduce delays.

For people who live in rural areas, having access to a car is pretty much a prerequisite, particularly because there are poor, or non-existent, public transport links in some rural communities. Automated cars could revolutionise rural life and take away the social isolation that we currently see.

It is not just our rural areas that will benefit. Our major cities, Edinburgh and Glasgow, could save up to £45 million a year by reducing the amount of road crashes, according to a report by engineering company Parsons Brinckerhoff. We cannot put a price on saving a life, but a saving of £45 million a year and a reduction in the number of accidents sounds like not too bad a place to start.

The Chancellor of the Exchequer, Philip Hammond, said in last year's budget that he wants to see driverless cars on our roads by 2021. That might seem to be ambitious, but as members will know from what I have already said, I do not think that it is. Rolling out driverless cars could be one of the most ambitious things that Scotland has ever done. With Scotland known around the world for being a nation of innovators, this could be another feather in our cap—we could lead the driverless car revolution. A number of car manufacturing companies were based in my constituency, in Galloway, but unfortunately they are long gone. We might see them coming back.

I share Ivan McKee's ambitions. Plans are progressing at a rapid rate, so it is important that we are having the debate to explore all the ways in which Scotland could benefit from such transformational change.

13:37

The Minister for Transport and the Islands

(Humza Yousaf): I join others in thanking Ivan McKee for bringing the motion to the chamber for debate. It has been an incredibly interesting, insightful and energetic debate by all who have spoken. There is a lot of food for thought for all of us, but I want to give reassurance that some of the work is happening at governmental level—we are doing it in the Scottish Government and we are working very closely with the UK Government on the matter. I will touch on that in a second.

I have meetings with a number of transport stakeholders. Ivan McKee was absolutely right to say that irrespective of whether people are in favour of or opposed to the idea of connected and autonomous vehicles, those vehicles are coming, and everybody understands that they are coming. However, there are still some doubters, so I will touch on some of the potential challenges that exist in respect of autonomous automated vehicles in order, perhaps, to dispel some misconceptions and reassure people in relation to some of their doubts. For people who do not believe that autonomous cars will be advantageous, one of the strongest arguments for them was made by Ivan McKee, when he said that they could banish the school run. I think that we would all agree that that would not be a bad thing.

On the opportunities that will be created by connected and automated vehicles, there will be fewer crashes on our roads. A number of statistics have been produced, ranging from human error being a factor in 85 per cent of all reported vehicular incidents through to its being a factor in 95 per cent of such incidents. Whatever statistic we use, we can agree that the vast majority of road accidents are down to human error. As Finlay Carson rightly said, we cannot put a price on a life

being saved, but autonomous cars could certainly be a huge advantage.

There is also the opportunity of freedom to travel for people who currently find it difficult to do so; Finlay Carson and Emma Harper mentioned that in the context of rural areas in particular, as did a couple of other members. There is also an advantage when we think about people who have mobility problems.

We could also have more efficient road networks that would be safer, smoother and swifter. A good example is HGV platooning, which Finlay Carson mentioned. Avoiding stop-start congestion would reduce the environmental impact of driving.

Many members have spoken about whether driverless cars would have a negative or positive effect on jobs. I will come on to talk about some of the stats, but I consider that the advantages from driverless cars would include the creation of new jobs and technology, with the automotive sector building on Scotland's strong reputation for innovation and scientific excellence.

We are absolutely right to always be ambitious for Scotland. However, the transformation is in its infancy. It is likely that the initial cost of products would be prohibitive for the majority of people. Markets will adapt, but how quickly they will do so remains to be seen. I am sceptical about some of the timeframes, but as many members have said, it is better that Scotland is in the automated driving seat—or whatever pun we want to use—and ahead of the curve, as opposed to lagging behind. As the First Minister set out in our programme for government, she wants people in Scotland to be the innovators and the producers of the technology, not just the consumers of it.

Many members have asked about the jobs that could come as a result of this transformational transport revolution. According to research that was commissioned by the Society of Motor Manufacturers and Traders, connected and autonomous vehicles could bring wide economic benefits, including an estimated £51 billion a year and more than 320,000 jobs by 2030. Again, we might want to take those figures with a little pinch of salt, but even if half those benefits are realised, we would be talking about billions of pounds coming into the UK economy and hundreds of thousands of jobs being created.

The Government is very much open for business for trials of connected and autonomous vehicles, and we are keen to explore that with the UK Government. We are in discussion with the centre for connected and autonomous vehicles, Scottish Enterprise and many others, about how we can facilitate trials, demonstration projects and pilots in Scotland. A number of members have

suggested where in their constituencies or regions those trials could take place, and they should continue to pass those ideas to us.

Ivan McKee laid down a couple of challenges for the Government in relation to driverless cars. Although we are doing a fair bit of work, particularly with stakeholders, I am committed to holding a connected and autonomous vehicle demonstration summit in 2018, which will showcase international developments and explore with the transport industry how Scotland can best position itself to realise the benefits. At the summit, we will be seeking the opportunity to support a trial, which will potentially be with the freight and logistics sectors. I will ensure that every member who has spoken in the debate is given information about the summit. If members are able to attend the summit, we will be delighted to have them.

Jamie Greene: Will the minister take an intervention?

Humza Yousaf: Yes.

The Deputy Presiding Officer: This issue is obviously of great interest to you, Mr Greene.

Jamie Greene: I hope that it is of interest to everyone.

The SNP Government has just presided over the building of substantial infrastructure improvements to the M8, M74 and M73. Are those motorways capable of accommodating driverless vehicles such as the ones to which Finlay Carson referred? What planning for driverless vehicles was undertaken when the infrastructure improvements were being designed and built?

Humza Yousaf: There is, if I am honest, a way to go in achieving that. As was mentioned in the programme for government and the First Minister's statement, we are making the A9, which we are dualling, the first electric highway. Perhaps, when we consider future infrastructure projects, we should be looking to create the first autonomous highway.

There is more work to be done. We are introducing intelligent transport systems—we have one across the Forth, and we are trying to see where else we can roll out such systems. Although accommodating driverless vehicles has not been part of the initial design of infrastructure projects, that is not to say that that cannot be bolted on afterwards. As I said, we have a way to go; Jamie Greene has raised a good point.

As time is very short, I want to reassure members about the legal framework. We are having conversations about that. Transport Scotland is working the Scottish Law Commission, which is progressing a joint three-year review, alongside the Law Commission of England and

Wales, of driving laws and preparation of self-driving vehicles. It aims to deliver by 2021 a modern and robust package of reforms promoting automated vehicles and their use as part of public transport networks and on-demand passenger services. The two law commissions will work closely with the centre for connected and autonomous vehicles in developing the policy proposals. As I said, we are very much part of that work.

I again thank Ivan McKee for securing the debate. I will ensure that members are given an invitation to the summit that will take place later this year. Every member has reiterated that Scotland is well placed to take advantage of this technological revolution. I hope that we just get on with it.

The Deputy Presiding Officer: I thank members for their contributions—it has been a very interesting and wide-ranging debate.

13:45

Meeting suspended.

14:30

On resuming—

Point of Order

Andy Wightman (Lothian) (Green): On a point of order, Presiding Officer. This morning, while asking a supplementary to question 6 at First Minister's question time, I should have drawn members' attention to my entry in the register of interests as the operator of the Who Owns Scotland website. I apologise for not having done so.

The Deputy Presiding Officer (Linda Fabiani): Thank you, Mr Wightman. That is duly noted.

Business Motion

14:30

The Deputy Presiding Officer (Linda Fabiani): The next item of business is consideration of business motion S5M-10993, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a timetable for the Offensive Behaviour at Football and Threatening Communications (Repeal) (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during stage 3 of the Offensive Behaviour at Football and Threatening Communications (Repeal) (Scotland) Bill, debate on the groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, that time limit being calculated from when the stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended (other than a suspension following the first division in the stage being called) or otherwise not in progress:

Groups 1 and 2: 50 minutes.—[*Joe FitzPatrick*]

Motion agreed to.

South of Scotland Economic Partnership

The Deputy Presiding Officer (Linda Fabiani): The next item of business is a statement by Keith Brown on the south of Scotland economic partnership. The cabinet secretary will take questions at the end of his statement, so there should be no interventions or interruptions. Cabinet secretary, you have 10 minutes.

14:31

The Cabinet Secretary for Economy, Jobs and Fair Work (Keith Brown): I welcome the opportunity to update members on the progress that we are making to deliver a new enterprise agency for the south of Scotland. Members will recall that one of the key recommendations from last year's enterprise and skills review was a commitment to a new agency supporting inclusive economic growth in the south. The review recognised the unique circumstances of the south of Scotland and its strengths, opportunities and challenges. It also acknowledged the benefits that a new agency could deliver by developing a deeper understanding of the south of Scotland and tailoring a response informed by that understanding.

We know that the south of Scotland has great potential. It is woven into the fabric of our economy and it has played a key part in our economic history by, for example, nurturing our textile industries. The south of Scotland is a beautiful region of Scotland, attracting visitors from far and wide, and tourism is an extremely important part of the economy of the area. Its agriculture and forestry sectors are thriving. It is as rich as anywhere in renewable energy resources. Its businesses, many of which are small and family owned, show a real entrepreneurial spirit.

We want to ensure that the south of Scotland plays a key role in our economic future, too. We know that the south faces some economic challenges. It has, for example, more people working in lower-paid jobs than other parts of Scotland have. Fewer businesses start up in the area than is the case elsewhere and, when they start up, their success rate is lower. Its businesses spend significantly less on research and development and a higher number of its young people are leaving and not finding opportunities that attract them back to the area.

We have a tremendous opportunity to work with businesses and communities to transform the economy, generating a response that, in turn, responds to the needs of generations. That is to ensure that people in the south of Scotland can fully participate in the economy and access the

opportunities that are there, and to develop the necessary skills and tackle the barriers that might be getting in the way. It is an opportunity to be bold and ambitious and to do things differently to benefit the area.

In our programme for government, we made a commitment to introduce legislation later this year to establish the new body. We also committed to putting in place interim arrangements in advance of the statutory body being set up. Today, we take an important step in that legislative process. I am delighted to launch the public consultation on the south of Scotland enterprise agency, which will open today and will run for 12 weeks until 7 June.

In the consultation, we have set out what we see as the three initial high-level aims for the agency. First, of course, we want it to drive the economy forward with growth in a way that creates opportunities for all. We also want to help businesses to become more productive and focused on fair work opportunities, tackling issues that prevent people from fully participating in the economy. Secondly, we want to sustain and grow our communities, building communities that can play a greater role in the economic, social and environmental success of their area. Thirdly, we want to capitalise on people and resources, developing skills and making the most of all of the assets of the area.

The consultation that I have launched today seeks views on the detailed specific activities that people want the agency to carry out. The responses that we receive will help to inform the legislation for the new body and help to shape its structure. It is a milestone moment in the economic future of the south.

We will complement the written consultation with a series of events across the south of Scotland to hear views directly from those with a stake in the agency's future. Of course, in this year of young people, we shall make sure that we hear their voices, too. However, I do not need to tell members that legislation takes time. If the Parliament is supportive, we can have the new body up and running by 1 April 2020. We cannot—and we do not want to—make the south of Scotland wait any longer than that. It is vital that the area sees the benefit of a fresh approach as quickly as possible.

To that end, we have established the south of Scotland economic partnership to take things forward in the meantime. The partnership, which is chaired by Professor Russel Griggs OBE, brings together public sector organisations that support economic growth in the south of Scotland with members from the private, third and further and higher education sectors. Like us, the partnership is ambitious for the south of Scotland and is seizing the opportunity to do things differently. It

will ensure a fresh approach to securing inclusive economic growth, with the private and third sectors being central to its work and helping to shape and design services.

The interim period provides the opportunity to align existing activities, ensuring that current services are as effective as they can be in addressing people's needs. It also allows us the opportunity to trial new approaches to economic development and it will help to prepare the way for the new agency, assessing what has worked and ensuring that the agency is responsive to and informed by the needs of the people of the south of Scotland. When I met Russel Griggs last week, he set out the progress that the partnership has already made since its first meeting in February. He emphasised the commitment, energy and enthusiasm that members have already brought to the task and their determination to improve the economic outcomes for the south.

The partnership is now working on a clear and prioritised work plan setting out what it will be doing. It is clear that its work needs to be shaped by the needs and perspectives of people in the south of Scotland. To that end, it has established six specific theme groups to explore issues that, in its view, are key to the success of the south. That will enable the partnership to draw in views from across the south and to capture perspectives and expertise. The groups are on farming; forestry and land management; key sectors; education and skills; infrastructure; and communities and business support. They will identify key issues and explore how they could be addressed.

We are committed to the success of the partnership and, in our 2018-19 budget, we have allocated £10 million in additional resources to support the partnership's work. That is over and above the resources that partners already invest across the area. Our additional resources will support new activity that would not otherwise have happened.

The partnership will make recommendations on potential projects. It will assess them against clear and consistent criteria, ensuring that they deliver real impact and economic benefit. Of course, those resources that I have mentioned build on our other investment in the south of Scotland—investment in innovation through my colleague Paul Wheelhouse; investment in skills through Jamie Hepburn; and investment in businesses and infrastructure.

Examples of that investment include £275.5 million for the new Dumfries and Galloway royal infirmary, which opened in December; £68 million from our schools for the future programme for eight schools across the area; £60 million through the Scottish Further and Higher Education Funding Council for further and higher education

over the past three financial years; and £353 million for the increasingly successful Borders railway, which I remind the Parliament was the longest piece of new rail infrastructure in the United Kingdom for 100 years.

I very much look forward to working with members over the months ahead as the partnership takes forward its work and we shape the new agency. I believe that this is an exciting time for the south of Scotland and I encourage all members here—and, of course, members of the public—to be active participants in the consultation process that we are launching today.

The Deputy Presiding Officer: The cabinet secretary will now take questions on the issues raised in his statement. I intend to allow around 20 minutes for questions.

Dean Lockhart (Mid Scotland and Fife) (Con): I thank the cabinet secretary for the advance copy of his statement. We welcome the progress that has been made on the establishment of a new enterprise agency for the south of Scotland—which was, after all, originally a policy of the Scottish Conservatives.

We will support all steps to encourage sustainable growth across the south. That will require an approach that is tailored to the unique characteristics and needs of the economy and the workforce of the south, and that taps into the real potential that exists in the region.

There is much work to be done on that front, because the economy of the south has suffered in the past 10 years. Gross domestic product and productivity levels in the south are 20 per cent below average levels in Scotland. Against that background, I have the following questions for the cabinet secretary.

Recent figures show that productivity levels and GDP in the south of Scotland have been in decline. What steps will the cabinet secretary take to reverse those worrying trends?

In his statement, the cabinet secretary mentioned that the budget allocated £10 million to the south of Scotland economic partnership. As he knows, it will take more than £10 million to address the economic challenges in the south. Can he confirm what additional budget will be available for the enterprise agency once it is established?

Keith Brown: On Dean Lockhart's first point, I was not aware that the establishment of a new enterprise agency for the south of Scotland was a Conservative policy—perhaps it was a bit of a secret. I know that the various things that I have described that have been done—for instance, the Borders railway—have also been policies of other parties over the years. The difference is that we

have delivered them. The other parties had decades to deliver those policies, but did not do so—the SNP is delivering them. We have had a relatively consensual approach up to now; it is unfortunate that Dean Lockhart has chosen to deviate from that.

Previously, I have laid out our response in terms of productivity and GDP, and I have underlined it on many occasions. Members across the chamber, apart from in Dean Lockhart's party, acknowledge that Brexit presents a real threat to the economy and is having an effect on it now. Of course, one of the responses to the situation that he describes is the establishment of the agency that we are talking about. I had hoped that we would have the support of the Conservatives for that.

On the initial investment of £10 million, how funding will develop in future years is, of course, a matter for future budgets. However, as far as I am aware, there was no proposal from the Conservatives to provide a higher funding allocation in any alternative version of the budget that was produced by them. Of course, in future years, they will be free to do some work on that and to put forward proposals, with information about where the money would come from. However, along with the discussion that we are having on a potential borderlands initiative and the establishment of the agency, that £10 million will be well received in the south of Scotland and will be used for good purposes.

Colin Smyth (South Scotland) (Lab): I thank the cabinet secretary for advance sight of his statement. Having campaigned for many years, as a councillor and a chairperson of the south of Scotland alliance, for a rethink on the support that is provided to the area to tackle our huge economic challenges, I welcome the proposal to establish a south of Scotland enterprise agency and look forward to shaping the final proposals when legislation comes before Parliament.

Given that the recommendation to establish a new body was made in October 2016, I am sure that the cabinet secretary understands that there are frustrations about the start date of April 2020 for the new agency. That is more than two years away, but the economic challenges exist now. That timetable means that the work of the interim partnership will be vital.

In his statement, the cabinet secretary said that the partnership will make recommendations on how to spend the £10 million budget, but can he confirm who will make the final decision on how that budget will be spent, and will he give a guarantee that the decision will be made in the south of Scotland? Ensuring that decisions are made in the south of Scotland by people who live in the area is a vital principle for the new body.

Therefore, can he give a commitment that membership of the new agency will genuinely be determined by local stakeholders?

Finally—

The Deputy Presiding Officer: Yes—finally, please.

Colin Smyth: Skills will be a crucial part of the new agency. Therefore, can the cabinet secretary say a bit more about whether existing powers and resources that sit within Skills Development Scotland will be devolved to the agency when it is established?

Keith Brown: There was quite a lot in there. I will take the questions in turn. On the first question, we want to establish the body as quickly as possible. I do not see any way in which we could truncate the 18-month period for its establishment—such is the nature of parliamentary legislation—but I am open to suggestions on that. I agree with Colin Smyth that we cannot wait that long, which is why we have established a partnership and allocated substantial funds to it. It is also why we are drawing together the existing actors in the south of Scotland in order to make an impact as soon as possible.

On Colin Smyth's question on skills, I have said—in particular in relation to the partnership of the three Ayrshire councils—that if there is a proposal from any part of Scotland about working more closely with Skills Development Scotland and reflecting more closely local demand and need for skills, I will be more than willing to listen. I have said that since the enterprise and skills review was undertaken.

There are early signs that the partnership is grappling with that and there is some good collaboration between the two councils that are involved. It is down to the partners—the people who have established the partnership—to come to the Government with their suggestions, which could be at the suggestion of people such as Colin Smyth and others from the south of Scotland. I would approach that with an open mind.

On how the money is spent, there will be a discussion between the Government and the partnership, which is as it should be and is how it works with the city region deals. We have a custodial duty to public funds, but the partnership is the organisation that considers the proposals in submissions that are made. However, there will be a discussion with the Government, too.

The Deputy Presiding Officer: There are quite a lot of questions from members. If we have quick questions and answers, we should be able to get everyone in.

Emma Harper (South Scotland) (SNP): Does the new board for the south of Scotland economic

partnership intend to give consideration to infrastructure investment such as roads and rail networks as part of the new agency's support of inclusive economic growth?

Keith Brown: Yes. The board will be able to take decisions on infrastructure investment, but those decisions will be informed by the representations that the board receives and the view of the partnership as to what the priorities should be. There is no question that we will exclude infrastructure investment from the board's remit.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): Tourism is a key sector in the south of Scotland; in the Scottish Borders alone, it contributes £194 million annually. Does the cabinet secretary understand that, by not robustly identifying it in his statement as a key sector, he risks tourism being overlooked or not capitalising its worth through the south of Scotland economic partnership? The inclusion of tourism and growing the sector could improve low productivity, and it could increase below-average wages and business sizes. Will the cabinet secretary consider my request on behalf of the tourism sector to include it among the key sectors?

Keith Brown: I mentioned tourism at the very start of my statement. I recognise that it is crucial, which is why I talked about

"attracting visitors from far and wide"

and about how central tourism is to the south of Scotland. Perhaps Rachael Hamilton missed that. *[Interruption.]*

Pardon? I am sorry, but I cannot take questions from members who are in a sedentary position.

I mentioned tourism and I recognise its importance; however, it was the partnership that came up with the six key sectors that I mentioned. As I said in my statement, if members including Rachael Hamilton want to make representations to influence that list, they should do so to me, or directly to the partnership. We can have a conversation; we are not putting a block on that. We are very seized of how important tourism is; Rachael Hamilton and I agree on that.

Joan McAlpine (South Scotland) (SNP): I welcome the establishment of the partnership. As a member of the Economy, Energy and Tourism Committee in session 4, I often called for tailored support for the south of Scotland.

Can the cabinet secretary indicate whether the new partnership will consider the support that it can give to the creative industries, which is a key sector in the south? Given that many of those industries are currently supported by business

gateway, what will business gateway's role be when the agency is up and running?

Keith Brown: In relation to the issue of creative industries and Rachael Hamilton's point on tourism, I mentioned that the key sectors are an important part of one of the six strands of activity that are being taken forward. That is one of the reasons why Fiona Hyslop is here; she has responsibility for the creative industries and tourism, which reflects the importance that has been placed on them. The board draws on the experience of people in the creative industries—I know that Joan McAlpine is aware of that. One of the theme groups that I mentioned will focus on the key sectors—of which, there is no question, the creative industries is one.

Decisions about the scope of activities of the new agency are still to be finalised. As part of the next stage we will consider suggestions on the future role of business gateway. That initiative will have to come from local authorities, which are responsible for business gateway.

Jackie Baillie (Dumarton) (Lab): I welcome the south of Scotland enterprise agency and the £10 million of funding.

I want to explore a principle with the cabinet secretary. Does he envisage the funding increasing in due course at least to match the funding that is received by Highlands and Islands Enterprise, given that the population in the Borders and Dumfries and Galloway is higher than that in the Highlands and Islands?

Keith Brown: There are several reasons why it is difficult to give a definitive answer at this stage. First, unlike in the Highlands and Islands, Scottish Enterprise is still actively involved in spending money in the south of Scotland. It will take some time for that to work through the system.

Secondly, I cannot lay a claim on future budgets in the absence of the finance minister. I am sure that Jackie Baillie understands that process.

It is our ambition that the body—both the partnership and the agency that will succeed it—will have the resources to take it through that transformative stage. That is our ambition, but we will have to see how things develop in the future.

Andy Wightman (Lothian) (Green): I thank the cabinet secretary for the advance notice of his statement. The establishment of the agency was also a manifesto commitment of the Scottish Green Party, so it is welcome progress.

I have two questions. First, given that social enterprise, employee ownership and co-operatives are increasingly recognised as the business models of the future, in order to create sustainability, resilience and fairness, does the minister agree that such models should form a

core part of the work of the new agency? Secondly, the minister said that he is committed to listening to young people in the development of the legislation. How does he intend to do that?

Keith Brown: On the latter point, engagement with young people will be done through the consultation process, both through the meetings and through the way in which the consultation invites responses from groups that we want to target. Specific work is going on in the Scottish Government to ensure that we have representations from young people.

It is good to see that the public are beginning to learn that they should vote for the Scottish National Party if they want things in other parties' manifestos to be delivered, because the SNP will do it for them. This seems to be a commitment in everyone's manifesto, so we should all be agreed on the matter.

There is no reason why the partnership should not consider the various models that Andy Wightman mentioned. Rather than waiting to see whether those bubble up—I am not suggesting that Andy Wightman would do this—people should be sure to put that response into the consultation process, so that it is uppermost in the mind of the partnership in its future work.

Willie Rennie (North East Fife) (LD): My question is a follow-up to Colin Smyth's question, because I do not think that he got the answer that we were looking for. No one in the Parliament would be against discussion between ministers, the enterprise and skills body and the south of Scotland partnership. The real question is on who makes the final decision. Will it be taken in the central belt or in the south of Scotland?

Keith Brown: I may not have given the answer that Willie Rennie wanted, but I am used to being in that position. The answer is the answer. It will come forward from the partnership. Submissions and representations have already been made to the partnership. Mr Rennie will understand that the Scottish Government has a responsibility to the Scottish taxpayer for the proper expenditure of resources. We have not yet had the primary legislation to establish an agency that would have that accountability. As things stand, it is a partnership and so, of course, there is a role for the Scottish Government. In due course, when it becomes an agency, it will be a different proposition and all the decisions will be taken by the people in the agency.

John Mason (Glasgow Shettleston) (SNP): I want to follow up on Andy Wightman's question. Will the cabinet secretary expand on how he might draw in groups that do not normally take part in consultations? To many people, it might seem to be a very dry subject at this stage and they might

not realise that it will be very important to them in practice.

Keith Brown: Andy Wightman and John Mason have raised good points. As I said in response to Andy Wightman, a lot is going on in the Government to ensure the location, accessibility and appeal of the various consultation events in order to get as many people as possible attending those events. As has been mentioned, a particular effort is being made to get young people to come along.

I am happy to write to Andy Wightman and John Mason on the great deal of work that is being done by the Scottish Government. The venues are pretty much arranged, and I am happy to write to the members on how we intend to attract people to the events, particularly those who would not normally get involved.

Finlay Carson (Galloway and West Dumfries) (Con): In his statement, the cabinet secretary mentioned twice that he is taking a fresh approach and doing things differently. I suggest that that is a recognition that, over the past 11 years, the SNP Government has failed the south of Scotland. I welcome the opportunity that the new south of Scotland enterprise agency will bring. However, I also have some concerns.

Six key areas have been set up and, like my colleague Rachael Hamilton, I am disappointed that tourism has not been included, but I am also disappointed that energy has not been included. Given the number of renewable energy projects in the south of Scotland, can the cabinet secretary explain how the potential for energy generation and storage will be met through the enterprise agency?

Keith Brown: I mentioned the key sectors, and energy is, of course, one of those. My colleague Paul Wheelhouse has already had a number of discussions with interests in the south of Scotland on the potential opportunities there. Finlay Carson accuses us of failure. Well, we have established this body; I do not know how long the Conservatives will take to accept that we have done that. Of course we want to see the body take a fresh approach and we want to see whether it can replicate some of the successes of Highlands and Islands Enterprise. If the member is genuinely supportive, he hides it quite well.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): The cabinet secretary will be aware of the close and common interests between the south and the south-west of Scotland. He will also be aware that the Secretary of State for Scotland, Mr Mundell, has given his full support to the Borderlands growth deal for the area where his own constituency lies. Can the cabinet secretary tell me what progress has been made in

discussion with the UK Government to support the wider economy in the south and south-west of Scotland, particularly with regard to transport infrastructure improvements?

Keith Brown: We have consistently pushed the UK Government to commit to 100 per cent coverage of growth deals across Scotland. That includes the Ayrshire growth deal, which preceded by some way the emergence of the Borderlands deal. As a Government, we have said that we are committed to growth deals for the whole of Scotland—that seems to us to be the only equitable way to proceed—and I have increasing confidence that the UK Government will also support that.

I am not sure what the basis of that support will be—I do not know whether it will be the same as the city deals, which is 50:50 reserved and devolved. I was due to have a discussion with Mr Mundell recently, but unfortunately that had to be postponed. I expect to be discussing the matter with the secretary of state shortly and I am optimistic that we will see a commitment from both Governments to 100 per cent of growth deals, which will cover some of the questions that Willie Coffey raised.

Claudia Beamish (South Scotland) (Lab): As I understand it, there is no union involvement in the interim body. The cabinet secretary recognised that South Scotland has more people working in lower-paid jobs than other parts of Scotland. The statement also focused on the fair work opportunities that the south of Scotland enterprise agency will bring. Will the cabinet secretary commit today to union participation in the south of Scotland partnership and agency by adding the unions to the list of themed groups and membership? Will he also clarify whether there will be a social remit to the new agency?

Keith Brown: Claudia Beamish raises a fair point. We recently had a discussion at the joint meeting of the Scottish Trades Union Congress and trade union partners on that issue. There will be substantial engagement with the trade unions both through the fair work convention and by a number of other means, not least for the reasons that Claudia Beamish mentioned. It is very important that we take that approach. There is a need to have that discussion in relation to low pay and some other issues. We believe that the different measures that are already in place, not least through the fair work convention and the regular consultation with trade unions, should allow us to take forward those issues. I am happy to write to Claudia Beamish on the specific point that she raised.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): On tourism, while welcoming support for the Borders railway

and for the great tapestry of Scotland to be located in Galashiels, I note that the cabinet secretary referred in his speech to additional resources to support new activity. Can I suggest that it should include existing activity, such as Smail's printing works in Innerleithen, which is having its funding cut by the National Trust for Scotland? It is a wee gem and the last working printing works in Scotland.

Keith Brown: Christine Grahame can indeed suggest that, and she could also suggest it to the partnership, which has an expanding list of proposals and priorities that have been presented to it. To respond to some of the concerns raised by members of other parties, it is right that those proposals go to that partnership. Those are the people who will consider and prioritise them. It is important also to look at what currently exists and not always to assume that we have to do something new. I suggest to the member that if she wants to get in touch with the partnership, suggestions such as the one that she has just made will be well received.

Rachael Hamilton: I draw members' attention to my entry in the register of interests, which I failed to do before I asked my question. I am a business owner in the Scottish Borders.

The Deputy Presiding Officer: That concludes questions on the ministerial statement, being the update on the south of Scotland economic partnership.

Offensive Behaviour at Football and Threatening Communications (Repeal) (Scotland) Bill: Stage 3

15:00

The Presiding Officer (Ken Macintosh): The next item of business is stage 3 proceedings on the Offensive Behaviour at Football and Threatening Communications (Repeal) (Scotland) Bill.

In dealing with the amendments today, members should have the bill as amended at stage 2, which is SP Bill 19A, the marshalled list and the groupings. The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate.

Amendment 1, in the name of the Minister for Community Safety and Legal Affairs, Annabelle Ewing, is grouped with amendments 2 and 4.

The Minister for Community Safety and Legal Affairs (Annabelle Ewing): I have said throughout the passage of the bill that there would be a gap in legislation if the offence in section 6 of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 is repealed. That is a simple statement of fact, despite assertions to the contrary.

Repealing the section 6 offence puts Scotland behind the rest of the United Kingdom on protection against incitement to religious hatred. Therefore, we need to take steps to seek to ensure continuity of protection. Section 6 contains extra-territorial powers, ensuring that freedom of movement does not mean escaping the law. That power will be lost if the 2012 act is repealed.

At stage 2, I highlighted the oral evidence from the Crown Office and Procurator Fiscal Service, referencing a case in which an accused person posted comments that were supportive of a prescribed terrorist organisation—ISIS. The sentencer's view was that the severity of those actions should be reflected in a starting point of 24 months' imprisonment. That starting point would not have been available in the alternative charge under the Communications Act 2003.

James Kelly (Glasgow) (Lab): Has the minister had an opportunity to reflect on the oral submission that Liam McArthur and I made to the Justice Committee, pointing out that, in the case that she quotes, section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 allows a charge

to be made in relation to threatening online behaviour, with sentences of up to five years? There is no gap in the law.

Annabelle Ewing: I beg to differ. I am about to get on to section 38 of the Criminal Justice and Licensing (Scotland) Act 2010. The legal position is that there is a need to satisfy a two-part test as far as breach of the peace is concerned. The tests are that the conduct has caused fear and alarm and threatened serious disturbance to the community. The higher threshold for a conviction for an offence under section 38 of the 2010 act is that the fear and alarm test must be met. No similar hurdle pertains with respect to section 6 of the 2012 act. That means that section 38 of the 2010 act cannot be relied on to deal with section 6 offences. It will mean that some section 6 offences will go unpunished. In that respect, repeal of section 6 will indeed result in a gap in the law.

Section 6 provides a specific offence of making threatening communications with intent to stir up religious hatred. It makes clear what type of communications constitute the offence of making threatening communications and what type of communication would not lead to criminal proceedings. In addition, it provides protection for freedom of speech.

Breach of the peace and section 38 of the 2010 act do not provide the same level of certainty and do not send a strong enough message that we intend to deal robustly with crimes of religious hatred. At the moment, we have a specific offence of making communications that are intended to stir up racial hatred, under part 3 of the Public Order Act 1986. If section 6 of the 2012 act is repealed, we will have no similar offence of sending communications that are intended to stir up religious hatred. Do we really want to send the message that we do not take religious hatred as seriously as racial hatred?

Equality groups have been clear that they place great importance on the protection that the 2012 act offers them, particularly section 6. It is absolutely right that we look at constructive ways to ensure that support for repeal does not leave them feeling exposed and unprotected. As a responsible Government, we have a duty to make every effort to minimise the negative impact that would be caused by repeal.

Johann Lamont (Glasgow) (Lab): Will the minister take an intervention?

Annabelle Ewing: I have already taken one, and I am afraid that I need to make progress.

We need time, however, to prepare a new bill to reinstate the section 6 offence going forward; hence, we seek continuity of protection in the interim. That is why I have brought forward again at stage 3 amendments 1, 2 and 4 to adjust

sections 5 and 6, which deal with the bill's date of commencement. The effect of amendments 1, 2 and 4 would be to delay the commencement of the repeal of the offence in section 6 of the 2012 act by 12 months from royal assent. When combined with amendment 3 in group 2, which we will come to shortly, the amendments would also delay by two months the commencement of the repeal of the section 1 offence in the 2012 act. Amendment 1 seeks to amend the definition of "the relevant date" in section 5 of the bill so that it takes account of the different commencement dates in relation to the section 1 and section 6 offences in the 2012 act that would result from the amendments.

Amendment 2 seeks to amend section 6 of the bill to confine the existing default commencement provision so that it applies only to the repeal of the section 1 offence. Currently, the bill provides that the default commencement provision for the bill is for it to come into force on the day after royal assent, but our amendment 3, which we will come to in the next group, would, if agreed, change that so that the default commencement would be two months after royal assent, which is the normal position with regard to legislation dealing with Scots criminal law.

Amendment 4 would provide that the bill, so far as repealing the rest of the 2012 act—that is, the section 6 offence of sending threatening communications—would come into force at the end of the period of 12 months beginning with the date of royal assent.

As I have consistently explained throughout the passage of the bill, repealing section 6 of the 2012 act would create a gap in legislation that would need to be addressed and those claiming that there would be no gap if the 2012 act were repealed are simply wrong.

I move amendment 1.

Liam Kerr (North East Scotland) (Con): I rise to speak against amendment 1 and the other amendments in group 1 because they seek to delay the repeal of the section 6 offence in the 2012 act coming into force until 12 months after royal assent. That precise issue was considered at stage 2, and the effect of the amendments, whether or not amendment 3 is passed today, would be to implement a staggered repeal. That is to say, the section 6 offence, notwithstanding the lack of prosecutions due to the threshold for that having been set too high, could in theory continue to be prosecuted for some considerable time after the repeal of the rest of the 2012 act.

I recall from stage 2 that the thinking behind that was to allow the Government to come up with alternative legislative provision to deal with the circumstances covered by section 6 of the 2012 act. Notwithstanding that I am not persuaded that

there is a requirement to do that—as we will hear later, I do not concede that there would be a gap in the law—I cannot help but feel that it would add complexity to what would otherwise be a straightforward repeal.

I suspect that we will debate at length later the message that will be sent out if the 2012 act is repealed. I intend to answer that point in my speech later, but here I use the argument to my advantage. If we assume that stage 3 today concludes with the repeal bill being passed, it will be all over the press, sending a very clear message that the 2012 act has been repealed. What confusion, complexity and inconsistency would be sown if a little-used, little-understood single section of the 2012 act was retained and prosecutions could be continued for the following 12 months?

Annabelle Ewing: There will be a gap for the reasons that I have just stated again for the record. What is the member saying, then, to all the equality groups and faith groups who raised the concern that repealing section 6 without any viable alternative being put in its place would send the wrong signal and take away protection that they rely on? What is the problem with retaining section 6 for a further period of 12 months? Why is the member determined to take that protection away from those vulnerable communities?

Liam Kerr: There is no gap. Professor Leverick was clear in committee that there will be no gap and that the section 6 offence could be prosecuted under other legislation. The protection of those groups would not be detracted from; they can be reassured by that message.

All that the minister is seeking to do over the next 12 months is introduce complexity, confusion and inconsistency. That would not be welcome. Given that transitional arrangements will take care of existing matters, the amendment is neither required nor productive and it is not helpful.

The Scottish Conservatives will vote against amendment 1 and all the amendments in the group.

Ben Macpherson (Edinburgh Northern and Leith) (SNP): I rise to speak in favour of amendment 1 and all the other amendments in the group because the amendments are about being responsible. I refer members to the Justice Committee's stage 1 report, which mentions some of the very powerful evidence that we heard about section 6. The Scottish Council of Jewish Communities said:

"section 6 is an important transnational power that catches conduct that would not otherwise be caught by Scots law ... Given the runaway growth of social media, this matter probably needs more careful and extended consideration of the kind that Lord Bracadale is giving it

instead of simply knee-jerk repeal.”—[*Official Report, Justice Committee*, 7 November 2017; c 19.]

It is clear that there is a distinction in the 2012 act between the offence covered in sections 1 to 5 and the offence in section 6—that distinction was made in the evidence that we took. The minister is absolutely right to have lodged the amendments on the basis of responsibility and to make sure that our legal system serves the needs of those who require it.

The point about the extraterritorial provision of section 6 has not been questioned in any of the evidence that I have heard or seen. Therefore, asking for an extension before the repeal of section 6 to give the Government and others adequate time to ensure that there is no gap in law, particularly around the transnational element, is the responsible and the right thing to do. Responsible MSPs will vote in favour of the amendments.

Daniel Johnson (Edinburgh Southern) (Lab): I rise to speak against the Government amendments and against the extension of section 6. It has become clear during the bill’s passage through stage 1 and stage 2 that there is no legal need for the section 1 offences under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 because, as the Law Society and others who gave evidence, such as Professor Leverick, have made clear, section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 and common-law breach of the peace allow disruptive behaviour to be prosecuted.

I hear and understand the concern about section 6 of the 2012 act but, in reality, only one conviction has been made under that section in the past year. Furthermore, it is clear from the evidence that the act is too narrowly drafted to be used. Assistant Chief Constable Higgins gave evidence that it is rarely used and that the police prefer to charge someone under section 127 of the Communications Act 2003. In addition, the Law Society made it clear that common law can be used, citing the case of *Her Majesty’s Advocate v Shaun Divin and Jordan McGinley* in 2012. Even the Scottish Government-commissioned independent review on hate crime legislation noted that section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 and section 127 of the Communications Act 2003 would

“remain relevant in the vast majority of cases.”

It is clear that repealing sections 1 and 6 would leave no gap in the law.

Liam McArthur (Orkney Islands) (LD): I rise to speak against the amendments. The debate seems to hang on the issue of whether there

would be a gap in the law. The Law Society’s briefing states:

“The Bill, if passed, will not leave any gap in the criminal law as existing measures, both statutory and at common law, will allow for the prosecution of any relevant offending behaviour provided that sufficient admissible evidence exists.”

That could not be clearer.

Ben Macpherson rightly drew attention to the evidence that the committee received at stage 1 from a number of representatives of those with protected characteristics, but I fail to see how keeping in place an act that does not provide the protections that its supporters maintain that it does, or that even acts in the interest of those whom it professes to protect, would not send out the wrong message.

On the suggested delay of 12 months, as the minister considered during cross-examination at stage 2, the point by which the Government would be able to introduce replacement legislation would extend beyond 12 months. Therefore, if there were a gap, it would still exist.

15:15

Annabelle Ewing: Does the member not agree that, in the interest of ensuring continuity of protection, it would be better to seek to do what we can to ensure that that protection continues for a further 12 months, rather than taking it away from as early as mid-April?

Liam McArthur: As I explained, the act is not providing the protection that the minister asserts it is providing. It seems to me ridiculous and somewhat irresponsible to allow to go unchallenged the misconception that the law is providing that protection when that is not, in fact, the case. At some stage, the Scottish Government will have to recognise that this illiberal, ineffective, misdirected act is going to be repealed. Continuing to promote the notion that there will be a gap or a dilution of protection is wholly irresponsible.

Fulton MacGregor (Coatbridge and Chryston) (SNP): I support the amendments in the group. Today, at general questions, I raised the issue of vandalism in my constituency in the context of sectarianism at both St Patrick’s church and the cenotaph last year. I also raised the issue, which was reported recently in the news, of a local business owner who was subjected to threatening communications online following Sunday’s old firm game.

Unfortunately, sectarianism is still a major problem in constituencies such as mine; I am glad that Elaine Smith also touched on that in her question.

Johann Lamont: I wonder what message it sends on tackling sectarianism to cut the budget for anti-sectarianism projects—[*Interruption.*] Members should let me finish my point, because they might agree with it. How does cutting the budget from £3 million to £0.5 million send out a message about tackling sectarianism?

Fulton MacGregor: Johann Lamont knows fine well that this Government has invested heavily in tackling sectarianism. [*Interruption.*] She knows that.

Throughout our evidence taking, it was clear that there was a difference between section 1 and section 6, and nobody from any party can deny that. Members across the board recognised it. We all agreed—I acknowledged it as well—that section 1 could be better if reformed. There was a feeling that young men in particular were being penalised and that we could maybe address that better through the diversion schemes.

However, whatever the merits of the repeal of section 1, section 6 is totally different. It is irresponsible—and it does indeed send out a wrong message—to repeal the act today.

James Kelly: I oppose all the amendments in the group. I believe that they are unnecessary. First, the thing to understand about section 6 is that it has hardly been used in the six years for which the act has been in place. There have been only 17 prosecutions and, as Daniel Johnson pointed out, only one conviction in the past year. The reason is that, as the police told us at the Justice Committee, the legislation was drafted in such a way that the threshold was set too high, so the police and prosecutors are going down the route of using the Communications Act 2003 and not section 6, on threatening communications.

Annabelle Ewing: On that point, the member and other members in the chamber will be aware, or may be interested to know, that there was a very recent successful conviction under section 6. The issue concerned a 54-year-old man who was charged with making a death threat against Neil Lennon. That was a recent successful conviction under section 6, which the member wishes to take away.

James Kelly: That brings me to my next point. Repealing section 6 of the 2012 act will not leave a gap in the law. In the stage 1 debate, the point was made that the Communications Act 2003 allows sentences of only up to one year, whereas section 6 allows a sentence of up to five years. However, in relation to the section 38 offence under the 2010 act, which the minister referred to, there can be a trial on indictment and somebody can be sentenced to five years. There is case law that backs that up, such as HM Advocate v McGinley, on a breach of the peace charge.

On cover in relation to religious minorities, as Professor Leverick pointed out to the Justice Committee, a section 74 religious aggravation under the Criminal Justice (Scotland) Act 2003 can be added, as happened in the *Love v PF Stirling* case.

There is no gap in the law. Legislation and case law that demonstrate that there is not a gap in the law are in place.

I agree with Liam McArthur's point. If the Government's position were serious in any way, it would have proposed at least an 18-month gap in which to bring forward legislation. A 12-month gap is a minimal amount of time, which would not allow legislation to be brought forward. The amendment is simply a face-saving measure from the Government.

It is important to recognise the point that the Law Society of Scotland made in its submission ahead of the debate on matters relating to repeal. It said:

"There is always merit in clarity, simplicity and consistency of the law. This would be provided if the 2012 Act is repealed in its entirety at one time."

The minister is seeking to have different timings for repeal. From her point of view, the preferred route is a delay of 12 months for section 6 of the 2012 act and two months for sections 1 to 5. That would go against the wise counsel of the Law Society of Scotland.

On the protection of minorities, we cannot offer proper protection if the law has been unused and we have seen only one conviction in the past year.

To sum up, the aspect of the law in question is little used and there is no gap. There is no point in leaving in place a law that is not being used properly and credibly. It is time to move quickly to repeal and to use the credible and robust existing legislation that is already in place.

Annabelle Ewing: There would be a gap in the legislation if section 6 of the 2012 act were repealed—there is no question about that. Indeed, Daniel Johnson recognised that point when he referred to the fact that only the majority of cases—not 100 per cent of them—could fall within other provisions. In response to Mr Kelly and Mr McArthur, who will be expert on these legal matters now, given their perusal, I say again for the record what I said in my opening remarks: breach of the peace involves not only a fear and alarm test, but a threatening of serious disturbance to the community element. That is a problem with regard to some section 6 issues. With regard to section 38, there is a fear and alarm hurdle, which is not the case in section 6. I hope that, as a lawyer, I have clarified that helpfully for members once and for all.

To be fair, I do not think that the author of the Law Society of Scotland paper for stage 3, which has been referred to, got things quite right. As I have said, it is a simple matter of fact that the repeal of section 6 will leave a gap in the law that the Scottish Government, acting responsibly and in the best interests of minority and vulnerable communities, needs to address. My intention with amendment 4 is to seek the time to address that problem. A 12-month period is challenging, but it is nonetheless realistic to introduce alternative legislation on section 6 issues. I find the argument that, because things might take a wee bit longer than that, we should just take away the protection potentially from mid-April very confused.

We do not want Scotland to be behind the rest of the UK on protection against incitement to religious hatred. If section 6 is taken away, there will be no specific offence of incitement to religious hatred in Scots law.

I gave the example of ISIS in my opening remarks and, in an intervention on Mr Kelly, I highlighted the recent successful conviction under section 6 of a 50-year-old man who was charged with making death threats against Neil Lennon.

That gap in the law needs serious consideration by the Scottish Government so that we can work with partner organisations and those who are interested in ensuring that our minority communities have adequate recourse to law when they are attacked or harassed. A bit of extra time is required to put in place longer-term protection against incitement to religious hatred in Scotland. That is not a complicated proposition, as the Law Society appeared to suggest it is; it is quite the opposite, as it would afford continuity of protection. It is not at all clear why the author of the Law Society's paper thinks that anyone would be concerned about section 6 prosecutions continuing.

It would be irresponsible of the Scottish Government not to take steps to ameliorate the negative impact that the creation of that gap will have. Surely it is incumbent on us all to find positive ways to respond to the concerns of organisations representing vulnerable and minority communities, such as Stonewall Scotland, the Equality Network, Victim Support Scotland, the Scottish Women's Convention, the Scottish Disabled Supporters Association and the Equality and Human Rights Commission.

It is very regrettable indeed that, when we see instances of hate crime rising, we could see this Parliament deliberately removing from Scots law the specific offence of incitement to religious hatred. Frankly, I find that beyond comprehension. I ask members to support the amendments.

The Presiding Officer: That concludes the debate on group 1. The question is, that amendment 1 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division. As this is the first division, Parliament will be suspended for five minutes before we vote.

15:25

Meeting suspended.

15:30

On resuming—

The Presiding Officer: We will now proceed with the division on amendment 1. This will be a 30-second division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Harper, Emma (South Scotland) (SNP)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)

Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Corry, Maurice (West Scotland) (Con)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Mason, Tom (North East Scotland) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Rennie, Willie (North East Fife) (LD)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)

Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)

The Presiding Officer: The result of the division is: For 60, Against 62, Abstentions 0.

Amendment 1 disagreed to.

Section 6—Commencement

Amendment 2 moved—[Annabelle Ewing].

The Presiding Officer: The question is, that amendment 2 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Harper, Emma (South Scotland) (SNP)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)

McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Corry, Maurice (West Scotland) (Con)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Mason, Tom (North East Scotland) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Rennie, Willie (North East Fife) (LD)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Sarwar, Anas (Glasgow) (Lab)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)

The Presiding Officer: The result of the division is: For 60, Against 62, Abstentions 0.

Amendment 2 disagreed to.

The Presiding Officer: We now move to group 2. Amendment 3, in the name of the minister, is in a group on its own.

Annabelle Ewing: Amendment 3, which seeks to delay the repeal of the 2012 act, has been proposed for purely practical reasons. Ensuring that the bill is brought into line with accepted, tried and tested practices supports the effective introduction of the changes to the law by ensuring that those who need to take account of those changes are able to work to a clear and specific date.

Amendment 3 provides certainty and time for all those affected by the bill to take account of its provisions and to make all the reasonable adjustments that are required of them before the date that the new legislation comes into force, if it is passed by this Parliament. The amendment therefore promotes clarity. A two-month period from royal assent is not odd or unusual; it is simply good practice, particularly as far as the criminal law is concerned.

The argument that the closed season would offer police and prosecutors a period in which to carry out preparatory work simply does not hold water. That is for the simple reason that royal assent usually occurs about five to six weeks after stage 3. If the Parliament passes the bill, the 2012 act could be repealed as early as mid-April, but the current football season does not end until 19 May, with the Scottish cup final. Potentially, that means that a month of football could be played after the 2012 act has been repealed, without Police Scotland or prosecutors having had the necessary time to make the reasonable adjustments that are needed to ensure that the changes in the law are implemented effectively.

Building in a two-month window would allow the police, football clubs and supporter liaison officers to clearly communicate to fans that, although the 2012 act has been repealed, offensive, threatening and hateful behaviour at football will not be tolerated. Surely that can be viewed as a good thing.

Amendment 3 adjusts section 6 of the bill, which deals with the commencement date. The default commencement provision is for the bill to come into force on the day after royal assent. Amendment 3 changes that so that the bill would commence at the end of two months, beginning with the date of royal assent. In other words, it brings the bill into line with standard practice for legislation that deals with the criminal law of Scotland.

I move amendment 3.

Rona Mackay (Strathkelvin and Bearsden)

(SNP): I speak in favour of the amendment. The repeal of the 2012 act lacks one thing: a viable alternative. The most recent statistics show a 69 per cent conviction rate, and most recent polls show that 85 per cent of people are offended by sectarian chants and songs. The repeal of the act sends out an entirely wrong message.

As the minister said, equality groups such as Stonewall Scotland, the Equality Network and the churches, along with many others, say that people do not feel safe going to a football match. We have to respond to that.

The 2012 act is not perfect—nobody is saying that it is—but I cannot understand the rush to abolish it. At the very least, we should wait two months after royal assent so that we can consider further legislation and make the necessary adjustments, as the minister outlined. There is far too much at stake to repeal the act now and replace it with nothing.

Liam Kerr: I will speak against amendment 3, which seeks to delay commencement of the repeal by two months. I listened to the reasons that the minister gave for that delay both today and at stage 2. They boil down to a suggestion that the people who are affected by the bill—that is, by the repeal—require certainty and time to prepare. I am not persuaded.

It is instructive to note that, earlier this month, the Lord Advocate published new guidelines for football-related prosecutions, instructing prosecutors to stop using the 2012 act and instead use pre-existing statutory offences or common-law ones, such as breach of the peace. Even the Lord Advocate is persuaded that the amendment is unnecessary.

Annabelle Ewing: If the Lord Advocate were here, Liam Kerr might find that he was a bit surprised to hear him say that. Liam Kerr referred to the guidelines that were issued towards the end of last week. The Crown Office must continue its daily work and needs to ensure that guidelines are available. That, of course, is a matter for the independent Crown Office. That is one important strand but there are many others—including, as I said, building in time for the police to work with

supporter liaison officers, for example. Does Liam Kerr not want that time to be available to smooth the passage of the bill, if it is passed?

Liam Kerr: I absolutely care about that. The minister appears to have misunderstood my comments. When I say “even the Lord Advocate” I mean that, as the minister rightly pointed out, normal practice might be to wait two months but, in this case, even the Lord Advocate has considered that it is better to publish the new guidelines for football-related prosecutions already.

Given the attention that the media has given the matter for a considerable time, it is clear that the repeal will not come as a surprise to anyone. Getting the 2012 act in place prior to the start of the football season was one reason that was given for its initially being rushed. Following the unamended timetable that is given in the bill will bring about repeal towards or around the end of the football season. That will give the off-season to allow the return to the new old regime to embed and the police and others to carry out preparatory work and deal with any message that may or may not be sent.

The time for delay is over. The Scottish Conservatives shall vote against the amendment. Should it be Parliament’s will to pass the bill—and we hope that it is—we hope that the repeal will take place with all due haste and no further delays.

James Kelly: I oppose the amendment in the name of the minister. The minister’s central point is that prosecutors need time to prepare for the passing of the repeal bill.

In reality, as Liam Kerr said, it is no surprise that we are on the verge of voting to repeal the 2012 act. Parliament made its views known on the issue as far back as November last year. Prosecutors should have been well aware at that point that Parliament had signalled its intentions. In addition, as has been pointed out, the Lord Advocate issued guidance after stage 1 that says that prosecutors should stop using the provisions in the act. He also emphasised that pre-existing legislation can be used, thereby backing up the argument that there will be no gap in the law.

The 2012 act is poor legislation that has caused a lot of difficulty. The Law Society of Scotland has pointed out that there is a lack of legal certainty in the act and that it is open to legal challenge. The Scottish Human Rights Commission has made the same point. When there is poor legislation on the statute book, it makes sense to get it off as quickly as possible and instead use credible pre-existing legislation to deal with cases that are going through the system.

Annabelle Ewing: It is not odd or unusual to seek a two-month period after royal assent; in fact, such a period would bring the bill into line with normal accepted practices, particularly as far as the criminal law of Scotland is concerned. The amendment therefore promotes legal certainty, and not the reverse.

It is fair to say that although amended guidelines were indeed issued last week, there are other actors in this process. Discussions will need to take place between the police, football clubs and supporter liaison officers to clearly communicate the new position, and I would not have thought it unreasonable to allow all those players two months to do that, and to do so properly—I am sure that they would welcome that.

Liam Kerr and James Kelly said that repeal will take place during the closed season. It probably will not, because if Parliament votes to pass the bill tonight, the 2012 act could be repealed as soon as mid-April, with one month of the football season still to go.

As a responsible Government, we lodged amendment 3 to promote clarity and to respect the normal practices that we would expect to see in most other legislation, and certainly in legislation that affects our criminal law.

As the date when royal assent is given is never certain, surely it is fairer that those who need to prepare for the repeal can work to a known date and have reasonable notice of it. That is not an unreasonable request and I would have thought that it was in the interests of everyone in the chamber to ensure that our law enforcement agencies can implement changes to the law as effectively as possible.

The Presiding Officer: The question is, that amendment 3 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)

FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Harper, Emma (South Scotland) (SNP)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Corry, Maurice (West Scotland) (Con)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)

Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Mason, Tom (North East Scotland) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Rennie, Willie (North East Fife) (LD)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)

The Presiding Officer: The result of the division is: For 60, Against 62, Abstentions 0.

Amendment 3 disagreed to.

15:45

Amendment 4 moved—[Annabelle Ewing].

The Presiding Officer: The question is, that amendment 4 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)

Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Harper, Emma (South Scotland) (SNP)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Corry, Maurice (West Scotland) (Con)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 Fraser, Murdo (Mid Scotland and Fife) (Con)

Golden, Maurice (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Mason, Tom (North East Scotland) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Rennie, Willie (North East Fife) (LD)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)

The Presiding Officer: The result of the division is: For 60, Against 62, Abstentions 0.

Amendment 4 disagreed to.

The Presiding Officer: That ends consideration of the amendments.

As members will be aware, at this point in proceedings I am required under standing orders to decide, in my view, whether any provision of the bill relates to a protected subject matter—that is, whether it modifies the electoral system and franchise for the Scottish parliamentary elections. In my view, no provision of the bill does that. Therefore, the bill does not require a supermajority to be passed at stage 3.

Offensive Behaviour at Football and Threatening Communications (Repeal) (Scotland) Bill

The Deputy Presiding Officer (Christine Grahame): The next item of business is a debate on motion S5M-10790, in the name of James Kelly, on the Offensive Behaviour at Football and Threatening Communications (Repeal) (Scotland) Bill, at stage 3.

15:47

James Kelly (Glasgow) (Lab): The Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 has been a failure: it has not tackled bigotry and has been widely criticised by law groups and human rights groups. Football fans have been treated as second-class citizens. The football act is the worst legislation in the history of the Scottish Parliament, and it is time for it to go.

The reality is that the legislation that was introduced by the Government, and passed by Parliament in December 2011 against the will of every Opposition party, has not worked. Every reasonable member of Parliament condemns bigotry and sectarianism, including the incidents last weekend. However, the legislation has failed to tackle sectarianism and religious intolerance.

Let us consider the religious aggravation statistics. There were 719 charges with religious aggravations in 2016-17. That is more charges than there were in the year that preceded the introduction of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. Only 46 of those charges were for offences in or around football grounds. I am not glossing over religious aggravations that happen at football grounds. Religious aggravations must be taken seriously whether they happen at football grounds, in the street, outside a religious venue or in a club. The statistics show that the problem of religious intolerance goes much wider than football.

The failure of the Government's approach lies in the fact that it adopted a simplistic approach: it thought that introducing legislation would deal with the problem of sectarianism. Sectarianism is a complex problem that has, unfortunately, been with us for a long time.

John Mason (Glasgow Shettleston) (SNP): We all agree that the problem of sectarianism affects a wider range of issues than just football, but does James Kelly accept that opinion polls regularly show that the public think that football is the main context in which sectarianism is seen?

James Kelly: We should examine the evidence, which shows that of the 719 charges with religious aggravation—that number is a concern to all of us, because it shows that there are issues of religious intolerance in society at large—only 46 took place around football. That shows that there is a gap between perception and reality. There should be a much wider and more serious conversation. The Government has a job to do to bring about consensus and to bring people together. Instead of cutting anti-sectarianism budgets, it needs to come up with a different approach. I am quite prepared to work with the Government on that.

With regard to issues with the act, we need look only at the evidence that was submitted to the Justice Committee during stage 1. We heard from fans, human rights groups and legal experts. The Law Society of Scotland told us that there is no gap in the law.

We can also look at some of the human examples. Lawyers told us that the common profile of people who are captured under the act is a young person under the age of 20 who is in employment and has not previously come into contact with the police or the criminal justice system. That is backed up by recent statistics that show that nearly a third of cases did not result in prosecutions.

We can see that from practical examples that have been provided. One involves a Rangers supporter, who was arrested at Rugby Park on a Thursday night, detained overnight in a police cell and released on to the streets of Kilmarnock at 5.30 in the morning. He then had to spend £60 on a taxi to Glasgow to go to work. He incurred costs of hundreds of pounds in legal fees, lost wages as a result of missing work and suffered stress over the impact that a conviction would have on his employment, but was ultimately found not guilty.

Another example involves a 46-year-old Hibernian supporter who attended the 2016 Scottish cup final. At the end of the game, he went on the pitch with his grown-up son and daughter. Okay—he should not have gone on the pitch. He had a wander around on the pitch, sang a few songs and then left. [*Interruption.*] I will finish. He then left to join the celebrations with his family. Three months later, at 7.30 in the morning, 12 police officers in three police vans turned up at his house and he was arrested and charged under the 2012 act. The man was a member of the local community council and was on the parents board. He resigned from those posts because he was worried about the case and because of stress. Subsequently, with the help of defence lawyers, he was able to piece together what he had done on the pitch. As I said, he wandered around and had a bit of a celebration, but did not commit any public order offences. Subsequently, the charges

were dropped. If people were being treated like this—

The Minister for Community Safety and Legal Affairs (Annabelle Ewing): I am not clear where Mr Kelly is going with this. Is he advocating more pitch invasions?

James Kelly: I am advocating that the Government stop treating football fans like second-class citizens.

It is quite clear from the evidence to the Justice Committee on sections 1 and 6 that the legislation has been widely criticised and discredited. As an approach to sectarianism, it has not worked. It has created confusion and division, so it is time to consign this discredited legislation to the dustbin of history.

I move,

That the Parliament agrees that the Offensive Behaviour at Football and Threatening Communications (Repeal) (Scotland) Bill be passed.

15:55

The Minister for Community Safety and Legal Affairs (Annabelle Ewing): The bottom line is that there is a problem with abusive and offensive behaviour at Scottish football. It is a continuing problem and it cannot be excused as mere banter or as passion.

During the old firm match last Sunday, some Rangers supporters indulged themselves by singing songs including “Flute for 50 Pence”, “The Billy Boys” and “Super Rangers”, with offensive lyrics added to them. Which MSP in this chamber would describe that songbook as mere “banter”?

At the same match, some of the Celtic support joined in by singing songs, including “The Boys of the Old Brigade” and “Celtic Symphony”, with offensive lyrics added to them. Which MSP in this chamber would describe that songbook as being simply “passionate”?

Liam Kerr (North East Scotland) (Con): Will the minister give way?

Annabelle Ewing: Throughout the match, missiles were thrown between the segregated fans and flares were set off with no regard for the fact that children and young people were attending the match—not to mention the vast majority of people who just wanted to enjoy some good football. Who in this chamber thinks that that was all just harmless fun?

Liam McArthur (Orkney Islands) (LD): Will the minister give way?

Annabelle Ewing: Before the match, up to 500 supporters, many wearing balaclavas, marched to Ibrox displaying a banner that said, “Good night,

green and white” and showed an image of a silhouetted figure wearing a green-and-white hooped jersey being kicked in the head. The group sang celebratory Rangers songs and offensive songs, including “Follow Follow”, which contains expletives referring to the Pope, and “The Billy Boys” chant, including offensive add-ons.

The flyer that was distributed calling on supporters to participate in those disturbances described the derby match as—I reluctantly quote this—

“the match against the Fenians”.

Pictures of the march show some members of the group making Nazi salutes.

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

Annabelle Ewing: No, I will not.

After the match, there were reports of violence between the two sets of fans on Govan Road, including a minibus being pelted with glass.

Of course, it is not only a Glasgow problem. On the same weekend, about an hour prior to kick-off in the derby match in Edinburgh, approximately 150 Hearts supporters congregated in an area near Easter Road. Offensive singing was heard from them, including renditions of their version of “Gorgie Boys” with offensive add-ons. A significant number of pyrotechnic devices were discharged from among the Hearts supporters, with three being thrown onto the pitch, which resulted in the kick-off being delayed.

Brian Whittle (South Scotland) (Con): Will the minister give way?

Annabelle Ewing: Coins were thrown at Hibs players on the pitch during the match, and the second half was disturbed by pitch incursions.

Mike Rumbles (North East Scotland) (LD): On a point of order, Presiding Officer.

Is this speech a ministerial statement, which is not intervened on, or is it part of the debate?

The Deputy Presiding Officer: Sit down, Mr Rumbles. That is not a point of order, as you are well aware. It is up to the member, whoever that member is, whether they take interventions.

Annabelle Ewing: What that snapshot of just one weekend of football fixtures tells us is not that the 2012 act should be repealed, but that it should be strengthened and improved in order to tackle the behaviour to which we cannot simply turn a blind eye. Repealing the 2012 act without there being a viable alternative sends the signal that this Parliament is happy to let such behaviour go unchecked and unchallenged.

In the rush to repeal the 2012 act, there has been a lot of denial about the fact that it will impact negatively on communities across Scotland. Those communities know the negative impact that football can have.

Yesterday, YouthLink Scotland and ScotCen Social Research published independent research that asked respondents about use of sectarian language and their perceptions of sectarianism in social media. Of the respondents, 76 per cent view football as the main contributor to sectarianism. That verifies the reports of the independent advisory group on tackling sectarianism in Scotland, which noted that football provides a “permissive environment” that allows sectarianism and other offensive and abusive behaviour to thrive. There are also the findings of the Scottish social attitudes survey 2014, in which 88 per cent of people surveyed cited football as the most common contributor to sectarianism in Scotland.

Patrick Harvie (Glasgow) (Green): Will the minister give way?

Annabelle Ewing: I would like to make progress.

There is a specific problem with behaviour at football, as is widely recognised by Scottish communities. Repealing the act will do nothing to reassure them.

It may be only a minority of fans who behave in those ways, but it has an impact that is significant enough to tarnish the reputation of Scottish football and spoil the game for people who simply want to enjoy supporting their team.

Patrick Harvie: I am grateful that the minister has eventually decided to take an intervention.

I make the case that our shared revulsion at the level of sectarianism and ill behaviour in Scotland, including that which is associated with football, is an argument for having good law, not a defence of bad law.

Annabelle Ewing: Patrick Harvie should work with us to amend and improve the law, rather than taking away—without putting in place a viable alternative—the protections and the signal that such behaviour is not acceptable in Scottish society.

When we look back further than last weekend, we see that, in this season alone, there have been reports of racist behaviour by supporters and abusive behaviour towards people because of their disability or mental health conditions. In October 2017, a man pleaded guilty to an offence, under section 6, of threatening to shoot and kill Neil Lennon.

Legislation has an important role to play in tackling offensive behaviour at football. As I said to

Patrick Harvie, we do not provide protection to vulnerable communities by repealing legislation—we provide protection by improving and updating legislation.

As a responsible Government that is faced with the manifest irresponsibility of repealing the act without putting in place a viable alternative, we remain committed to providing the best possible legislative framework to protect people from malicious harm. That is why I commissioned Lord Bracadale to review hate crime legislation in Scotland.

There is a problem with the toxic behaviour that we see at, and which is associated with, football. The persistent, abusive and offensive behaviour that is linked to football will not go away on its own. It is an expression of the unhealthy culture that surrounds football. The Scottish Government will do all that it can to tackle that behaviour, even in the face of today's irresponsible move to repeal the 2012 act without putting in place a viable alternative.

The Deputy Presiding Officer: Liam Kerr will open for the Conservatives. You have five minutes, Mr Kerr.

16:02

Liam Kerr (North East Scotland) (Con): I thought that I had six minutes, Presiding Officer.

The Deputy Presiding Officer: I have five minutes on my list. However, I will be generous. That is my position as the referee.

Liam Kerr: I will be as brief as possible. I open for the Scottish Conservatives and speak in favour of passing the bill. It is clear and unambiguous in its ambit: if passed, it will repeal the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. The act should be repealed because it is bad law, and, more than that, it is unnecessary law. The objectives of the act—to tackle sectarianism by preventing offensive and threatening behaviour at football—were laudable, but as the committee and the Parliament heard repeatedly, the offending behaviour that the 2012 act was designed to address was, and remains, fully covered by the substantive existing criminal law.

According to the Law Society of Scotland, all 287 charges brought under section 1 of the act in 2015-16,

“could have been prosecuted under pre-existing legislation”.

The Justice Committee heard from senior police officer, Assistant Chief Constable Higgins, who said that,

“In the absence of the act, someone who was arrested for singing an offensive song would almost certainly have been charged with a breach of the peace or a section 38 offence.”—[*Official Report, Justice Committee*, 3 October 2017; c 19.]

Professor Leverick was unequivocal when she said:

“breach of the peace, section 38 and a number of statutory aggravations are in place ... offensive behaviour at football matches could be dealt with under pre-2012 legislation.”—[*Official Report, Justice Committee*, 7 November 2017; c 32.]

If the act had worked and achieved its objective of tackling sectarianism by preventing offensive and threatening behaviour at football, it could be argued that that would not be a consideration. Has the act worked? I refer members to Ms Ewing's comments about how ineffective it has been and how little it has achieved.

Dr Joseph Webster told the committee:

“The 2012 act has made the policing of sectarianism more difficult, because fans have got wise to how to circumvent the law”.

Worse, he went on to say:

“it has led to a deterioration in relationships between the fan bases and between them and the police.”

What about the song sheets that, during the stage 1 debate, George Adam assured us had been put away since 2012? Dr John Kelly told the committee that

“since the 2012 act came in there have actually been more of what the Scottish Government might define as problematic songs.”

Dr Joseph Webster elaborated by talking of the reality of what is going on:

“What fans have done is change their behaviour by holding their hands in front of their mouths while singing certain songs in order to prevent CCTV from capturing them singing them ... they have replaced certain songs and chants with other words in order to try to skirt the law.”—[*Official Report, Justice Committee*, 14 November 2017; c 59, 50, 49.]

We have an act that has added nothing to the legislative landscape, has not achieved what it intended and has actually been counterproductive in redirecting and camouflaging—but not stopping—offensive behaviours and prejudices.

However, like many, including some Scottish National Party back benchers, although I agree with the principle of repealing the act, I remain concerned about the possibility of a particular message being sent out. I understand that concern and have reflected on it at length, but I am persuaded that it is not an issue. I just do not accept—and no evidence has been presented—that there is a whole cadre of people sitting at home saying, “If only the act was not there, I'd be

out singing right now. If those MSPs get rid of the act, they clearly think these songs are okay.”

Rona Mackay (Strathkelvin and Bearsden) (SNP): Does the member agree that the equality groups are actually frightened to go to football matches? Does he disregard what they said at the Justice Committee evidence session?

Liam Kerr: I certainly do not disregard the evidence that was given, which was extremely important. I direct the member towards a point that was made by Liam McArthur at stage 1 and earlier today, which is that it is deeply irresponsible to give such groups false reassurance that the act will protect them. We have to take it away and give them a proper message that we will protect them.

I also think that a rather unpleasant assumption is inherent in the argument about a message to the football fans, who are being treated as a homogenous, malevolent, ignorant entity. The evidence from the Scottish Football Association, Police Scotland and fan groups showed unequivocally that the number of football fans who engage in criminal behaviour is minimal. I go back to my statistics from earlier: there were 287 charges—not even convictions—under the act last year. Just think how many people go to football in Scotland each weekend. To say that ineffective, ill-drafted, counterproductive legislation should not be repealed because, hypothetically, that might be received by a tiny minority of people in a particular way is not a good enough reason not to repeal it.

ACC Higgins said:

“I cannot arrest my way out of changing hate crime and sectarianism in this country; a far wider approach is needed to challenging behaviour that is inappropriate.”—[*Official Report, Justice Committee*, 3 October 2017; c 16.]

He is right. There is a problem with sectarianism, but it is not exclusive to football, and the 2012 act was disproportionate in targeting fans of the sport.

Dr Joseph Webster was clear in saying to the Justice Committee:

“Has the singing decreased? No, it has been redirected. Is the law working? No, we need to replace it with other methods of behavioural change, with the most sensible probably being early years education.”—[*Official Report, Justice Committee*, 14 November 2017; c 49.]

I agree and, furthermore, the police and courts need to use the powers that they already have to stop such behaviour. Speakers throughout today will no doubt address those solutions, but on the substantive point we should ask: is this bill—to repeal an ill-drafted, ineffective, counterproductive act, in a manner that will not send the message that people are concerned about—the right thing to do? I say yes, absolutely—and I look forward to voting for it at decision time tonight.

The Deputy Presiding Officer: I call Daniel Johnson to open the debate for Labour. You have five minutes, Mr Johnson—I hope that I have got that right this time.

16:07

Daniel Johnson (Edinburgh Southern) (Lab): I understood that, Presiding Officer, but if you want to give me an extra minute that would be fine.

I begin by acknowledging the strength of feeling and concern that the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012—and, in turn, its repeal—elicits on all sides of the debate. I understand the worry that has been expressed from members on the SNP benches and the concern about the scourge of sectarianism that lies behind it. While I disagree with those members about this bill to repeal the act, I share their concern about this pernicious aspect of our culture and their conviction that we must act to counter it. However, let me say this seriously and gently to them: the 2012 act does not serve the purpose that is claimed or that they purport. It provides no additional power to the police or prosecutors and has had unintended and unjustifiable human consequences. Above all else, it has been profoundly illiberal in its effect.

James Dornan (Glasgow Cathcart) (SNP): Will the member clarify for me just what the repeal of the act will do to counter sectarianism?

Daniel Johnson: Repeal of the act will enable us to use the existing law, which will be able to protect those people and to focus on the causes of sectarianism rather than its context.

From the evidence that we have heard through stages 1 and 2 of the bill—and, indeed, through the debate on the amendments that we have just had—it is clear that there is no legal need for the 2012 act. Indeed, as other speakers have said, the Lord Advocate’s instruction to prosecutors to stop bringing cases under OBFA and to use alternative statute and common law is an acknowledgment that that law is legally redundant and that its time on the statute book is coming to an end.

There is a danger that the repeal of the 2012 act is viewed from a narrow and technical legal perspective. The real issue with the act is not its legal effect, but its very real human impact and the damage that it has done. It is when we hear the stories of the people caught up in the unintended consequences and the misguided exercise of the act that the real need for its repeal becomes clear.

There is the dad who has been charged three times only to have his case thrown out of court each time. Those experiences cost him not only £4,000 in legal fees but his job. Perhaps worst of

all, they cost him the opportunity to be present at the birth of his first child, because he was in court.

There is the man who was arrested simply for asking why the friend with whom he was at the football was being detained by the police. Apparently, asking that question was deemed to be threatening and offensive, in and of itself. Again, he was found not guilty at court.

Football fans are losing work, losing money and having their family lives disrupted. The 2012 act is putting people with no prior contact with the criminal justice system into a cell and into court only to be found not guilty.

Fulton MacGregor (Coatbridge and Chryston) (SNP): Will the member take an intervention?

Daniel Johnson: In a moment. Perhaps most troubling are the stories that do not just tell of the dysfunction in the law, but demonstrate the fundamentally illiberal consequences of the legislation. Football fans have been arrested for wearing Che Guevara T-shirts and—irony of ironies—for flying a banner with the words “Axe the act” on it. Whether or not one agrees with the statements that they are making, people have a right to political expression. In any other context, those acts would be viewed as innocuous, or even celebrated as the acts of people exercising their civic rights. On that point, I am happy to give way to Fulton MacGregor.

Fulton MacGregor: Daniel Johnson will know that many members on these benches have sympathy with some of the things that he has mentioned, but would he not agree that they are a problem with the implementation of the 2012 act, rather than the act itself? What we should have been doing was working together to get those aspects right.

Daniel Johnson: I would have some sympathy with the member if the police were saying that they would not be able to use the existing law to prosecute many of the actions, but they can. The evidence from the police to the committee was very clear. They would be able to use other laws such as the Criminal Justice and Licensing (Scotland) Act 2010, the Communications Act 2003 or, indeed, common law breach of the peace.

Ultimately, what we need to do is tackle the underlying causes. When we hear those examples and stories it is hard not to conclude that the 2012 act is illiberal and wrong. At previous stages of this bill and in the chamber today, the founders of the act have fallen back on asking what message it will send if we vote to repeal it. I acknowledge that a legitimate function of legislation is to communicate what is acceptable and what is not. Likewise, the things that we vote for and against in

this Parliament also send messages. However, I pose this question: what message does it send if we let the act stand—an act that provides no additional power to the authorities, has damaged trust in the police, has had huge personal consequences for individuals and is so profoundly illiberal?

Scottish Labour is proud to support James Kelly's bill to repeal the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012, and we hope that members from across the chamber will join us at decision time this evening.

16:13

John Finnie (Highlands and Islands) (Green): I am really disappointed with a lot of what I have heard so far. The Scottish Green Party has always been opposed to the 2012 act. I was not personally opposed, but I am now. As I said in the debate on the amendments, I think that James Kelly has made his case, based on the legal evidence that we have heard, including the evidence of fans, and I was particularly persuaded on the human rights aspect.

I would like to make the case that shinty is our national sport, but I suppose that most folk would say that football is. A Government minister should not have trashed football in the way that she did—that was the purpose of my intervention. All the evidence shows that, across Europe, Scotland has the highest percentage of residents who attend football matches.

We heard from the police that they are perfectly capable of policing without the 2012 act. We also heard from them that, with the exception of two clubs, every senior football club in Scotland has held football matches without a police presence. Nothing could be further from the truth than the idea that fans across Scotland are at war with police—an idea that has been put forward by people in various quarters.

I should have declared at the outset my various associations with Heart of Midlothian Football Club that are mentioned in my entry in the register of interests. Obviously, I would abhor behaviour such as the minister outlined.

I attended my first football match in this city more than 50 years ago and policed my first football match in this city more than 40 years ago. There have been significant changes since then. Today's situation is a world apart, and that is not just down to the removal of alcohol from stadiums or the introduction of all-seater stadiums; there has been a huge move in respect of fan behaviour.

No one would support the situation that you outlined. The language that we all use is very important.

Annabelle Ewing: I reiterate that I was simply repeating what happened last weekend—it was a snapshot of that. If the member does not feel that that suggests that with some fans—I have always said that it is the minority of fans—there is a problem in and around football, I do not know what would need to happen to convince him.

John Finnie: I assure you that on the rare occasions when I go to neutral venues—I often go to see Nairn County—there is no problem there. There is no problem at the vast majority of grounds. The behaviour that you outlined is behaviour that would be taking place anyway on many occasions; it is taking place notwithstanding the act being on the statute book.

On the language that we use, every one of us, regardless of which side of the debate we are on, has to respect the parliamentary process. The legislation that we are seeking to repeal was no more forced through than the bill, which I hope will pass tonight, is being forced through. There has been scrutiny in both instances and James Kelly very clearly made his case.

We heard compelling evidence, which has been alluded to a number of times. We heard from Professor Fiona Leverick about the alleged gap. We heard from ACC Higgins, who, I think, articulated the dilemma that the police find themselves in in many instances. I suspect that they will be roundly criticised regardless, but they deal with the legislation that is front of them. We heard clearly that there is a sufficiency of legislation already for them to deal with the issues that you outlined.

I want to mention one more aspect of the tone of the debate and the language that is being used. When Mr Kelly said in response to a question that he will work with anyone to address the issue of sectarianism, I heard groans around me. Let no one be groaning about that; let us all get together. Let us recognise that sectarianism is a problem for all of us. I am happy to work with anyone and everyone to address the scourge that is there. We will be voting for Mr Kelly's bill tonight.

The Deputy Presiding Officer: I gently remind members to speak through the chair and not to use the term “you” in the chamber. For the umpteenth time, I remind members to please just say “the member” or name the member. That is directed to all members present.

16:17

Liam McArthur (Orkney Islands) (LD): No one in the chamber condones sectarian or offensive

behaviour. Every single one of us is genuinely committed to confronting and combating hate crime, whatever form it takes, wherever it takes place. No MSP or political party can credibly claim a monopoly on caring about these issues. Given the tone and content of some of what has been said during the scrutiny of the bill, and again this afternoon, it is important not to lose sight of those basic truths.

It is also imperative that we recognise our collective responsibility for reinforcing the unambiguous message that the law will continue to provide protections against offensive behaviour wherever it takes place and will continue to provide protections against threatening communications.

Of course the legislative landscape for tackling hate crime can be improved. I remain confident that Lord Bracadale's review will help us go some way to achieving that, but it is wrong and increasingly irresponsible for the Government to continue fanning anxieties about alleged gaps in the law, which is simply not supported by the evidence. The Law Society of Scotland could not have been clearer when it said:

“the offending behaviour which the 2012 Act was designed to address was and remains fully covered by the substantive and existing criminal law. The Bill, if passed, will not leave any gap in the criminal law as existing measures, both statutory and at common law, will allow for the prosecution of any relevant offending behaviour”.

Similarly, as others have said, ACC Higgins assured the Justice Committee that, in the event of repeal,

“the police would continue to ... address the behaviour using other legislation.”—[*Official Report, Justice Committee*, 3 October 2017; c 3.]

Already we see the Lord Advocate instructing prosecutors to stop using the discredited, ineffective and illiberal 2012 act and instead to use pre-existing statutory offences or common law. Neither Police Scotland nor the Lord Advocate is talking in terms of gaps in the law or weakened protections. They recognise that that is neither true nor helpful in providing assurances to those who have been voicing concerns. I hope that the minister will now follow suit.

After all, although legislation can and does play a role in conveying a message about what we, as a society, find acceptable or unacceptable, it is surely irresponsible to allow the misconception to go unchallenged that the law is providing protection to people, when that is not the case. I struggle to accept that the wrong message is sent by repealing an act that does not provide the protection that its supporters claim that it does.

However, repeal of the 2012 act is not a do-nothing strategy, as the minister and some of her

back benchers have argued again today, in the face of the sectarianism that we all accept continues to blight too many of our communities. Yes, repeal will help remove from the statute book a piece of legislation that has not only proved ineffective but done more harm than good to our efforts to combat sectarianism and encourage a change of attitudes and behaviours. However, repeal must go hand in hand with a renewed commitment to take steps that we know from the evidence are effective. Danny Boyle from BEMIS told the committee that

“the most sensible thing is to create a universal approach to tackling hate crime that is preventative and rooted in education but which also has a strong legal remedy when necessary.”—[*Official Report, Justice Committee*, 24 October 2017; c 12.]

John Mason: Will the member give way?

Liam McArthur: No, thank you.

Danny Boyle's view is supported by the Government's advisory group on tackling sectarianism, which argued that the foundations for change rest on initiatives that focus on prevention and building trust and understanding, recognising that councils, churches, football clubs, schools, the media and community organisations are all key in delivering effective grass-roots solutions.

I commend James Kelly for, and congratulate him on, his hard work and perseverance on the issue of the 2012 act and bringing forward the bill. I also thank all those who helped the Justice Committee in our deliberations. However, I look forward to Parliament taking the step shortly, which it should never have had to take, of removing an ineffective, counterproductive and illiberal piece of legislation from the statute book.

The Deputy Presiding Officer: We move to the open debate, with tight four-minute speeches.

16:21

James Dornan (Glasgow Cathcart) (SNP): If ever the need for the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 was highlighted, it was last weekend. After bringing the union bears march to the attention of others on Twitter, I was threatened—the police have been contacted and I have a meeting arranged with them—I was told that my 83-year-old mum was dead and I was subjected to infantile abuse from grown men as well as the usual utter bigoted nonsense that we get from the extreme wings of both sides of the Glasgow footballing divide.

There is no doubt that, in the past few weeks, there has been an upsurge in blatant sectarian singing at football games. All members will have seen on Sunday images showing the vile sight of

balacava-wearing, Nazi-saluting thugs parading our streets like some kind of paramilitary outfit. It seems clear to me that the perceived imminent repeal of the 2012 act has emboldened some of the worst to go more public with their intention to show who is boss.

The 2012 act was brought in because legislation was clearly required to deal with the scourge of sectarianism that blights our game of football. Despite what our opponents continue to proclaim, that did not happen because of the “game of shame”—that was just the final straw. In 2009, things were so bad that UNICEF had to ask for reassurance that Rangers fans would stop singing the famine song; in 2011, the Catholic Church wrote about its concerns about anti-Catholic songs and chants at the league cup final; and, just this morning, Neil Lennon said that sectarianism was equal to racism and should be dealt with accordingly. I wonder whether Mr Kelly thinks that UNICEF, Mr Lennon and the Catholic Church were wrong to raise those concerns and that they should just have let the people sing.

Please do not tell me that football can deal with this, given that it was highlighted again by yesterday's report that Scottish Professional Football League delegates have constantly had their reports of sectarian singing at football grounds ignored. The football authorities are clearly too lily-livered to take on the vested interests of the big two football clubs and have no intention of battling with the issue head on. It has therefore been left to the Government and—I had hoped—the Parliament to deal with it.

Do not insult us by saying that there is no support for legislation on the issue. The YouthLink report that was mentioned earlier shows that 80 per cent of young people think that there is a problem with sectarian language on social media, much of it relating to football; 72 per cent think that posting comments or images on social media that are offensive towards someone because they are a Protestant or a Catholic causes some degree of harm to Scotland's image and reputation; and, more important, 68 per cent think that there should be sentencing of some kind for posting sectarian content online. If those young people who responded to that YouthLink survey think that there is a problem with the Scottish Government's 2012 act, which has been opposed by every member of the Scottish Parliament outside the SNP, it is probably that they think that it is not harsh enough.

I urge every politician in the Scottish Parliament to ask themselves whether that is the type of country they want to be portrayed to the rest of the world. I accept, as others have said, that there are other ways of dealing with this. Those other ways are being attempted as we speak. Everyone has

issues with the act, but the way to deal with them is not to repeal the act but to work with the Government to make it better.

I hear James Kelly and others say that they will work with the Government. Why have they not been doing that for the past number of years? They wait till they get victory and then say that they will work with the Government from a position of success. It is a pyrrhic success at the very least. Think of the message that repealing the act sends. Scenes like Sunday's will become more regular as those groups of fans become more emboldened. The truth is that, deliberately or not, those who vote for repeal tonight will be enabling that type of behaviour.

The only consideration that members should have in mind when we vote today is whether the decision will make Scotland a better place to live in. Given what members have seen in the past weekend alone, can any in the chamber honestly say that, by repealing the act today, they will have done that?

16:25

Maurice Corry (West Scotland) (Con): I am glad to have the opportunity to speak today as we get set to repeal this piece of unnecessary, illiberal and unworkable legislation. The position was accurately described by Dr Stuart Waiton, a senior lecturer at Abertay University, when he spoke to the Justice Committee recently. He said that the act criminalises “words and thoughts”. He said:

“We hide behind the public order issue, but essentially it is about the criminalisation of words and thoughts, and the arresting and imprisoning of people because we do not like their words.”—[*Official Report, Justice Committee*, 14 November 2017; c 38.]

Dr Joseph Webster of Queen's University, Belfast—and he should know—also told the committee that

“the act is not justified on free speech grounds.”—[*Official Report, Justice Committee*, 14 November 2017; c 36.]

Those are not concerns held only by academics. The Scottish Human Rights Commission said that restrictions of freedom of expression made the act contrary to human rights treaties, and in 2014 the commission reported its concerns to the United Nations so that it could monitor whether the restrictions that the act places on freedom of speech

“are truly necessary in a democratic society.”

John Mason: Will the member give way?

Maurice Corry: Let me continue. Professor Sir Tom Devine labelled the act “counterproductive”. The Celtic Trust has described how the act is “unjust” and has “soured relationships” between the police and fans. Fans groups have highlighted

instances of injustice caused by the act that have only left football fans feeling more isolated.

In his submission to the committee, Paul Quigley of Fans Against Criminalisation told of a Rangers fan who was arrested for holding a banner that simply said “Axe the act”.

Joan McAlpine (South Scotland) (SNP): Will the member give way?

Maurice Corry: I will give way to John Mason.

The Deputy Presiding Officer: Please sit down, Ms McAlpine.

John Mason: Is it the member's argument that there should be complete freedom of speech for anyone to say anything? Would he restrict freedom of speech in some way?

Maurice Corry: I thank the member for that comment. The answer is that the existing law covers that and is there already. This is an unnecessary law to add on top. People can easily be charged and the member knows that as well as I do.

Paul Quigley also spoke of a Motherwell fan who was arrested, held in a Greenock prison for four days and then convicted of singing a song that simply included profanity about a rival team. I do not appreciate swearing or profanity at any sporting event, but I certainly do not believe that it is worthy of a criminal conviction. Andrew Jenkin of Supporters Direct Scotland, who submitted that the act is counterproductive, said:

“You cannot have legislation that applies to one specific sector of society; that is grossly unfair.”—[*Official Report, Justice Committee*, 3 October 2017; c 51.]

Those comments come because of the SNP Government's failure to reach out to the football community. Paul Goodwin of the Scottish Football Supporters Association spoke to the Justice Committee of the public relations failures that accompanied the act and how it had left fans feeling targeted.

It is not only football fan groups who have pointed out the unfairness of the act in targeting football fans and matches alone. Stewart Regan, the former chief executive of the Scottish Football Association, said:

“Football has been targeted and singled out, and a piece of legislation has been put in place that focuses exclusively on football. No other sport has that, and no other element of society has that ... between 2004 and 2013 at T in the Park, there were 3,600 incidents, three attempted murders, three drug-related deaths, 10 sexual assaults, one abduction and 2,000 drug offences. A summit was not called”—

by this Government—

“after T in the Park events and no emergency legislation was put in place.”—[*Official Report, Justice Committee*, 7 November 2017; c 26.]

It is clear that the football world at large and the general public want the act to be repealed. A lot of people and organisations took part in the consultation on this bill, and a hefty 71 per cent of the respondents backed repeal of sections 1 to 5, while 62 per cent supported repeal of sections 6 to 9.

The Deputy Presiding Officer: You must wind up, please.

Maurice Corry: The act has failed to tackle hate crime. BEMIS said that it was

“not convinced that it appropriately or effectively tackles hate crime”—[*Official Report, Justice Committee, 24 October 2017; c 5.*]

and Assistant Chief Constable Higgins told the committee that we cannot arrest our way out—

The Deputy Presiding Officer: I am sorry, but you must conclude—which means now. Please sit down.

16:30

Johann Lamont (Glasgow) (Lab): I made a number of efforts to write a speech for the debate, but I found it difficult to judge how the debate was going to be conducted. Would it be like the stage 1 debate, or would things have moved on? I have to say to the minister that I regret in the strongest terms the tone that she chose to use in introducing the Scottish Government’s position. I do not think that she has served her party well by impugning the motives of everyone in the chamber who disagrees with her and, in her description of what happened at the weekend, suggesting that people in here celebrated it, thought that it was a good idea or approved of it in any way.

The fact is that, as has been said, there is no monopoly in this chamber on concern about sectarianism. Right from the very beginning of this legislation coming into being, we, on the Labour benches, tested it and worried about it. I did that as our justice spokesperson and as the then leader of the party, and my decision to support James Kelly’s bill was not a decision that I took lightly. It is offensive—if I might use the term—to suggest otherwise.

The question is not whether we support sectarianism but how best to tackle it. There is a problem at the heart of the act in that it conflates being offensive with being sectarian. As a consequence, people are getting caught up in the legislation because they have no means of avoiding it. We have heard all sorts of examples of that this afternoon.

I also find deeply offensive the suggestion that everyone else in the chamber is somehow irresponsible and that they have not thought through these issues in great detail. I know that

there were people, including those in the churches, who wanted us to tackle the question of sectarianism, but I doubt very much that those same churches and organisations also thought that young people should be caught up in the legal system for wearing a Che Guevara T-shirt or for having the audacity to express a political view. Such organisations should not be called in defence of such a position—they were arguing about sectarianism, not the merits of the legislation.

Again, today, we have heard the argument that passing the bill will send out a message. As has been said, however, this characterisation of football and football fans is simply wrong. This sort of thing does not happen routinely even in the old firm games, and it does not happen routinely at Pollok football ground or at grounds across the country. We need to name the problem in order to deal with it.

We have also been told that passing the bill will send out a message about our views on sectarianism. I am not sure how much of a comfort it would be to me if my son or daughter got caught up in the legal system for doing something that they were not even aware was an offence. None of us would want that for a member of our family, but that is the reality for all too many people who have been caught up in the legislation.

Moreover—I say this in all seriousness—what message does it send out about our commitment to tackling sectarianism when the budgets for programmes that educate our young people on such issues have been cut from £3 million to £500,000? The reality is that there is hard and heavy lifting to be done on the issue. It is not simply a case of passing the bill and hoping for the best; we need to do the heavy job of winning hearts and minds on these issues. There is no easy fix.

Of course, the other tactic that has been deployed is, as I have said, to impugn the motives of the political parties who oppose the SNP’s legislation.

That might work in here—it might be of some comfort to SNP backbenchers who have been whipped to support the Government on the ground that we are passing the bill only because we oppose them politically. However, we are not talking about what works in here; we are talking about what works in the real world.

The Deputy Presiding Officer: Can you please conclude?

Johann Lamont: I urge members to support James Kelly’s bill because out there, in the real world, the 2012 act is not working and is having dire consequences. We have been told that by

experts and by individuals from throughout Scotland, and we have a duty to listen to them.

16:35

George Adam (Paisley) (SNP): Everyone knows that I am a football fan and that football is an important part of my life. It is as a football fan that I will approach the debate, as I have done during the whole process.

Our national game is an important part of our country's life and can, on occasions, affect the national mood. The 2012 act is about offensive behaviour at football, which is behaviour that football fans have experienced at various times in their lives and at various matches.

Football means so much to me that, along with Gordon Scott and my colleagues on the board of St Mirren Independent Supporters Association, I led a fan buy-out of St Mirren Football Club. I was involved from the start because I believe that fans play an important role in football and at every club.

Like most teams, we have a fierce and competitive rivalry with another team—in our case, it is Greenock Morton. Do people sometimes go overboard at derby matches? Probably, but, on the whole, they are good-tempered affairs with enjoyable banter between the fans.

St Mirren are top of the championship and Morton are fourth. Both teams could be promoted to the premier league this year and I hope that both are, because an Airdrie-Renfrewshire derby in Scotland's premier division for the first time since the 1980s would do me—and probably Mr McMillan—quite nicely.

I do not have a hatred of Greenock Morton. That is where I have difficulty with the whole Rangers and Celtic thing—I do not get it. People's hatred and bile towards one another seems alien to me. In the political world, I have disagreements with many members in here, but I do not hate them and I do not sing songs of hate towards them. We just have a debate, I say my piece and we move on.

The majority of football fans behave themselves—it is a very vocal minority who bring our beautiful game into disrepute. I was reminded of that on Monday when I attended my local gym—I know, Presiding Officer; you are wondering whether I should ask for my money back. While I was in the cafe, having my post-training bacon roll, I listened to a couple of Rangers and Celtic fans discussing the football match. It was good, clean fun and was filled with humour. It was a nice reminder that, in this week of all weeks, not all old firm fans are as we are led to believe. There was not one sectarian comment or mention of the various cultural aspects of either team.

Nevertheless, look what happened on Sunday: the union bears marched under their banners of hate, a young Rangers fan's hearing was damaged, a footballer was abused at an airport departure lounge and the old song books from both sides came back to the fore. All the usual chaos following an old firm game took place in the west after that game. We know that such things continue to happen, and I support the 2012 act because it protects the majority of fans from such behaviour.

I will not go over the original reasons for supporting the act or the debates that we have had, but I will highlight some of the things that were said by some of those who came in front of the Justice Committee. Stonewall Scotland expressed concerns about repealing the act:

“We would be concerned that an outright repeal of the Act may send a worrying message that prejudiced based and threatening behaviour at football is acceptable”.

Do we truly want to tell the world that people consider such behaviour acceptable at football? The Scottish Council of Jewish Communities said:

“we urge the extension rather than the repeal of this legislation”.

This week, BBC Scotland reported that former Scottish Professional Football League match officials have stated that their reports on sectarianism and unacceptable behaviour are being ignored by the football authorities. If the act goes, not only will there be a gap in the law, as the Crown Office and Procurator Fiscal Service has said, but an onus will be put back on the football authorities to do something about the issue—and I, for one, do not hold out any hope of that happening.

The debate should be about our conducting post-legislative scrutiny. Let us not say that this place is not good at post-legislative scrutiny; instead, why do we not look at the act, decide that we will make changes and make it better? I urge all members not to repeal the 2012 act but to let us look at it and make it better.

16:39

Neil Findlay (Lothian) (Lab): Like all members, I loathe sectarianism and bigotry and I detest prejudice. Like most members, I am committed to working towards a tolerant, cohesive society in which people learn about and understand each other and live in peace with one another. As Johann Lamont said, we must put time, effort and money into addressing the issues under discussion, which seek to divide our society, promote hatred and undermine social solidarity.

I opposed the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 from the start because it was a misguided

and simplistic attempt to address a complex societal problem. I strongly believe that we should repeal it by passing the Offensive Behaviour at Football and Threatening Communications (Repeal) (Scotland) Bill.

I support the repeal of the 2012 act because, as Liam McArthur said, it is illiberal. It is wrong of the Parliament to take a backward step in relation to human rights. The act singles out one group of sports fans whose rights are removed simply for stepping across the threshold of a football stadium on match day. I support repeal of the act because it is based on class prejudice. In the main—although not exclusively—the act has criminalised young working-class men whose actions are seen as distasteful by those who believe that they have a God-given right to be the arbiters of good taste and to impose their taste, belief systems and values on others.

James Dornan: In a previous speech—which I think was probably on this subject—Mr Findlay talked about the fact that football is pricing itself out of the reach of the ordinary working-class guy. Now, he is saying to us that the bill is targeted at the very people he says have been priced out of the game. How does that work?

Neil Findlay: Exactly, Mr Dornan. I think that football is pricing itself away from its roots, but so committed are people to their teams that they will spend that money to go to matches come what may, and they will make sacrifices in other areas of their lives. That is the reality of the situation.

I support the repeal of the 2012 act because, as many members have said, it is unworkable. That view has been expressed by the police, lawyers, prosecutors and judges. I support the repeal of the act because, rather than having united fans, communities and the police to act as one against sectarianism, it has increased tensions, resentment and division between the police and fans.

We should seek to address sectarianism across society as a whole. We all want young people to learn to be tolerant, empathetic and respectful to all—as we want older people to be—and, in my experience, the overwhelming majority are. We are more likely to tackle sectarianism through education and youth work, in our schools, colleges, universities, pubs, bookies' shops and workplaces, and by continuing to fund anti-sectarianism projects, youth projects and personal and social education in schools, but those are all areas in which funding has been slashed. That would be a better investment than demonising young football supporters.

I am pleased that members rejected all the amendments for the reasons that James Kelly set

out, and I hope that the issues around section 6 will be addressed in the review of hate crime.

I commend my colleague James Kelly for his diligent and committed work in taking the bill through to this stage of the parliamentary process. Taking a member's bill to this stage involves a huge commitment on the part not just of the member concerned but of their staff team. Mr Kelly and his team have worked with skill, reason and principle and have united all the Opposition parties. I hope that, even at this late stage, the Government back benchers, who know in their hearts and minds that the 2012 act should be repealed, will do the right thing and support the bill. The act was ill conceived, badly drafted and difficult to implement. The passing of the bill is the right move for the Parliament to make.

The Deputy Presiding Officer: I call Margaret Mitchell to close the debate for the Conservatives.

16:43

Margaret Mitchell (Central Scotland) (Con): It is clear from members' speeches that, although the Offensive Behaviour at Football and Threatening Communications (Repeal) (Scotland) Bill is contentious, all the Opposition parties are united in their support for repeal of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.

When the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill was debated at stage 3 in 2012, concerns were raised that it was badly drafted, that it failed to define the behaviour that it was trying to criminalise and that it did not include a definition of sectarianism. In addition, there were warnings that the bill would restrict freedom of speech and discriminate against football fans. Those have now come to fruition.

During the passage of the repeal bill, the Justice Committee heard that that bad drafting has resulted in the 2012 act being applied inconsistently by police officers, and that, as Liam Kerr pointed out, conviction rates under the act are at a three-year low.

The 2012 act created two new offences. The section 1 offence covers offensive behaviour at regulated football matches. The section 6 offence covers threatening communications and applies more generally, rather than being directed solely at football fans. During the scrutiny of the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill, stakeholders argued that existing measures were already in place to deal with those two offences, and that view was expressed again in the evidence that the Justice Committee heard at stage 1 of the repeal bill that is before us today. Stakeholders argued

that the section 1 offence can be prosecuted under other provisions, including as a breach of the peace offence and as an offence under section 38 of the Criminal Justice and Licensing (Scotland) Act 2010.

The section 6 offence refers to threatening communication with the intention of stirring up “hatred on religious grounds”. The heated arguments about the scrapping of section 6 leaving a gap in the law have not been helpful today, and I ask the minister to reflect on that. The fact is that the offending behaviour that the 2012 act was designed to address was and remains fully covered by substantive and existing criminal law. Section 38 of the 2010 act covers the provisions in section 6 of the 2012 act. Moreover, as James Kelly pointed out, in the case of *Love v PF Stirling* in 2014, a religious aggravation was added to a section 38 offence.

On the Government’s amendments to preserve section 6 for 12 months, the Law Society of Scotland makes the pertinent point that

“The timescale of twelve months could also be seen merely to complicate what might otherwise comprise a straightforward repeal of the 2012 Act”,

which

“will attract much publicity.”

It has indeed done so. It would confuse the public, who would believe that the 2012 act had been repealed but then find that prosecutions under section 6 of that act could continue for a further period. The intent behind James Kelly’s bill was that, once royal assent was achieved, the 2012 act would be repealed immediately. According to the Law Society, continuing any of the provisions

“is not required as the transitional arrangements will take account and provide safeguards for any existing prosecutions.”

Everyone is agreed that sectarian behaviour and intent to stir up religious hatred are totally unacceptable. If they are to be stamped out wherever they exist, all stakeholders—and, as John Finnie said, parliamentarians too—will need to work together. As a start, the Scottish Football Supporters Association has made some helpful general points about the need for a national education campaign on abusive language and behaviour. There will be an opportunity to discuss all the issues and the best way to resolve them in a measured fashion in the context of Lord Bracadale’s review. I hope that, this evening, the Parliament will determine that we will move forward in that way. The Scottish Conservatives will vote for the repeal of the 2012 act.

16:48

Annabelle Ewing: Today, we have heard a lot about the problems that people associate with the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012, but no tangible solutions to the problem of abusive and offensive behaviour at Scottish football that I described in my opening speech.

All offensive behaviour at football has to be met head on to be defeated. Why do we continue to excuse aggression at football, which manifests itself as racist, religious and homophobic slurs and bigotry, as simply banter or passion? That is not acceptable.

Legislation sets the standard for what is and is not acceptable in modern society. Therefore, legislation has an important role to play in tackling all societal problems, including offensive behaviour at football. We recognise that legislation on its own will never resolve any social issues, and the 2012 act has always been just one element of our work to tackle the problems.

When the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill was introduced, offensive behaviour at and relating to football was at a high, with a bewildered public witnessing pitch-side violence between club managers and bullets and explosive devices being sent to prominent Catholics through the post. I am baffled as to why so many people in the chamber think that the pre-existing legislation is preferable to amending the 2012 act. Repeal will solve nothing.

Repealing the 2012 act will have consequences. It will leave a gap in legislation. I point to the Crown Office evidence—evidence that no Opposition member has seen fit to mention in the debate because it does not suit their narrative. Repeal will put constraints on the ability of prosecutors and our courts to tackle offensive behaviour at football and will lead to a lack of continuity of protection for vulnerable and minority communities.

I can see no positive argument for repealing the 2012 act without putting a viable alternative in its place. If the argument is that the 2012 act should be repealed because it is not working, how can the answer be to go backwards? It is naive to believe that returning to the pre-act days will do anything other than return us to the circumstances that led to the need for the act in the first place.

We have invested £13 million since 2012 in tackling sectarianism—more than any other Administration—with £9.8 million of that being directly invested to support community-based organisations to deliver grass-roots work. That unprecedented investment has allowed the delivery of nearly 200 projects across Scotland to

date, including work with schools, football organisations, churches, youth groups, adult education organisations, employers, prisons and local authorities. That work has made, and is continuing to make, a huge difference in communities across Scotland. Despite attempts to reduce the agenda to being about legislation and football, it has never been simply about those issues.

If the 2012 act is repealed, we will of course continue to support work to tackle sectarianism in order to fulfil the recommendations of the independent advisory group on tackling sectarianism in Scotland. In the next financial year, I will ensure that the current £0.5 million of funding is protected by a real-terms increase to support this agenda.

As a responsible Government, we are committed to taking whatever action is needed to offer protection—[*Laughter.*] I am not sure why people are laughing—to our most vulnerable communities, including reinstating an improved version of the provisions in section 6. I have also given a clear commitment to consider all the recommendations that will shortly be made by Lord Bracadale as the outcome of his review of hate crime legislation in Scotland.

I ask all members in the chamber to think very carefully about what they are doing today and to consider whether they want to repeal a piece of legislation that was introduced to tackle a problem that we all know exists; whether they want to take away protection that minority communities and organisations such as Stonewall Scotland, the Equality Network, Victim Support Scotland and the Scottish Women's Convention have told us that they value; and whether they want to send a signal that offensive and abusive behaviour is acceptable at football.

The repercussions of repeal will be felt by the very people we wish to protect. We have heard arguments that the 2012 act is an infringement of the human rights of a minority of football fans, but when did we last ask ourselves which has the greater priority—a person's freedom to sing an offensive song or chant, or the victim's right not to be humiliated, vilified and marginalised by offensive songs and chants?

The vast majority of fans do not sing offensive or sectarian songs, do not march to matches wearing balaclavas and carrying banners glorifying violence, and do not need to worry about the police intervening in their behaviour because they have no reason to do so. The majority of football fans are tired of those who continue to behave in that hateful and prejudicial way.

The Scottish Government stands on the side of the tens of thousands of football supporters the

length and breadth of Scotland who are fed up with offensive and threatening behaviour being part of the Scottish game, and we shall shortly find out whether the Opposition members of this Parliament stand with them or stand against them.

16:54

James Kelly: Liam McArthur was right when he said that it is important to get the tone of the debate right; there is a responsibility on us all, as MSPs, as we debate these challenging issues. I very much regret that some SNP members tried in their speeches to associate the events of last weekend with actions to repeal the 2012 act. I thought that that was really poor.

It goes without saying that every MSP and this Parliament, across all the parties, rejects and condemns hateful and bigoted behaviour, whether it takes place in a stadium, in the street or in a club.

There has been a lot of discussion about what messages would be sent out by retaining the legislation and by repealing it. The problem with the 2012 act is that it sends a weak message. The reality is that only one political party has supported it from its introduction in 2011 all the way through to today's debate on the repeal bill. What message is sent by the fact that only the governing party signed up to such discredited legislation?

Even as a piece of law, the 2012 act has been criticised by the Scottish Human Rights Commission, which said that it could be open to challenge under the ECHR. The Law Society of Scotland thinks that the definitions in the act and its wide reach have meant that it could be challenged in the courts in this country.

All that results in weak legislation, and with weak legislation we send a weak message. I therefore completely reject the idea that keeping the legislation in place would in some way send out a powerful message. That is completely not the case.

There has been a lot of discussion about how we move forward and what the alternative is. That is extremely important. The first thing we need is proper discussion to enable us to understand all the issues. As I said in my opening speech, the fact that we have 719 charges with religious aggravation—the highest number for four years—shows us that there is a major issue. Away from the debate, we need to have a proper grown-up discussion.

Patrick Harvie: When the 2012 act was first debated, I made the case that what was needed was a comprehensive hate-crime review. Now that that is taking place, does James Kelly agree that, once the polarised debate on the question of

repeal is over—as he knows, the Greens will support his bill tonight—we all have a responsibility, across the political parties, to embrace whatever positive changes come through from a well considered and well thought out hate crime review, and to take action as a result of its recommendations?

James Kelly: Patrick Harvie makes a powerful point, and I remember him making those arguments in 2011. The Bracadale review gives us an opportunity to make hate-crime legislation more effective and efficient, allied to robust existing laws. That will send out a powerful message.

James Dornan: Will James Kelly take an intervention?

James Kelly: No. I am sorry, but I am short of time.

The other thing that is needed, as the Justice Committee highlighted, is proper investment in education in communities to tackle sectarianism. It was regrettable that Annabelle Ewing said that nobody offered any solutions. She clearly was not listening to the speech that Neil Findlay gave, in which he argued not only for that type of project but also for the Government to provide proper funding, rather than cutting funding, as the SNP Government has done. The SNP preaches about sectarianism—we all support action in that regard—but then it cuts the budgets.

James Dornan: Will the member take an intervention?

James Kelly: No, I will not.

One of the most powerful speeches in the debate was by John Finnie. He spoke as a former police officer, as a football supporter and as somebody who supported the original legislation in 2011. He was right to express concerns about the minister's contribution at the start of the debate, which underlined the point that I made, which is that there is an attitude on the part of some people in the SNP that football fans are second-class citizens.

John Finnie made a lot of powerful points about how we should move the debate forward if repeal is successful tonight.

I will sum up. Johann Lamont talked about the real world. The fact is that, in the real world, the 2012 act has been a failure. It has completely failed to tackle bigotry and religious intolerance. It has been unfair in targeting football fans. It is a legislative disaster and is completely illiberal. Not only that, on the SNP's watch, we have seen worthwhile community projects that tackle anti-sectarianism being cut. Therefore, at tonight's vote, MSPs should show the football act the red card.

Business Motion

17:00

The Presiding Officer (Ken Macintosh): The next item of business is consideration of business motion S5M-11069, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a revised business programme for Tuesday.

Motion moved,

That the Parliament agrees to the following revision to the programme of business for Tuesday 20 March—

delete

5:35 pm Decision Time

and insert

6:15 pm Decision Time—[*Joe FitzPatrick*].

Motion agreed to.

The Presiding Officer: Members will be aware that stage 2 of the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill has now been completed. Stage 3 amendments should be lodged by the deadline of 12 noon on Monday 19 March.

Decision Time

17:01

The Presiding Officer (Ken Macintosh): There is one question to be put as a result of today's business. The question is, that motion S5M-10790, in the name of James Kelly, on the Offensive Behaviour at Football and Threatening Communications (Repeal) (Scotland) Bill at stage 3, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Corry, Maurice (West Scotland) (Con)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Mason, Tom (North East Scotland) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Rennie, Willie (North East Fife) (LD)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)

Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Harper, Emma (South Scotland) (SNP)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)

Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 62, Against 60, Abstentions 0.

Motion agreed to,

That the Parliament agrees that the Offensive Behaviour at Football and Threatening Communications (Repeal) (Scotland) Bill be passed.

The Presiding Officer: The Offensive Behaviour at Football and Threatening Communications (Repeal) (Scotland) Bill is passed. [*Applause.*]

Meeting closed at 17:02.

This is a draft *Official Report* and is subject to correction between publication and archiving, which will take place no later than 35 working days after the date of the meeting. The most up-to-date version is available here:
www.parliament.scot/officialreport

Members and other meeting participants who wish to suggest corrections to their contributions should contact the Official Report.

Official Report
Room T2.20
Scottish Parliament
Edinburgh
EH99 1SP

Email: official.report@parliament.scot
Telephone: 0131 348 5447
Fax: 0131 348 5423

The deadline for corrections to this edition is:

Thursday 12 April 2018

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba