



OFFICIAL REPORT
AITHISG OIFIGEIL

Meeting of the Parliament

Wednesday 18 April 2018

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

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Scottish Parliament

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

Portfolio Question Time

Environment, Climate Change and Land Reform

Community Right-to-buy Applications

1. Finlay Carson (Galloway and West Dumfries) (Con): To ask the Scottish Government how many community right-to-buy applications have been received in the last 24 months and what proportion has been approved. (S5O-01977)

The Cabinet Secretary for Environment, Climate Change and Land Reform (Roseanna Cunningham): Since April 2016, the Scottish Government has received a total of 35 applications from 19 different community groups, which is consistent with the number of applications in total since the Land Reform (Scotland) Act 2003 was passed. Seventeen of the 35 applications have been approved, from 12 out of the 19 groups, and three applications are still under consideration.

Finlay Carson: Kirkmaiden Community Harbour Trust has had its right to buy Drummore harbour accepted by the Scottish Government but has been waiting for more than a year to hear a final decision from the Queen's and Lord Treasurer's Remembrancer about taking over the running of the harbour. I completely understand that due diligence must be carried out, but a wait of more than 12 months is unacceptable. Will the cabinet secretary intervene in the case to ensure that the trust can take over the running of the harbour without further delay?

Roseanna Cunningham: It would be helpful if the member wrote to me with the specific detail of that application. If the application has been agreed by me, I would hope and expect it to have been expedited rather sooner than that, but the member will understand that it is a little difficult for me to comment without knowing more of the detail behind the case.

Bruce Crawford (Stirling) (SNP): Will the cabinet secretary say what steps the Scottish Government is taking to increase awareness and uptake of the community right to buy, particularly in urban areas? Can she give examples of projects that can inspire other community groups? In my constituency, Stirling, the remarkable project

to refurbish Bannockburn house is a fantastic example; any other example that the cabinet secretary can provide would be very useful.

Roseanna Cunningham: I have visited Bannockburn house and seen the tremendously good work that is being done there. As with all such projects, it will be a long process. If members are looking for really good examples of the urban right to buy, I direct them to Action Party, which made the first urban community right-to-buy application and successfully completed the purchase of a church in Bellfield Street, in Portobello, at the end of 2017. I know that the group has tremendous plans and every intention that they will come to fruition.

There is a growing interest from urban communities in the right-to-buy provisions. We do as much as we can to encourage urban communities to think about making applications. Last month, Community Land Scotland published a report on community ownership in urban areas, which provides an overview of current urban community ownership. The report is available on Community Land Scotland's website, for people who are interested.

Electric Vehicle Charging Points

2. Richard Lyle (Uddingston and Bellshill) (SNP): To ask the Scottish Government what steps it is taking to improve the provision and variety of locations of charging points for electric vehicles. (S5O-01978)

The Minister for Transport and the Islands (Humza Yousaf): As we announced in the programme for government, we are rapidly increasing our efforts to support electric vehicles, to ensure that by 2032 we will have phased out the need to buy petrol or diesel cars and vans. We continue to work with Scottish local authorities and partners to increase provision of charging points across urban and rural Scotland, in homes, workplaces, public and private car parks and housing estates, as well as on street. Details of our plans will be announced in the coming months.

Richard Lyle: I raise with the minister the case of a constituent who wished to use the Government's generous scheme to install a charging point but was denied permission to do so by his housing association. Does the minister agree that we should encourage, rather than discourage, the installation of charging points? I invite the minister to have further discussions with the housing minister about encouraging developers to consider the inclusion of charging points in their housing plans.

Humza Yousaf: I have already had a conversation with the housing minister about this

issue and he is very much in alignment with the vision.

I know about the case that the member mentions, because he has raised it with me previously and my officials liaised with the relevant housing association to ensure that a solution could be found. I am pleased to say that, following the discussions, the housing association is now applying for a grant to install electric vehicle charging, which will allow residents to make the switch to an electric vehicle. I am keen to see the uptake of electric vehicles across Scotland. Officials will follow up with that specific housing association but, on the back of that, perhaps they should also get in touch with the housing association umbrella bodies across Scotland to remind them of the generous Government schemes, so that more people can take up electric vehicles.

The Deputy Presiding Officer (Linda Fabiani): If we have quick answers to the supplementaries, I will be able to get them all in.

Liam McArthur (Orkney Islands) (LD): In extending the network of charging points, the minister will be aware of the importance of ensuring that they are maintained so that the public can have confidence in their reliability. Will the minister update Parliament on the steps that are being taken to improve maintenance and to ensure that, when there are faults, there is an automatic default to free-vend at these charging points?

Humza Yousaf: I know that the member has an interest in this and that Orkney leads the way when it comes to the number of electric vehicles per head of population. Liam McArthur has raised the point about the reliability of charging points with me previously, so perhaps I can give him more of a detailed update offline. However, his suggestion for the default setting is worthy of consideration and we are considering it fully.

Kenneth Gibson (Cunninghame North) (SNP): I have had a request from one of my general practitioners to have a charging point installed at his practice. Does the minister agree that, if charging points are installed at health centres and other council buildings and the like, it will encourage more people to switch to hybrid or electric-powered cars? What more can the Scottish Government do to enable the smooth and swift installation of charging points at such locations?

Humza Yousaf: It is worth saying that Scotland has a good network of charging points with around 800 across the country, 175 of which are rapid chargers. The distance between charging points is also very good—the average distance in Scotland

is about 2.7 miles compared to 4 miles in the rest of the United Kingdom.

Where it makes sense to install charging points, such as hospitals, GP practices and clinics, our generous schemes should allow that to happen. I will update Parliament in the coming months on our plans and the milestones that we need to reach to ensure an increase in the uptake of electric vehicles. As part of that, I will of course consider the member's suggestion.

Daniel Johnson (Edinburgh Southern) (Lab): The Government's targets are undoubtedly ambitious and, according to WWF, we are ranked fifth in the world. However, it is clear that we need to step up our activity and the roll-out of charging points. What consideration is the Scottish Government giving to changing building standards to require all new-build houses to include a charging point?

Humza Yousaf: Some developers have already chosen to take that step voluntarily, and it is positive to see that they are building houses with the right cabling infrastructure to allow for charging points. The issue is part of the conversation that I am having with the housing minister, and I will allow him to keep members updated on that. The member is, however, absolutely right that there has to be a step change in our actions on this. As I have said, we have a comprehensive network of charging points, but that will have to be expanded rapidly in the coming few years. Daniel Johnson's idea about using building regulations and planning has been considered and, when we are ready to update him and Parliament, I will make sure that he knows.

John Scott (Ayr) (Con): Will the mandatory inclusion of electric charging points in new housing developments, particularly affordable housing, be introduced in the new planning legislation?

Humza Yousaf: Again, that question is one for the minister responsible for planning. All I can say at this stage is that those conversations have taken place within the Government. Kevin Stewart will know more about the legal ins and outs and, as I have just said to Daniel Johnson, when we are ready to update Parliament, we will do so at the earliest opportunity.

The Deputy Presiding Officer: Questions 3 and 4 have not been lodged.

Low-emission Zones (Glasgow)

5. **Annie Wells (Glasgow) (Con):** To ask the Scottish Government whether it will provide an update on progress with developing the Glasgow low-emission zone. (S5O-01981)

The Minister for Transport and the Islands (Humza Yousaf): On 20 March, Glasgow City

Council published an update report in relation to progress on developing the Glasgow low-emission zone, with a further update expected to be published in June.

Annie Wells: A report last year by the World Health Organization found that Glasgow is one of the most polluted areas in the United Kingdom, with poorer air quality than London. I am pleased to hear that the low-emission zone will be implemented by the end of the year, particularly now that the situation has been described as a health emergency.

Can the minister give assurances that the Scottish Government will work with Glasgow City Council to ensure that businesses in the city are not adversely affected, and that we will finally see pollution levels drop?

Humza Yousaf: I can absolutely give that assurance. I have had good and positive discussions with the Federation of Small Businesses and, separately, with the Scottish Chambers of Commerce. It is worth putting on the record the fact that neither of those organisations saw a conflict between business growth, economic growth and the environment and their duties towards it, which I found positive.

The report on the establishment of the low-emission zone in Glasgow is going through its various stages in committees, as people attempt to ensure that it is as ambitious as it should be and, equally, that no damage is done as a result of unintended consequences. I know that all the parties that are represented in Glasgow City Council, including the Conservatives, have supported the principle of low-emission zones, and I hope that that cross-party consensus continues.

James Kelly (Glasgow) (Lab): One of the requirements around the low-emission zone involves ensuring that all buses are retrofitted in such a way that they are low-emission compliant. More than 3,000 buses need to meet that requirement. Can the minister detail the timescales and associated costs of that work, and is he confident that that target can be met by the end of 2018?

Humza Yousaf: I suggest that James Kelly looks at the report on Glasgow's plans in order to get a better idea of them. The plans do not suggest that 100 per cent of buses will be compliant with the Euro 6 standard by the end of 2018. As is the case with all low-emission zones, there will be a lead-in time that includes some phasing. If my memory serves me correctly, I think that around 20 per cent of buses will meet that standard by the end of 2018, with around 40 per cent of buses meeting the standard by the end of 2019 and so on. Organisations such as Friends of the Earth have requested that Glasgow City

Council should be more ambitious in that regard, and it is of course worth listening to that call to be as ambitious as possible.

We will provide support and funding—a significant proportion of the £10.8 million that we are investing will be for bus retrofitting and abatement. We will do what we can, from a Government perspective. It is right that local authorities give details with regard to what is practically possible while also being as ambitious as possible. As I said, I refer James Kelly to Glasgow City Council's report, and also suggest that he speaks directly to the council.

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): Given that the poor, the sick, our children and the elderly are most at risk from the health consequences of air pollution in Glasgow and our other post-industrial built-up areas, such as those in my constituency of Hamilton, Larkhall and Stonehouse and other areas across Lanarkshire, does the minister agree with the British Heart Foundation when it says that now is the time for everyone to come together to implement workable and effective solutions to this problem?

Humza Yousaf: I whole-heartedly agree with the British Heart Foundation that now is the time for everyone to come together to implement workable and effective solutions to the problem. As the member will be aware, the British Heart Foundation joined the clean air for Scotland group, bringing valuable research and campaigning experience to it, and we have committed to introducing low-emission zones to our four largest cities. Of course, we have also established routes by which further air quality management areas can be rolled out in the time after that.

The time to prepare for low-emission zones is now, and I am delighted that the British Heart Foundation is bringing its valuable experience to the table.

Wetlands (Protection of Wildlife)

6. Claudia Beamish (South Scotland) (Lab): To ask the Scottish Government what its position is on whether its interpretation of the Ramsar convention gives wildlife at wetland sites less protection than that provided by the United Kingdom Government. (S5O-01982)

The Cabinet Secretary for Environment, Climate Change and Land Reform (Roseanna Cunningham): Ramsar sites in Scotland are given legal protection through co-designation as special areas of conservation, special protection areas or sites of special scientific interest. That is the legal position, which I set out in my answer of 21 February. Further to that answer, I can clarify and confirm that it continues to be Scottish

Government policy to apply the same level of protection to Ramsar sites as that which is afforded to designated Natura sites. That provides Ramsar sites in Scotland with the same level of protection as Ramsar sites throughout the rest of the UK.

Claudia Beamish: Given that the Scottish Government has committed to applying that welcome level of protection, how does the cabinet secretary expect that that will affect planning authorities' consideration of planning proposals that affect Ramsar sites, and Scottish Natural Heritage's advice to planning authorities regarding them?

Roseanna Cunningham: I need to be careful not to stray too much into the planning side. There has been no divergence in policy. The policy was expressed in the Scottish planning policy in 2010, which reflects the legal position. We are not aware of non-governmental organisations having raised any issues when the SPP was published.

Nothing has changed since then. It remains our policy to treat Ramsar sites as though they were Natura 2000 sites. I confirm that SNH is aware of the long-standing Scottish Government policy, as well as the legal position in relation to Ramsar sites in Scotland.

Government policy has not changed since it was stated in the answer that was given to a parliamentary question in 2004 by the then responsible minister, Lewis Macdonald.

Marine Environment

7. Ivan McKee (Glasgow Provan) (SNP): To ask the Scottish Government what action it is taking to ensure the long-term protection of the marine environment, in light of reports that humpback whales are returning to Scottish waters. (S5O-01983)

The Cabinet Secretary for Environment, Climate Change and Land Reform (Roseanna Cunningham): The position shows that our robust approach to environmental management, which is delivered through marine planning, licensing and direct conservation action, is working. Current conservation actions include progressing towards a well-managed network of marine protected areas, which already cover 20 per cent of our seas; improving the protection that is given to vulnerable marine ecosystems; and evaluating options for creating a deep-sea marine reserve.

Ivan McKee: Dolphins and porpoises are also regularly seen in our coastal waters. Will the cabinet secretary provide an update on the Scottish Government's work to conserve those charismatic species?

Roseanna Cunningham: A dolphin and porpoise conservation strategy is currently being developed to ensure that threats to and pressures on those species are being addressed in United Kingdom waters. As it happens, a two-day stakeholder workshop will be held in Edinburgh tomorrow and the day after to inform the strategy's development. It is intended that a public consultation on the strategy will begin before the end of the year, with implementation of the strategy expected to begin during 2019.

The strategy is part of our long-term commitment to meet national and international conservation standards for not just marine mammals but the wider marine environment. Regardless of our future relationship with the European Union, the Scottish Government is committed to maintaining protection of the environment to robust international standards where we have devolved responsibility, and we hope and expect that the UK Government intends to do the same.

Finlay Carson (Galloway and West Dumfries) (Con): Given the cabinet secretary's responsibility for our marine environment, will she outline any discussions that she has had with Marine Scotland with regard to the data that has been recorded on the environmental impact of electrofishing trials that are being carried out in Scotland, and how that data has been collected?

Roseanna Cunningham: The electrofishing trials that Finlay Carson referred to are a particular policy of the rural economy portfolio. I will ask Fergus Ewing to respond to the member in more detail, but I can say that both Fergus Ewing and I have constant conversations in respect of issues such as data management, and those conversations will continue to ensure that we have the best possible knowledge base to direct future policy in that area.

Neil Findlay (Lothian) (Lab): What plans does the Scottish Government have for managing activities such as the more unregulated type of boat tourism that are most likely to impact on whale and marine mammal recovery?

Roseanna Cunningham: Neil Findlay will need to give me specific information if there are particular issues in relation to marine tourism, which is a very important part of the rural tourism offer in Scotland. I have not been made aware at any point of there being difficulties, although I understand that there is an emerging concern about potential disturbance. If the member is happy, I will ensure that he gets a more detailed update on the specific issue of that potential disturbance, although no specific concerns have been raised with me directly.

The Deputy Presiding Officer: Question 8 was not lodged and question 9 was withdrawn. If we are quick about it, we can fit in question 10.

Animal Welfare (Pets of Rough Sleepers)

10. **Johann Lamont (Glasgow) (Lab):** I will be as speedy as I can be, Presiding Officer.

To ask the Scottish Government what animal welfare policies it has regarding pets of rough sleepers. (S5O-01986)

The Cabinet Secretary for Environment, Climate Change and Land Reform (Roseanna Cunningham): Of course, we take the welfare of all animals seriously and we are committed to policies that improve the health and welfare of animals in Scotland. There are, however, no specific animal welfare policies regarding the pets of rough sleepers. Under the Animal Health and Welfare (Scotland) Act 2006, all owners of animals are responsible for the welfare of those animals in their control.

We do not for one minute suggest that rough sleepers do not provide their pets with the best care that they are able to provide—indeed, there is no information that that is an issue. We are, however, aware that there is good work being done, including the provision of veterinary assistance, by organisations such as the Dogs Trust, PDSA, Street Vet and All4Paws.

Johann Lamont: Indeed, there is clear evidence that rough sleepers are often particularly kind to their pets.

Only three hostels in Scotland accept pets, and they are all in Edinburgh. Many homeless people may give up the chance of shelter for the night if it means leaving their pets alone. Does the minister acknowledge the importance of the issue to a particularly vulnerable group of people, and will she confirm whether she will consider how access to accommodation for homeless people who own pets could be expanded?

Roseanna Cunningham: As the member will know, that is probably more a question for the housing minister. However, I would have to have not been reading anything in the press not to be aware of the wider concerns. Indeed, when I have visited animal homes and sanctuaries, I have seen pets, including dogs and cats, that are there because people have changed tenure or moved from one landlord to another and have been unable to take animals with them. That is a particular concern in respect of people who are homeless.

We have a code of guidance on homelessness that recommends that, as a matter of good practice, a local authority should consider providing assistance with the kennelling of any

pets if an applicant is not able to keep them in their temporary accommodation. There is also the Pet Fostering Service Scotland—for those who are not aware of it, there is a website where they can get information about that service.

The member may at least be satisfied to hear that I raised the issue directly with Kevin Stewart when I saw the member's question. I also raised Claudia Beamish's "paws clause" campaign with the housing minister.

The Deputy Presiding Officer: That concludes questions on the environment, climate change and land reform.

Rural Economy and Connectivity

Edinburgh South Suburban Railway Line (Passenger Services)

1. **Daniel Johnson (Edinburgh Southern) (Lab):** To ask the Scottish Government what progress has been made on reinstating passenger services on the Edinburgh south suburban railway line. (S5O-01987)

The Minister for Transport and the Islands (Humza Yousaf): There are currently no plans to reintroduce passenger services on the Edinburgh south suburban line.

The Scottish Government will, however, support development work that is to be carried out by Network Rail on the electrification of the Edinburgh suburban line, which will provide a route for freight services. That will enable them to be removed from Waverley station and will provide a diversionary route for cross-border and local passenger services should issues arise at the station.

Daniel Johnson: The matter was last looked at formally such a long time ago that Tavish Scott was the minister who was responsible. Given that we now have trams in Edinburgh, given the concerns about increased traffic and given that the line is going to be electrified, is it not now time to carry out a proper feasibility study into the scheme?

Will the minister agree to convene a meeting with key stakeholders such as Network Rail, ScotRail, City of Edinburgh Council and Transport Scotland to look at how such a feasibility study could be carried out, following on from Tavish Scott's excellent previous work?

Tavish Scott (Shetland Islands) (LD): Hear, hear.

Humza Yousaf: I am sure that, like any former transport minister, having seen the beast from the east, Tavish Scott is probably happy that he is no longer the transport minister—but that is enough

of the utopian days when Tavish Scott was the transport minister.

The member is right—2008 was the last time that the scheme was in the strategic transport projects review. It was not taken further because the business case was deemed to be poor. At the time, the city council and SEStran—the south east of Scotland transport partnership—were happy with that recommendation.

For the development and enhancement of new rail lines and the additional rolling stock that would be needed, a business case must be put together. We have, of course, agreed to a recent budget that put forward a £2 million rail development fund. Daniel Johnson may wish to look at those details, as it would be for him and the interested parties to put together that business case for the next control period, which will be from 2019 to 2024. We are not closed minded about projects. If there is new information, he and the other partners and stakeholders should put that together. There are appropriate funds to help with its feasibility.

The Deputy Presiding Officer: Will the minister speed the answer train up a wee bit, so we can get through all the questions? I will take a supplementary question from Jamie Greene.

Jamie Greene (West Scotland) (Con): Daniel Johnson makes a valid point. There is the potential for tram-trains to run on that line, helping to ease congestion on the roads as well as providing opportunities for freight. The previous ScotRail chief, Phil Verster, supported the idea of tram-trains running on that line. Does the minister know ScotRail's current position on the matter? I reiterate Daniel Johnson's question: will the minister or his department agree to meet relevant stakeholders to progress the proposal?

Humza Yousaf: I should have said that there is no problem with Transport Scotland meeting, and maybe guiding, the people who promote particular rail lines or, indeed, stations. We will continue to be happy to do that.

I do not know the current position of the managing director of ScotRail. I would not like to put words in his mouth, but I suspect that it will be not be too different from my position, which is that, if there is a business case, it must go through the appropriate process and we must be sure that the i's are dotted and the t's are crossed. As I have said, a fund is available for feasibility development.

John Finnie (Highlands and Islands) (Green): The minister always encourages groups to come to him with proposals about rail although I never hear that encouragement from him in relation to roads. Why will the Scottish Government not take the lead on rail, as it does on road?

Humza Yousaf: The Government does take the lead; the Borders railway is a great example of our doing that in working with local partners. However, there is a process to go through. We are willing to do a lot more on rail, and control period 6—2019 to 2024—provides opportunities not just for local authorities and regional transport partnerships but for the Government to think of enhancements. If Daniel Johnson has suggestions, I will be more than happy to meet him to explore them in more detail.

Food and Drink Sector

3. James Dornan (Glasgow Cathcart) (SNP): To ask the Scottish Government how it is supporting the food and drink sector in developing and growing markets. (S5O-01989)

The Minister for Transport and the Islands (Humza Yousaf): Developing and growing markets at home and abroad is a key part of ambition 2030, the national food and drink strategy. We are providing £4 million of funding to target new export markets through the Scotland food and drink export plan and are also developing a new United Kingdom market strategy with Scotland Food & Drink to target more opportunities in Scotland and across the UK.

The Cabinet Secretary for the Rural Economy and Connectivity recently announced funding of £250,000 to establish a new regional food fund, which will provide small grants to enable local producers to grow sales and markets by promoting their food and drink products from throughout Scotland. The fund will be open to applications in May.

James Dornan: Is the minister aware that a recent agreement between the UK and Hong Kong Governments on areas of priority for future trade collaboration made no mention of food and drink? Does he share my concern that one of Scotland's key sectors might be affected by future trade deals after Brexit? If so, how can that concern be addressed?

Humza Yousaf: I am astounded but not altogether surprised by the agreement. Scottish food and drink makes up more than a quarter—27 per cent—of total food and drink exports from the UK, so it is hugely important. The fact that a trade deal with Hong Kong has been discussed and is at a detailed stage, according to the UK Government, without a mention of food and drink should worry every single one of us. I am used to the UK Government treating Scotland as an afterthought, but, in this case, it seems that we are not even that.

Colin Smyth (South Scotland) (Lab): Does the minister agree that, at a time when the food and drink sector is growing, it remains a scandal that

many children in Scotland still go to bed hungry at night and that one of the fastest-growing sectors is food banks, which are desperately trying to keep up with increasing demand? Does the minister agree that the forthcoming good food nation bill should be used to enshrine in law the right to food and should pave the way for action to end the national shame of food poverty in Scotland?

Humza Yousaf: We undoubtedly have absolute agreement on the shame of food banks. Most members across the chamber will have visited their local food bank, and all of us will have said the same thing: that they provide a great service but that we wish that they did not exist. There is no doubt that anybody whom we speak to at food banks will say that austerity is one of the driving causes behind people having to visit them.

I will pass the detail of Mr Smyth's suggestion to the appropriate minister and will ensure that the member receives written details of our plans.

Rural Bus Services

4. **Neil Findlay (Lothian) (Lab):** To ask the Scottish Government what action it is taking to improve rural bus services. (S5O-01990)

The Minister for Transport and the Islands (Humza Yousaf): The Scottish Government is committed to improving rural bus services. The Government is providing to the bus industry funding of over £250 million in the current financial year to support the overall bus network, to maintain routes that would otherwise not be viable, to help passengers with the cost of fares, including concessionary fares, and to support local authorities to run services that they deem to be socially necessary but that are, perhaps, not commercially viable. The forthcoming transport bill will give local authorities the flexibility to pursue partnership working or local franchising, or to run their own bus services, which will allow them to respond better to local needs.

Neil Findlay: I thank the minister for that answer, drafted by a civil servant.

Across the country, we see rising fares, routes being cut and communities being left isolated and frustrated. Are services improving or are they getting worse?

Humza Yousaf: There is, of course, a mixed picture. For example, patronage has increased on Lothian Buses but has declined in other areas. That is why I will introduce a transport bill.

I remind Neil Findlay that Labour may well talk the talk, but it is the Scottish National Party Government that walks the walk. In 13 years in power at Westminster and eight years in power at Holyrood, Labour never regulated the buses, and Labour never brought in franchising, but the SNP

will. Labour never allowed for municipally owned bus companies, but the SNP will.

Neil Findlay should stick to what he does best, which is bluff, bluster and make jokes that only he laughs at. I will stick to my day job, and I am sure that everybody will be happier for it.

Tom Arthur (Renfrewshire South) (SNP): In my constituency of Renfrewshire South, communities including Lochwinnoch have experienced a decline in bus services over the past decade. There is a tension between limited demand and the commercial imperatives of operators. Will the minister outline how the upcoming transport bill can provide an important opportunity for the whole sector to improve bus services and to tackle declining patronage?

Humza Yousaf: The transport bill will contain a range of measures, some of which I outlined in my previous answer. There will be measures on partnership, local franchising, the potential for municipally owned bus companies, more open data and smart ticketing. All those will undoubtedly help, but none of them is a magic bullet. I should say that local action will also be needed. Glasgow has a connectivity commission headed by David Begg that is looking at issues including on-street car parking and bus priority lanes. A mixture of national and local action is needed.

Peter Chapman (North East Scotland) (Con): Aberdeenshire Council, which is in my region, has to subsidise 64 out of 123 routes, many of which are in rural areas. Last month, the council announced proposals to remove eight of those routes and to reduce the service on two of them. It had no other option, given that its budget for this year is decreasing by 4.36 per cent in real terms. How can the cabinet secretary continue to say that the Government is improving rural bus services?

Humza Yousaf: I am not convinced that that is what I said. In my answer to Neil Findlay, I said that there is a mixed picture across the country. In some areas patronage is declining, and in other areas there is an increase. The Borders, where Borders Buses has recently been created, is an example of a rural area where the bus market is doing better than it was previously. There is a mixed bag.

The measures that we bring forward in the transport bill will give local authorities more powers to improve bus services, both rural and urban. I look forward to the Conservatives supporting that bill, as I hope will be the case, given what Peter Chapman said.

Extreme Weather (Support for Farmers and Crofters)

5. **Bill Kidd (Glasgow Anniesland) (SNP):** As a member for a constituency where there are a

large number of people whose families still live as farmers and crofters—

The Deputy Presiding Officer: Excuse me, Mr Kidd, but could you ask the question that you lodged?

Bill Kidd: No problem. I just said that in case my question sounded weird.

To ask the Scottish Government what support it is providing to farmers and crofters who face adverse financial circumstances following the recent extreme weather. (S5O-01991)

The Minister for Transport and the Islands (Humza Yousaf): There is no doubt that the prolonged adverse weather that has been experienced since last summer has had significant impacts on farmers and crofters in different parts of the country. Acknowledging that, we set up the weather panel last autumn as an effective platform for rapidly sharing information, promoting best practice and encouraging co-operation across the farming and crofting sectors to address both short-term and long-term issues.

I am delighted that we have announced today a package of measures to support farmers, including £250,000 for fallen stock. We are taking steps to open discussions with the industry to explore how we can address shortages of feed and fodder.

We are also conscious that we need to build greater resilience and collaborative solutions across the sector that enable farmers and crofters to work together to get through short-term situations. That will be a key focus for the weather panel in the next few months.

Bill Kidd: In addition to what that interesting reply contained, with regard to the personal situations of farmers and crofters, what progress has been made to deliver the less favoured area support scheme loans to hill and upland farmers and crofters, who are likely to be feeling the financial impacts of recent weather the most? Those financial impacts are fairly obvious, but less visible is the toll that the weather and its pressures are having on farmers' and crofters' wellbeing, and especially their mental health.

Humza Yousaf: That is a good point.

With regard to the LFASS loans, the 2017 loan offers, which are worth £57.4 million, have gone out to 10,828 farmers and crofters, which is 97 per cent of those whom we expect to be eligible for LFASS payments. We are offering 90 per cent of their estimated final payment as a loan, and so far we have processed £44.8 million in loan payments to 7,298 farmers and crofters.

Bill Kidd's second point is a very good one. I heard Fergus Ewing speaking well on that topic on the radio. It was welcomed by NFU Scotland,

which has made a financial donation to the Royal Scottish Agricultural Benevolent Society to help that organisation to provide vital practical and emotional support for people who work in the agriculture sector.

For anyone who might not be aware of it, I say that farming can be a very lonely livelihood, and the long winter could have exacerbated unfortunate mental health issues. Therefore the additional support and financial assistance to the RSABI has been welcomed.

Department for Environment, Food and Rural Affairs (Meetings)

6. **Emma Harper (South Scotland) (SNP):** I remind Parliament that I am the parliamentary liaison officer to the cabinet secretary for the rural economy.

To ask the Scottish Government when it last met the Department for Environment, Food and Rural Affairs and what was discussed. (S5O-01992)

The Minister for Transport and the Islands (Humza Yousaf): On 26 March, the Cabinet Secretary for the Rural Economy and Connectivity met George Eustice, the Minister of State for Agriculture, Fisheries and Food, as part of a series of regular ministerial meetings between the United Kingdom Government and the devolved Administrations. Lesley Griffiths, the Welsh Government Cabinet Secretary for Energy, Planning and Rural Affairs, and officials from the Northern Ireland Executive were also in attendance. The main items that were discussed were the European Council meeting on 22 and 23 March, the UK Government's proposed fisheries bill and environmental ambitions, frameworks and funding.

Emma Harper: I am interested to hear about any welfare issues that might have been discussed. The minister might be aware of various "Take the lead" campaigns, including those that are sponsored by Scottish Natural Heritage and *The Scottish Farmer*. Those campaigns aim to promote responsible dog ownership—in order to protect the welfare of animals, including sheep—among people who access the countryside with dogs through their preventing their dogs from worrying livestock, wildlife and sheep.

Can the minister outline what actions the Scottish Government is taking to tackle the sheep worrying, mutilation and death that are caused by uncontrolled dogs in South Scotland, as well as in other farming areas?

Humza Yousaf: The Scottish Government takes that important welfare issue seriously. I know that it is an issue that Emma Harper has been campaigning on and championing for a

while. The Scottish Government fully supports all steps that are taken to protect sheep from out-of-control dogs. The consequences of sheep worrying can be devastating all year round, and especially during the lambing season.

The Scottish Natural Heritage campaign has our whole-hearted support. It emphasises why dog owners have to act responsibly by ensuring that their dogs are kept under effective control in the countryside, including when they are around livestock.

It might be helpful to confirm that the Dogs (Protection of Livestock) Act 1953 criminalises any dog owner who allows their dog to worry sheep. In addition, local authorities could consider creating byelaw controls for dogs that are an issue. Local authorities can also issue dog control notices, including when an out-of-control dog is close to livestock, under the Control of Dogs (Scotland) Act 2010.

The Scottish Government always keeps laws under review and fully supports effective enforcement of the law in the matter by justice agencies and local authorities.

Tavish Scott (Shetland Islands) (LD): I am sure that the minister is aware that the NFU Scotland and Serco NorthLink have today asked the Secretary of State for Environment, Food and Rural Affairs, Michael Gove, to come to Aberdeen and see the transport system that ensures that livestock are moved between the northern isles and the Scottish mainland in a way that is entirely consistent with international regulations. Will the Scottish Government ensure that the UK Government does not do anything that stops that? The minister might also want to reflect on the fact that the system was introduced and paid for under a previous “utopian” regime.

Humza Yousaf: I knew that I should not have set that one up for Tavish Scott to volley back.

I will do that and take the issue offline with Tavish Scott. I am due to visit Shetland and Orkney later this month. Perhaps I can engage on that issue when I am up there. I will, of course, mention it to the Cabinet Secretary for the Rural Economy and Connectivity.

Post-Brexit Agricultural Support

7. Liam Kerr (North East Scotland) (Con): To ask the Scottish Government when it plans to publish its proposals for agricultural support after the United Kingdom leaves the European Union. (S5O-01993)

The Minister for Transport and the Islands (Humza Yousaf): The Cabinet Secretary for Rural Economy and Connectivity set out key principles for the Government’s vision for the future of

farming and food production in a keynote speech at the NFU Scotland annual general meeting in February, in which the twin roles of farmers as food producers and custodians of the countryside were highlighted. I hope that the Scottish Tories will fully support those principles and that approach and that they will support the Government’s and the Parliament’s efforts to have all the powers over agricultural policy and funding that we need in order to realise a productive and sustainable future for Scottish farming and crofting transferred from Brussels to Scotland should we leave the EU.

Liam Kerr: Given that it is outlined in the Department for Environment, Food and Rural Affairs document “Health and Harmony: the future for food, farming and the environment in a Green Brexit” that the UK Government is to maintain the same cash total funding for the sector until 2022—Michael Gove has reiterated that commitment—it seems that the Scottish Government’s official line that

“There is a lack of clarity from the UK Government regarding the guarantee of funding”

is redundant. Given that NFU Scotland, Scottish Land & Estates and many others have put their plans on the table in light of those assurances, why has the Scottish Government failed to act?

Humza Yousaf: There is sometimes a lack of self-awareness from the Conservatives that I find remarkable. They are a little bit like the arsonist who asks about health and safety after he has burned down the entire village.

Although the UK Government has put forward what it claims to be a policy, there is, of course, no detail at all on that. To nick a Churchillian phrase, it is

“a riddle, wrapped in a mystery, inside an enigma”.

We have a twin-pronged approach. We have our Government champions, of course, and the National Council of Rural Advisers is doing a heck of lot of work on the agenda. We are waiting for its report, which will come soon; we will then update Parliament.

To end on a positive note, I welcome Liam Kerr’s Damascene conversion. While his Tory colleagues are trying to use the courts to enforce their power grab from the Scottish Parliament, at least Liam Kerr believes that those powers should remain in Scotland. He will get full support on that from the Scottish Government.

Gillian Martin (Aberdeenshire East) (SNP): Given that the majority of UK-bound less favoured area support scheme payments from the European Union go to Scottish farmers, is the minister aware of any UK Government plans to put in place a similar scheme post-Brexit? Has an

impact assessment on LFASS withdrawal from the Scottish agricultural sector been done?

Humza Yousaf: No. The cabinet secretary has, of course, asked time and again for more detail from the UK Government. [*Interruption.*] I can hear the Conservatives chuntering from the sidelines. Instead of doing that, it would be great if they joined the Scottish Government in putting pressure on the UK Government to give reassurance to our farmers, who are such a vital sector for Scotland. Everybody around the chamber would, of course, be happy to give the Conservatives support in cajoling the UK Government to give that reassurance to farmers, who desperately need it.

The Deputy Presiding Officer: That concludes portfolio questions.

Points of Order

14:44

Mike Rumbles (North East Scotland) (LD): On a point of order, Presiding Officer. I apologise for not giving advance notice of this point of order, but the Attorney General has just said in the House of Commons that, since the Scottish Parliament was established in 1999, it has been the practice that every bill that has been produced by the Scottish Executive and the Scottish Government has been shared with the United Kingdom Government prior to publication. The Attorney General said that the purpose of that practice is to iron out any doubts that may exist about the competence of any bill. He then said that the Scottish Government's UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill, which is before the Supreme Court because of a dispute about competence, is the only bill that has not been shared in advance with the UK Government.

Presiding Officer, do you agree with me that the Scottish Government should have made that information available to this Parliament and that we should not have heard about the matter by watching a question-and-answer session with the Attorney General in the House of Commons on television this afternoon?

The Deputy Presiding Officer (Linda Fabiani): Mr Rumbles will understand that this is the first that I—or anyone else in this chamber, presumably—have heard of this matter. I am not responsible for relationships between Governments. That is a matter for the Scottish and the UK Governments. What you have said has been recorded, and I am sure that all the parties involved will look at that with interest.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): On a point of order, Presiding Officer. In considering the previous point of order, will you also give thought to the fact that members' bills, committee bills and private bills, which are essential parts of this Parliament's proceedings, are not routinely shared with the UK Government in advance of their publication? It may well be that, in his statement to the Westminster Parliament, the Attorney General provided incomplete information.

The Deputy Presiding Officer: I sense an interesting debate coming. Again, I am sure that everyone has listened to what Mr Stevenson had to say—I certainly have. I am also sure that a lot of people will be doing a lot of reading later on this afternoon.

Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Linda Fabiani): The next item of business is a stage 1 debate on motion S5M-11659, in the name of Michael Matheson, on the Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill.

14:47

The Cabinet Secretary for Justice (Michael Matheson): I am struck by the progress that we have made as a society in advancing the rights of lesbian, gay, bisexual, transgender and intersex people in Scotland over a very short period. There is no doubt that such progress needed to be made, and I am pleased that the Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill is a further sign of progress being made.

It might seem astounding to younger people today that it was in 2001, within this Parliament's lifetime, when consent for same-sex sexual activity between men was equalised with that for different-sex partners at the age of 16, or that it was only in 1980, which is well within the memory of many of us in the chamber, that same-sex sexual activity was decriminalised, but even then only where both parties were aged over 21.

Those legal changes have been accompanied by considerable shifts in social attitudes over the same period. In 2000, nearly half—48 per cent—of respondents to the Scottish social attitudes survey said that same-sex relationships were always or mostly wrong. When the same question was asked in 2015, the percentage of those who responded in that way fell to 18 per cent. That is a reminder of how far we have come—and that there is still a way to go.

Until we live in a country where no one suffers discrimination, prejudice or fear because of their sexual orientation or gender identity, we have work to do. However, we should not overlook the fact that there are people who continue to suffer as a result of the discriminatory laws that, sadly, parliamentarians in Scotland over many decades supported, or at least accepted without taking steps to get rid of them.

Although there is nothing that the Parliament can do to reverse the injustices that were experienced by those who, for years, lived with the fear of criminal prosecution simply for showing love and affection to their partner, the Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill is intended to deal with the real-life impact on people's lives that those discriminatory laws can continue to have.

The bill is concerned with historical sexual offences that criminalised same-sex sexual activity between men. It covers two distinct kinds of offences: those that were in and of themselves discriminatory, such as the offence in section 7 of the Sexual Offences (Scotland) Act 1976 that specifically criminalised sexual activity between men; and those that were more general in nature, but which were capable of being used in a manner that discriminated against men who engaged in same-sex sexual activity, such as the common-law offences of shameless indecency and breach of the peace.

The bill makes provision in two separate but connected areas. It provides a pardon to people who were convicted of historical sexual offences that criminalised sexual activity between men for activity that is now legal, and it puts in place a scheme to enable a person who has been convicted of a historical sexual offence to apply to have that conviction disregarded so that it will never be disclosed, for example as part of an enhanced disclosure check.

The bill provides that a person who has been convicted of a historical sexual offence is pardoned for that offence if the conduct for which they were convicted would not be an offence if it occurred in the same circumstances on the day on which the bill comes into force. For example, if a person was convicted of an offence under the Criminal Justice (Scotland) Act 1980 for engaging in consensual same-sex sexual activity with an 18-year-old man at a time before the age of consent was reduced from 21 to 18, which happened in 1995, or before it was equalised at 16, which happened in 2001, he would be pardoned. If, on the other hand, a person were convicted of the same offence for engaging in sexual activity with a 14-year-old child, he would not be pardoned, because such conduct remains criminal.

The pardon is automatic. It is also symbolic. It does not reverse the conviction, but it lifts the burden that is associated with the conviction and it represents formal recognition that the person should never have been punished.

I want to say a little about why, although the pardon is important, it does not tell the whole story. When the First Minister made her statement to Parliament on 7 November last year when the bill was introduced, in apologising to those whose lives were affected by the unjust and discriminatory laws that I have mentioned, she said that although a pardon was the correct legal response to apply to such convictions, the term "pardon" could be interpreted in such a way as to imply that Parliament saw the men affected as being pardoned for something that they had done wrong. We should make it absolutely clear that that is not the case here.

For people who were convicted of offences for engaging in same-sex sexual activity that is now legal, the wrong has been committed by the state, not by those individuals. That is why the Government and Parliament made a statement of unqualified apology. That apology is an essential part of the overall scheme to acknowledge the wrongfulness of those convictions, which includes an apology, a pardon and, of course, a disregard.

It is important that we recognise that those who were convicted for engaging in same-sex sexual activity can continue to suffer discrimination as a result of those convictions. It is highly likely that any such conviction would be spent under the terms of the Rehabilitation of Offenders Act 1974 and would not normally require to be disclosed when a person is applying for a job or a voluntary role.

Kezia Dugdale (Lothian) (Lab): The cabinet secretary has often referenced the phrase “sexual activity”. Does he acknowledge that sometimes what we are talking about is men kissing in public or even the act of men just chatting each other up, which somehow has been defined over history as “sexual activity”? Does he understand how abhorrent that has been for communities in the past?

Michael Matheson: I recognise that. That is the very reason why the term “sexual activity” in the bill has been broadened out to ensure that it covers the type of activity for which people were criminalised, which is distinct from the approach that has been taken in the legislation in England and Wales.

There is a risk that although such convictions will now be many years old, they could continue to be disclosed when a person is applying for a role working with children or vulnerable adults, for example, for which an enhanced disclosure check is required, as such a check includes information about any spent convictions.

The disregard scheme will enable a person with a conviction for a historical sexual offence that criminalised same-sex sexual activity between men that is now legal to apply to have the conviction disregarded, so that that information about that conviction would not show up in any disclosure check.

Although the pardon is symbolic in manner, the disregard scheme has a real and beneficial effect. It might be helpful if I set out in general terms how the scheme will operate. The bill sets out the information that a person applying to have a conviction disregarded should provide in their application. If the bill is passed, when the scheme comes into operation we will have a standard application form and associated guidance to assist people to make an application, which we will

develop in conjunction with key stakeholders such as the Equality Network to make the process as straightforward as possible.

Ministers are required to take reasonable steps to obtain and consider any record of the investigation of the conduct that led to the conviction and any subsequent proceedings relating to that conduct. We anticipate that when the Scottish Government receives an application, in the first instance we would make a request to Police Scotland for information that it holds about a person’s convictions. In some cases, the information that Police Scotland provides might be sufficient in itself to determine the application. In other cases, it might be necessary to seek any information that other bodies such as the Crown Office and Procurator Fiscal Service and the Scottish Courts and Tribunals Service might hold about the particular case.

Jamie Greene (West Scotland) (Con): Will the cabinet secretary ensure that all attention is given to ensuring that the process is as simple, easy and straightforward as possible? Much of the evidence that we heard was that we can learn from other systems in the United Kingdom so that our process really gets it right for people.

Michael Matheson: As I have said, I am very keen to make sure that we simplify the process as best we can, while at the same time ensuring that we capture the necessary information in order to give due consideration to any application for a disregard.

The engagement that we will have with a number of stakeholders around the development of the application form will assist us in making sure that we try to get that balance right. We want to try to prevent bureaucracy from getting in the way of someone considering making an application. That relates not only to the application form that they have to complete but to the guidance that goes alongside it, which should be as straightforward as possible to allow people who are considering making an application to complete the process.

The bill provides for a presumption in favour of granting a disregard when one is being considered. Ministers will have a duty to grant the disregard, which will be displaced only if it appears to them either that the conviction is not actually for a historical sexual offence at all, but is instead actually a conviction for shoplifting or assault, for example, or that it is for an act that remains illegal today, because it involved sexual activity with a child under the age of 16 or non-consensual sexual activity, for example.

The bill provides that, where a disregard is granted, any “relevant record keeper”—that is, any organisation holding information about a conviction that could be used in any kind of

disclosure check—must remove reference to the disregarded conviction and

“give notice of the removal to the person who has the disregarded conviction”.

It also provides that, where a disregard is granted, the person

“is to be treated for all purposes as not having ... committed the offence”

and not having been charged with, prosecuted for, convicted of or sentenced for it. That means that, if asked about it, the person would be under no legal obligation to disclose such a conviction. If, for example, a potential employer were to find out by word of mouth that an applicant had such a conviction, it would not be lawful for them to discriminate against the applicant because they had that conviction.

I am under no illusion that the bill—or any legislation—can, in itself, right the massive injustice that has been caused by discriminatory laws that criminalised the act of loving another adult, that deterred people from being open about who they were to family, friends, neighbours and work colleagues, that sent a message that Parliament considered that homosexuality was wrong and that encouraged homophobia and hatred. However, through the pardon, the bill sends a clear message to those who were affected by those laws that they were unjust. Through the establishment of a disregard scheme, we can ensure that people do not continue to suffer discrimination as a result of such convictions being disclosed to potential employers or to organisations for which they wish to undertake voluntary work.

I move,

That the Parliament agrees to the general principles of the Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill.

The Deputy Presiding Officer: I call Christina McKelvie to speak on behalf of the Equalities and Human Rights Committee.

15:02

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): It is indeed a privilege to speak in today’s debate as the convener of the Equalities and Human Rights Committee. I thank all the witnesses who provided written and oral evidence to the committee to allow us to undertake our stage 1 scrutiny of the bill. Our thanks also go to the clerks who, as ever, supported us in our work to the highest of standards, for which we are very grateful. I especially want to thank those individuals who provided evidence about their personal experiences. Above all, I wish to express the

committee’s gratitude to two witnesses who met us privately and spoke movingly about the impact of historical convictions on their lives. We were privileged that they saw fit to share their stories with us, and it was those stories that helped us to come to the recommendations that we made. I also offer my thanks to the LGBTI organisations that, over a long time, have laid the groundwork that has enabled us to debate this legislation today.

The Scottish Parliament has a proud reputation of working to create a more just, equal and fair society for all the people of Scotland. That includes addressing the mistakes of the past and lifting the burden of discrimination from those who have experienced it. Today, we take another step along the journey towards building a truly equal Scotland for all. Alongside the apology that was made by the First Minister in November 2017, the bill recognises that gay and bisexual men in Scotland were unfairly criminalised by our laws and that the shadow of discrimination cast by those laws still falls across their lives today. However, the pardon granted by the bill not only seeks to put right that wrong; it confirms that those men—whether they are still living or now deceased—did nothing wrong. They were the victims and not the perpetrators; the crime was society’s and not theirs.

The committee began taking oral evidence on the bill on 1 February, which, appropriately, coincided with the start of LGBT history month. It was a good start for us as well. Today, it might seem that the laws that discriminated against LGBTI Scots, and especially gay men, were consigned to the history books some time ago. However, we know that that is not true. Indeed, it is worth reminding ourselves of just how recently such laws still existed. The 19th century American inventor Joseph Francis, who designed the forerunner of the modern lifeboat, once remarked:

“As long as society is anti-gay, then it will seem like being gay is anti-social.”

Such progressive views were rare in the 19th century. In Scotland, as elsewhere, there was a society in which homophobia was deeply engrained and often enshrined in our criminal laws. What marked us out in our attitude was how long consenting same-sex relations between men remained a punishable criminal offence under Scots law. Many of our European neighbours abolished their main criminal statutes on male same-sex relations long before us. For example, France reformed its law in that area in 1791 and Belgium followed suit in 1795; the Netherlands did so in 1811 and Italy in 1890. Most of our Scandinavian neighbours changed their laws on male same-sex relations after world war two. Of course, that does not mean that homophobia was

not widespread in those countries, but consenting same-sex relations between men were not seen as a criminal act in the eyes of their law.

To say that Scots and English law lagged behind that of our European neighbours in that regard would be an understatement. In 1889, Scots law was the last legal jurisdiction in Europe to abolish the death penalty for the crime of sodomy, replacing it with a sentence of two years in prison with hard labour. It was only in February 1981 that the law in Scotland changed to decriminalise, partly, same-sex relations between men; the change applied only to men aged 21 and over. Although the age of consent for heterosexuals in Scotland has been 16 since 1885, it was not until 2001 that the age of consent for relations between men in Scotland was set at 16. Remarkably, it was only in December 2013 that the very last anti-gay terminology was removed from the law in Scotland—that was just under four and half years ago. Whether it was the unequal age of consent or the damage that was caused by laws such as section 28 of the Local Government Act 1988, our LGBTI fellow Scots suffered unfair treatment under our laws for far too long.

The committee made various recommendations in its stage 1 report about how the pardon and disregard scheme that is proposed under the bill could be improved on. My fellow committee members will speak to some of those recommendations during the debate from their own areas of expertise. However, in the time that I have left, I will focus on two key themes that emerged from our scrutiny. First, as a society, we must never take for granted the progress that we have made in tackling discrimination—that is why the bill matters. It matters because it will help to improve the lives of men with unfair historical convictions by allowing them to have those convictions removed from their records. The disregard process will remove the discrimination that those men face when applying for certain jobs, serving as volunteers in their local communities or, in some cases, serving in the armed forces; I hope that one of my fellow committee members will pick up on that later. However, the bill also matters because it is a statement of principle; it is a statement of the kind of society that Scotland wants to be today and seeks to be in the future. That is why the Scottish Government must work to promote understanding of the bill as widely as possible and encourage all those men with a relevant historical conviction to apply for a disregard.

We heard from witnesses that similar legislation in England and Wales has resulted in a very low number of disregard applications. That is partly because the English system is more limited in the range of offences that it covers and partly because

of confusion about the effect of a pardon and the belief that it automatically removes an offence from someone's records, which it does not—that is the role of the disregard process. However, the scheme that is being established in Scotland will cover a wider range of criminal offences under which gay men were convicted, such as loitering. Those offences are not currently included in the system in England, but I believe that England is looking at how we will roll out our system and I hope that more progress will be made on that as time goes on.

It will be vital for the success of the bill that the Scottish Government works to ensure that it is clearly understood. That is why the design and operation of the disregard application process is of central importance, and why I agree with the point that was made by my colleague Jamie Greene in his intervention on the minister on why that process has to be clear.

First impressions matter, so the first impression that an applicant has of the disregard scheme will determine how many men seek to apply in Scotland. Someone's first impression must not be that they have to fill in an off-putting application form, as is the case with the current Home Office application scheme in England; neither must their experience be one of confusion over the level of information that might need to be provided about a historical conviction.

Daniel Johnson (Edinburgh Southern) (Lab): I agree with the member's points about the importance of the simplicity of the system. However, does she agree that awareness of the system is equally important, given that people must apply to it? Does she agree that the minister should comment on that further when he sums up at the end of the debate?

Christina McKelvie: I know that other colleagues will raise that very point in the debate this afternoon, and I am about to go on to that, so Mr Johnson's intervention was well timed.

The applicant must be able to seek advice and support. It came through clearly in the evidence that we took that people want a system that is not onerous, and one that is clear. They also want a system that allows them to gather the information that is required, which should be as simple as possible. The information that is required for a disregard can be sought in due course, and the first step in the application process must be as user friendly as possible. That came through very clearly in the evidence that we took.

Bad experiences could generate bad word of mouth about the scheme, which, coupled with confusion about whether it is as limited as the English scheme, could persuade some men in Scotland that it is not worth applying for a

disregard. We do not want that to happen. To avoid that situation, the committee recommends that the design of the application process be user led, and we would like the cabinet secretary to comment on that when he sums up. Key LGBTI organisations in Scotland should play a greater role. We know that the cabinet secretary has committed to that, but we want to impress on him that they should play a leading role in the design and delivery of the application system for a disregard.

The Equalities and Human Rights Committee is proud to play a part in helping to put right this historic wrong. We are proud that we have a unanimous report to put to the Parliament today, and we are proud to back the general principles of the Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill.

15:11

Annie Wells (Glasgow) (Con): I am extremely grateful for the opportunity to mark my support for this milestone bill at stage 1, particularly as I have followed its development as a member of the Equalities and Human Rights Committee.

Following the party leaders' statements last November that offered an unequivocal apology to gay men who had been convicted of sexual offences that are no longer illegal, I think that we have all been struck by the poignancy of a bill that seeks to officially mark and right the wrongdoings of the past. The Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill is a landmark bill, and it is important that we spread the message of exactly what it is about, not only so that those who are affected can receive the justice that they deserve, but also because of the important signal that this will send out regarding Scotland being a world leader in LGBTI equality.

Importantly, the bill seeks not to erase from history the injustices that took place, but rather to give comfort to those who are affected, including in some cases their friends and family, and to provide an opportunity for them to really move on with their lives.

Alex Cole-Hamilton (Edinburgh Western) (LD): Does the member agree that it is important that we do not erase this history because to do so would be to create a revisionist history? We need to remind future generations of this stain on our national conscience.

Annie Wells: I absolutely agree with the member's comments. We should not erase history. It is important for future generations to be able to see what history was like.

We do not want to rewrite history. For some, the discriminatory legislation changed the course of

their lives irreversibly. As was pointed out during the committee's evidence-taking sessions, many who have been affected have, sadly, taken their own lives, and some have spent time in prison. We cannot account for the numbers of men who, to this day, may have chosen a different path in life altogether had they been given the choice. I am sure that, for everyone—most of the men will be in their 50s and upwards—the mental scars will remain.

If we look at the bill in the context of the journey towards LGBTI equality, it is hard to believe that these discriminatory laws existed within the living memories of most of us in the chamber today. Amazingly, same-sex sexual activity between men was an offence until 1980, regardless of whether it took place in public or in the private home, and it was not until 2001 that the age of consent was reduced to 16 and made equal to the age of consent for opposite-sex relationships.

In the period in between, men could still be prosecuted for activities such as kissing in public and chatting up other men. Kezia Dugdale alluded to that. During a private evidence session, we heard from an anonymous witness who, in the early 1990s, was charged with intent to commit a homosexual act in a public place, having kissed a man in the street at the age of 20. It is astonishing, now, to think that gay men were persecuted and criminalised in that way, simply because of their sexuality.

That is why the bill is so important. It provides an opportunity to draw a line under those laws, by offering a pardon to the men who were affected and by giving those who were convicted an opportunity to have the offences disregarded.

It became apparent during the committee's evidence sessions and research around the issue that compensation is not being widely sought. Rather, what is sought is the symbolic acknowledgment that the laws themselves were discriminatory.

As we build on the legislation south of the border, it is important that the bill offers a pardon to all those affected, living and dead, and that it is clear that the provisions will apply only if the relevant conviction is for something that is no longer a crime. I sincerely hope that that can provide some comfort to those affected.

Although discriminatory laws have been repealed, the burden of a criminal conviction can linger on, as we know. Police Scotland identified 1,261 offences, recorded against 994 people, that fall within the scope of the bill, and the number is likely to increase. Although it is overwhelmingly likely that such convictions will be spent, convictions can be revealed when someone

applies for a role for which a higher-level disclosure is required.

As the committee heard during its evidence sessions, convictions can have a detrimental impact on peoples' lives. Witness A talked about how a conviction had hindered his career, and witness B talked about the embarrassment that a conviction had caused in the context of his work with voluntary groups. It is absolutely right that the bill will introduce a system whereby those with convictions can apply to have them disregarded. I sincerely hope that that will lift some of the burden of conviction.

On that point, there is more that we can talk about and discuss as the bill progresses. During the committee's meetings it became clear that work would have to be done to advertise the existence of the disregard process and make abundantly clear that, despite the pardon, people will still have to go through the separate process of applying for a disregard.

During evidence, a witness told us that he had asked a couple of his friends about the bill and they had known nothing about it. We cannot assume that the information will naturally disseminate among the wider public. We need to be proactive in publicising the bill, recognising that not all gay men—particularly in more remote areas—are linked in with LGBTI groups.

Furthermore, there is some way to go to iron out the manner in which convictions will be removed from all official records, such as those of organisations that do not hold criminal records. For example, National Records of Scotland, the national health service and employer groups might hold the information.

Of course, we still have a long way to go. As we saw in the committee's work on prejudiced-based bullying, there is much work to be done. Like other members, I was proud to support the time for inclusive education campaign's work to introduce LGBTI education into our schools. LGBTI hate-crime statistics remain worryingly high, and LGBTI people are still persecuted around the globe. Gay relationships are still criminalised in 72 countries across the world.

I reiterate my support for the bill at stage 1. Its importance, for the people who are affected and as a marker of progress in societal attitudes, cannot be overestimated. As Ruth Davidson helpfully put it, this is one jigsaw piece in the fight for true LGBTI equality, but it is a very large one.

15:18

Mary Fee (West Scotland) (Lab): As a member of the Equalities and Human Rights Committee I am extremely grateful for the opportunity to open,

for Scottish Labour, this afternoon's debate on the Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill.

I take the opportunity to express my gratitude to the men who gave evidence to the committee. Their testimonies were revealing and brave, so I thank them. The evidence on the impact that criminalisation has had on their lives, and on the shame and confusion that they have suffered, brought the bill to life and gave the committee a real understanding of the impact of criminalisation and the importance of the bill.

I also thank my fellow committee members and the committee's clerks for their assistance and support throughout, in helping to pull together our various evidence sessions, discussions and recommendations to produce our stage 1 report. I am pleased to see that there is a clear consensus on the bill among members of all political parties.

The Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill is significant because it explicitly acknowledges the historical wrongs of the justice system and seeks to provide a means of redress against the hateful and intrusive discrimination that was experienced by gay men in Scotland as a result of all sexual activity between men having been, prior to 1981, criminalised.

In Scotland, we are often eager to portray our country as a beacon of egalitarianism and inclusivity. That is a worthy aspiration and vision, but we should not forget our nation's history and wrongdoings. As recently as 1980, men in Scotland could be prosecuted because of their sexual orientation: a man could be prosecuted for expressing his love for another man. All forms of sexual activity between men were deemed to be illegal, and there was a curb on all expressions of affection, including kissing in public places, which could be prosecuted because it was classified as "gross indecency".

Under that repressive and regressive legal system, the courts in Scotland criminalised and discriminated against thousands of men on the basis of their sexual orientation. That was, I say unequivocally, wrong. No one should be criminalised for their sexual orientation or for expressing their love for someone who has the same gender identity. The legacy of convictions, cautions, warnings and fines that resulted from discriminatory laws that prohibited sexual activity between men has had an enduring, hurtful and damaging impact on thousands of men's lives. It was right for the First Minister to offer an unqualified and unequivocal apology to those men for those wrongs.

I am glad that the Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill has a broad scope that addresses some of the more

problematic elements of the equivalent legislation in England and Wales. Stonewall Scotland has highlighted that our proposed legislation is stronger and more accessible and appropriate than its equivalent in England and Wales, with our proposed legislation ensuring that the pardon will apply automatically to all people who have the specified conviction, whether they are living or have passed away. That is important: in England and Wales, the legislation grants a pardon only to men who died before 31 January 2017, which means that men who are still alive must apply for a statutory pardon. As a result, only a small percentage of living men with discriminatory convictions in England and Wales have applied for and received a pardon.

Despite its eminent strengths, I hope that the Scottish Government will provide additional clarification about the disregard system. It is vital that the Scottish Government take the lead in establishing for the disregard system a framework that is uncomplicated, easily accessible and supportive of all men and of the families of deceased men who will engage in the process.

Christina McKelvie: Does Mary Fee agree that Disclosure Scotland has an important role to play in advertising the provisions of the bill and application of the process, through written and online media? If Disclosure Scotland could take the lead on some of that, it could target the information much more effectively.

Mary Fee: I absolutely agree with Christina McKelvie. Disclosure Scotland has an important—almost pivotal—role to play in terms of the legislation and how the disregard system will progress.

In establishing a framework for the disregard system, the Scottish Government should guarantee sufficient financial resources for that purpose. Without a properly established, structured and funded framework for the disregard system, there is a real danger that the aspirations for the bill will not be reflected in reality.

We also need to be sure that adequate support is provided both for men and for their families. Many men will not have spoken about their convictions, and reliving the trauma might be very distressing for them, their partners and their families.

An area that I explored throughout our evidence sessions was that of family members seeking redress on behalf of a deceased relative. I understand that the pardon will apply to deceased men, which is important, but there might be circumstances in which a family wants more than a symbolic pardon. I understand the difficulties surrounding the issue, but I would be grateful if, as

the bill progresses, the Government could explore ways to assist family members in that regard.

I fully appreciate that the bill, by offering an automatic pardon and the opportunity to apply for a disregard, cannot undo the bullying, discrimination, harassment and victimisation that have been experienced by gay men, and cannot mitigate the damage that was done to their families. However, with regard to the men and the families who have been affected, I truly hope and believe that the bill can be a significant step in the process of reconciliation, by admitting the justice system's wrongdoings and discriminatory treatment of gay men, and by giving them a legal pardon as acknowledgement of their innocence.

Too often, we focus on the positive contribution that Scotland has made to the world. Today is a time to reflect and to be open in acknowledging and accepting the wrongdoings of the past.

I once again reiterate my full support for the Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill, which is an important part of the process of redressing the historical discriminatory treatment of gay men. It is right that we acknowledge the historical wrongs that have been committed. Only through acknowledging historical wrongs can we endeavour, as one Scottish Parliament, to work towards our common goal of creating a modern Scotland—a nation that celebrates our diversity, promotes inclusivity and strives for equality.

15:27

Patrick Harvie (Glasgow) (Green): I commend the Government for its bill and the committee for its work in leading scrutiny of it. It is an important step in a long journey. At a moment such as this, I—as someone who has been out, in my job as an MSP—am particularly aware of the debt that I owe to those who faced much greater risks than I have faced when they took their much earlier steps on this journey.

By the time I came out, when I was a young man, it had been nearly 10 years since decriminalisation had begun in Scotland. There were debates at Westminster on equalising the age of consent—proposals for equality that were rejected by MPs at that time—and it was just a few years since section 28 had been created. There has been much progress, but it has been by no means an easy or straightforward journey, and the case for equality has been fought against every step of the way.

To date, the Scottish Parliament has never actively voted against equality for our lesbian, gay, bisexual, transgender and intersex citizens. However, equality for those diverse communities is still seen as being optional, in our political

landscape. Indeed, many MSPs who have repeatedly voted for discriminatory laws are still here today.

As we take this important step, it is important that we make the statement that underpins it mean something. All of us should go back to our political parties and insist that prejudice and discrimination against LGBTI people should be no more acceptable in our policies or our candidate selection than racism, antisemitism, sectarianism or any other form of bigotry. If that action accompanied the passing of the bill, that would make the statement more meaningful.

I will offer a couple of recollections from my time as an LGBT youth worker in Glasgow. Before I joined Parliament, one of the last pieces of work that I did in that job was a timeline exercise that was to be part of a training pack for mainstream youth workers on dealing with LGBTI issues. In the exercise, people drew a card that showed a statement, a moment from history or an image, and the challenge was to place the card on the timeline, which ran from a cave painting from 8,000 BC. The most recent event was the German Government issuing a formal apology to the people who were persecuted for their sexual orientation during the Holocaust.

I trialled the timeline exercise with the young out LGBT people in my youth group. When somebody drew the card that referred to decriminalisation of male homosexuality, the overwhelming reaction was puzzlement and bafflement. Those young people were growing up without the idea of criminalisation in their heads. In many ways, that was a failing in our teaching of history, but the idea that those young people were growing up without the notion that their lives could ever have been made criminal represents an extraordinary liberation.

A second recollection from that period is about a guy who came into the Glasgow Lesbian and Gay Centre—that was the organisation's name before it added the extra words from the acronym that we are familiar with today. Many people dropped into the centre on spec to access services or to meet somebody. That guy was taking his first steps and having his first experience of coming out to anyone in the world, and he was in his late 70s. His mother had just died; he had been brought up in a strict religious environment and he had never had any sense or expectation that he would be able to explore or express that aspect of his personality or his sexuality. That, in his late 70s, was that first moment.

We can apologise for wrong that was done, agree pardons and disregards, and change the law to prevent future injustice, but we cannot change history. Not only that man—who might regret never having had the chance to do

something that would have even risked wrongful arrest at that time, because that aspect of his life simply never came to exist—but many others who are younger than him will never know what it is like to grow up in a society in which they are valued, respected, validated and safe.

I do not want to overly romanticise all this. It is not all about victimhood, because the identities, communities, cultures and subcultures of queer people down the ages have often been defined in response to, and in defiance of, legal and cultural persecution. That story is painful and harmful, but it is also a story of strength and creativity, and I do not want that part of our history to be forgotten, either.

I have two final comments to make. I understand entirely why it is easy to fall into using language such as, "It's wrong that people face prosecution for who they loved". To be sure, it is, but maybe they were just having sex. We need to guard against moving from being anti-gay to being anti-sex. Sex does not need to be validated by love. It is wonderful if people want and have a loving relationship—or more than one—in their life, but it is also wonderful if they want and have a good sex life, too. They should not need anybody's pardon for that, either.

I will reflect on a comment that the Prime Minister made this week when addressing the Commonwealth heads of Government. The Prime Minister is someone whom I disagree with on a great many issues, but she is also someone who has had the chance to reflect and has recognised that she got it wrong on LGBTI equality issues in the past and needs to acknowledge that. In acknowledging the British empire's history of imposing many discriminatory laws in other countries, she said:

"These laws were wrong then and they are wrong now."

This is part of a global challenge, as well as one in history, and it must form part of our international engagement. I urge the Government to present a copy of the bill to our guest, the President of Malawi, at his visit later this month, and to discuss the issues with him.

The Deputy Presiding Officer (Christine Grahame): I have given members a bit of leeway for opening speeches because we have some time in hand, but I cannot give too much—that is not to scold you, Mr Cole-Hamilton, before you even start. As you are opening for the Liberal Democrats, I will give you a bit of leeway, as I did to the Greens—I am fair.

15:35

Alex Cole-Hamilton (Edinburgh Western) (LD): It is my great privilege and pride to open for

the Liberal Democrats on what is, in many ways, a historic day, and to speak in my capacity as deputy convener of the Equalities and Human Rights Committee, which has brought the legislation to this point.

When I was little, my grandfather got involved in amateur dramatics. He was not very good, but I mention it because the role that I best remember him playing was that of a judge in a play called "Breaking the Code", about the life and trial of Alan Turing. It was important to my grandfather because he had always thought of Alan Turing as a national hero. He felt that Alan Turing's intelligence work at Bletchley had turned the tide of the war in the north Atlantic, where my grandfather was an officer on a destroyer. My grandfather felt that, despite his heroism, Alan Turing was terribly ill used by the British establishment and the judiciary and that what happened to him ultimately brought about his destruction.

It is absolutely right that we grapple with this today and I am grateful to the Government because the bill is an opportunity for us as a Parliament to say to those men who felt compelled to live in the shadows because of who they were, "Step forward. Step forward and receive the justice that has been denied to you; this nation is profoundly sorry for the harm that it has done you."

This has been an amazing bill to be part of. I have really enjoyed the work of our committee as we grappled with it, because the story of Alan Turing is reflected in the stories of thousands of men across these islands, both alive and dead, and each of them is steeped in persecution, in wrongful arrest, and sometimes in tragedy, and this is an opportunity for us to right an historic wrong.

I pay tribute to the work of my fellow committee members, the clerks and the Scottish Parliament information centre researchers and to the many people who gave us evidence, in particular the LGBT rights organisations such as Stonewall, Tim Hopkins from the Equalities Network, who gave us an amazing discourse on the history of this legislation and what we could and could not do about it, and the two gentlemen who have been referred to, who gave evidence in private.

We learned early doors that we could not just give an automatic disregard to everybody to whom this applies, for the reasons that the cabinet secretary outlined. It is just too difficult to infer what was meant by "breach of the peace" or by "gross indecency" when that offence was handed out, so it must be done through a process of application. However, I would like to associate myself with the remarks of other members in the chamber, who said that we should strive, in the implementation of the bill, to make that process far

easier and less intrusive than it has been in other parts of the British isles.

We also learned that although there is indeed an understandable impulse to delete this entirely from our records, it would have the effect of creating a revisionist history, as I commented when I intervened on Annie Wells. This is a stain on our national conscience; it is part of our fabric, and we need to remind future generations of what went before and the suffering of those affected.

We learned about the work of other countries and I particularly want to refer to Germany, because I was very struck that not only does it offer a pardon and a disregard, but it gives out a certificate and makes a compensation payment of a minimum of €4,000 in each case. I explored the issue of compensation at every stage of our evidence-gathering process. I was keen to pursue it and, given that we are talking about only 50 or so men coming forward in the Scottish context, offering them financial recompense should not be too onerous for the Scottish Government.

However, I and the rest of the committee were struck and indeed humbled by the quiet indifference of those people giving us evidence. Compensation is not what this is about for them. It had simply never occurred to many of them, which is a measure of their characters and the humble stoicism that they exhibited. In fact, one of the men who gave evidence in the private session generated a peal of laughter when I asked him whether he felt that compensation should be offered; without missing a beat, he said that we could start by paying back the 40 shilling fine he got for loitering in a public toilet. To offer compensation would create a subjective hierarchy of suffering. It is not what organisations or individuals are looking for; they are looking only for justice.

I will refer to the work of other members, in particular, Mary Fee. I was very struck by her line of questioning about how to extend posthumously the disregard element of the bill, so that a family can seek the same level of justice that living people can attain.

I thank Jamie Greene, in particular for his work around the armed forces and his line of questioning about the Ministry of Defence. In the armed services, many men were stripped of commissions and rank and subjected to all kinds of abuse because of their sexuality. We were gratified to receive a detailed response from the Ministry of Defence, which represents an open door that I am sure that our committee will continue to push at.

This has been a lovely piece of legislation to work on—it is the kind of bill that we come to Parliament to do. It makes the heart sing. To

meddle with it by amendment at stage 2 is almost irresistible for Opposition politicians, but I pledge to do very little of that unless it is in the context of what we have described with Mary Fee's amendment.

I finish by thanking again my committee colleagues for this great experience. My grandfather would be proud of me for doing this, because he gave me my first insight into the persecution that the LGBT+ community has suffered in these islands. Today we go some way to righting that wrong.

The Deputy Presiding Officer: Alex Cole-Hamilton does appreciate that his commitment to non-meddling is now irrefutably on the record. We move to the open debate.

15:41

Gail Ross (Caithness, Sutherland and Ross) (SNP): As a member of the Equalities and Human Rights Committee, I have been honoured to play my part in taking the bill forward. As my fellow committee members are, I am grateful for the opportunity to speak in the debate and I thank everyone who has gotten us to this point.

For far too long, members of our LGBTI community were convicted under discriminatory law and considered to be criminals for conduct that was only illegal because of their sexuality. This bill will remove the remnants of this regrettable part of Scotland's past.

It is welcome that attitudes towards LGBTI people continue to advance. Three years ago, the Scottish social attitudes survey showed that the percentage of people who viewed same-sex relationships positively has doubled this century from 37 per cent in 2000 to 69 per cent in 2015. There is still a way to go, but it is clear that this legislation is in step with popular opinion.

The bill has two important features that relate to historical sexual offences: pardons and disregards. We discussed both subjects in detail during the committee stage and I will discuss some of the aspects of both. During our committee work, Tim Hopkins of the Equality Network raised the concerns of some gay men about the use of the word "pardon". He said that

"they were uncomfortable about being told that they were pardoned, because that implied that they had done something wrong".—[*Official Report, Equalities and Human Rights Committee*, 1 February 2018; c 4.]

It is crucial that we make it clear that those men did nothing wrong. Of course, a pardon is the correct legal remedy to apply here, but we must all work as hard as possible to go beyond that. We must take every opportunity to explain that we are not excusing misconduct and misdemeanour; we

are righting historic wrongs. As a Parliament, we should echo the sentiments expressed by the First Minister when the bill was introduced: we say to those who were wronged, you are not only pardoned but we are sorry.

The committee also heard compelling evidence in relation to the disregard process. One of the committee's anonymous witnesses, who we are all, rightly, proud of, kindly shared his experience and discussed the difficulties that his conviction has caused in his working life. His story gets to the need for the disregard that is outlined in sections 5 to 11 of the bill. Because his job required protection of vulnerable groups checks—known as PVG checks—the witness had to undergo enhanced disclosure searches of criminal records. Those would not normally be a cause for concern but, in the early 1990s, our witness had kissed someone in the street. Members might have kissed someone in the street. They may have been on a date; they may have been greeting or leaving a spouse, a partner or a close friend. However, because this man was gay and the person he kissed was another man, he was convicted of intent to commit a homosexual act in a public place.

Every time that he has thought about applying for a new job or an internal promotion, he has had to ask himself, "Do I want to explain this all over again? Do I want to discuss my sexuality and my unjust conviction?" He and others in his position deserve to be able to get on with their lives without worrying about when they will next have to open up about a historical wrong that was enacted on them by the state.

As has been said, the committee took evidence on whether the disregard should, like the pardon, be automatic. Several witnesses stated that that cannot happen for a number of reasons. One is that some of the convictions that the men currently hold are for things such as breach of the peace or are under some obscure byelaw that hardly anyone has heard of. Secondly, we can disregard only things that are no longer crimes when the bill comes into force, which makes a blanket scheme impossible. Thirdly, some of the men simply want to forget that this ever happened to them and would not appreciate it being brought up on their behalf without any permission or warning.

We need to ensure that people are aware that they can apply for the disregard and that it is transparent and easy to access. A number of good points have been made on that already. We should remember that some of the men involved may not have exact times and dates or even know the nature of the offence. It is therefore vital that the disregard scheme is widely advertised and simple to use and that it is not adversarial. If we are to make people explain a wrong that was

committed against them one final time, we have to ensure that the process is as painless as possible.

Thankfully, the discriminatory laws that created these criminal convictions have been relegated to Scotland's past, but the convictions and their consequences endure. The bill will, I hope, go some way towards changing that. Its passage will remove the residues of an outdated law, banish the attitudes that justified it and enact legislation that is in tune with our vibrant and progressive Scotland. As I stated, the First Minister has apologised to the men, and our committee will now take forward the bill. I commend our report to the Parliament.

15:47

Margaret Mitchell (Central Scotland) (Con): I welcome the opportunity to speak in the stage 1 debate on the important Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill, which has cross-party support. The bill is long overdue, acknowledging as it does

"the wrongfulness and discriminatory effect of past convictions for certain historical sexual offences",

where the actions were carried out by consenting adult males. Put simply, those offences were totally without justification, and the Parliament is formally recognising that fact.

Part 2 of the bill automatically pardons men, living or dead, who were convicted of same-sex sexual activity that is now legal, and sets out the procedure for that. That is an important provision, especially for the families of men who were convicted and who have since died, as it serves to help give their relatives closure. However, despite the pardon and the repeal of the discriminatory laws, previous convictions still stand, which continues to have a negative impact on those with historical convictions. For example, a conviction could appear on a disclosure form relating to a job application. The bill therefore makes provision for the process of disregarding a range of relevant historical offences.

The Law Society of Scotland noted that the evidence from some of those affected by the discriminatory convictions has helped to ensure that the bill is comprehensive in its scope. The Law Society stated that the process to obtain legal aid, if required, should be

"as simple and well publicised as possible".

The committee heard evidence from Police Scotland that the process for the disregards system needs to be "clear, efficient and quick".

By enacting this landmark bill, the Scottish Parliament will send a powerful message not only to those living in Scotland but to the 72 countries that still criminalise same-sex relationships. Those

include eight countries where homosexuality may result in the death penalty, including Iran, Sudan, Saudi Arabia and Yemen. That is a chilling reminder that there are still huge challenges to be faced in striving to secure equal rights for all, in Scotland and also beyond.

More specifically, at present, 37 of the 53 Commonwealth countries do not have legal rights for same-sex people. They include India, Pakistan, Nigeria, Kenya, Uganda, Sierra Leone, Cameroon, Botswana and Malawi, to name but a few. Scotland is an active participant in the Commonwealth Parliamentary Association. In particular, we have a special relationship with Malawi. There is, therefore, an opportunity to move forward, together with colleagues in the Commonwealth countries and within a climate of co-operation and mutual respect, to try to effect change.

It was therefore immensely heartening and encouraging that, in her address to the Commonwealth Heads of Government Conference in London yesterday, the Prime Minister raised this issue within the context of addressing barriers to fairness and opportunity by stating—

Kezia Dugdale: Will the member give way?

Margaret Mitchell: Certainly.

Kezia Dugdale: I am encouraged to hear Margaret Mitchell's comments in this regard. She will be aware that the Commonwealth Parliamentary Association meets in Uganda next year. I am interested in what she thinks the Scottish Parliament's role is in addressing LGBT rights in Uganda, which are getting worse at the moment.

Margaret Mitchell: It is very much as I just said. I hope to develop that in commenting on what the Prime Minister very eloquently and strongly said yesterday:

"discriminatory laws made many years ago continue to affect the lives of many people, criminalising same-sex relations ... I am all too aware that these laws were often put in place by my own country."

The Prime Minister went on to say, as Patrick Harvie also quoted:

"They were wrong then and they are wrong now. As the UK's Prime Minister, I deeply regret both the fact that such laws were introduced, and the legacy of discrimination, violence and even death that persists today. ... we must respect one another's cultures and traditions. But we must do so in a manner consistent with our common value of equality ... Nobody should face persecution or discrimination because of who they are or who they love."

More encouragingly still, those words were matched with the pledge that the UK stands ready to support any Commonwealth member that wants to reform outdated legislation that makes such discrimination possible.

The Commonwealth's 53 countries are home to more than 2 billion people, so Scotland and the UK's leadership on this issue has the ability to impact millions of LGBT people across the globe.

In conclusion, I stress, as did Christina McKelvie, that raising public awareness of the bill will be crucial to ensuring that potential applicants know that they have the right to have a conviction disregarded.

15:53

Rona Mackay (Strathkelvin and Bearsden) (SNP): I am pleased to speak today in the stage 1 debate on this vital piece of legislation, which will remove the shameful stigma and address the historic wrong that was done to men who were convicted of a crime that should never have been a crime. Make no mistake about it: the discriminatory effect of convicting men for being in same-sex relationships—for simply being themselves—lingers on. The bill will draw a line under that discrimination once and for all.

Scotland has a proud record in leading the way in LGBT equality. Of course we still have work to do, but I am proud that it is this Parliament that is bringing this bill forward. I am also proud that it has such great cross-party support. It delivers on a commitment that was made in the programme for government when it was published in September.

As you know, Presiding Officer, the private member's bill of my friend and former colleague John Nicolson, the Turing Bill, which Alex Cole-Hamilton mentioned, was talked out in Westminster and failed to reach the statute books—a totally shameful state of affairs. We can do better than that. We will end this injustice and consign those disgraceful convictions quite literally to history.

At long last, the Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill will also enable men to have their convictions for same-sex sexual activity that is now legal removed from central criminal conviction records. It will pardon those who were convicted of criminal offences for engaging in same-sex sexual activity that is now legal and put in place a system to enable a person with such a conviction to apply to have it disregarded so that information about that conviction that is held in records, which are generally maintained by Police Scotland, does not show up in a disclosure check.

The bill applies to discriminatory historical convictions for sex between men, but it is otherwise gender neutral, which means that it will apply equally to trans women and non-binary people who were convicted as men.

In addition to the pardon, the bill includes a statement on its purpose. It states:

"The purpose of this Act is to acknowledge the wrongfulness and discriminatory effect of past convictions for certain historical sexual offences".

I was concerned that the word "pardon" might still imply to some people that Parliament sees these men as having done something wrong. The cabinet secretary and Gail Ross mentioned that. That is, after all, a common context in which a pardon might be granted. However, these men did nothing wrong, and they were grossly discriminated against by the legislation. The wrong was committed by the state, not by individuals. That is worth repeating.

On the bill's introduction, the First Minister said:

"over many decades, parliamentarians in Scotland supported, or at the very least accepted, laws that we now recognise were completely unjust. Those laws criminalised the act of loving another adult; they deterred people from being honest about their identities to family, friends, neighbours and colleagues; and, by sending a message from Parliament that homosexuality was wrong, they encouraged rather than deterred homophobia and hate.

Therefore, today ... I categorically ... and whole-heartedly apologise for those laws and for the hurt and the harm that they have caused".—[*Official Report*, 7 November 2017; c 8.]

Back in the so-called good old days, prior to 1981, all sexual activity between men in Scotland was a criminal offence in all circumstances. The so-called homosexual offences of sodomy and gross indecency applied specifically to sex between men. Men were also prosecuted under other laws, including for "shameless indecency", under local byelaws and for breach of the peace. Like others, I find it incredible that that happened so recently. While I was researching for the debate, I was constantly amazed at the scale of that inequality and injustice, and I confess to feeling ashamed that I was not aware of it at the time.

Slowly but surely during the 1980s, starting in 1981, sex between men was decriminalised step by step. There was the higher age of consent of 21 between 1981 and 1994, and then the age was 18 until 2001, when it was equalised at 16. There were also special, more restrictive rules about privacy until 2001.

The law continued to use discriminatory language, such as "gross indecency", for sex between men until 2010, and the common-law offence of sodomy was finally abolished only in 2013, when the new sexual orientation neutral framework for sexual offences fully came into effect.

As many colleagues have said, it is important to note that it was not only sexual activity that was criminalised; affectionate activity such as kissing in

a public place could be prosecuted as gross indecency or even breach of the peace. Statistics highlight that several thousand men were convicted in Scotland under the old “homosexual offences” of sodomy and gross indecency under local byelaws.

The Equality Network has estimated that the total number of convictions to which the bill applies is in the small number of thousands. Many men who were so convicted will no longer be living, and the Equality Network has estimated that the number of convictions that are covered by the bill for men who are still living is possibly a small number of hundreds. That is the number to which the disregard in the bill applies as well as the pardon.

I am pleased that the memory of those who are no longer with us will remain untarnished. Scotland is a tolerant society and is fully committed to respecting, protecting and implementing human rights and demanding equality, dignity and respect. The introduction of the bill endorses that position, and I am pleased to support it at stage 1.

15:59

Kezia Dugdale (Lothian) (Lab): I spent the weekend in Bosnia studying the genocide and 44-month war that took place there between 1992 and 1995 and, in particular, the impact of that war on women. It has been estimated that between 25,000 and 50,000 people were raped during that time. They were largely women, but around 1,000 men were raped by soldiers. Sexual offences were used as weapons of war. Rape was considered to be the best way to ethnically cleanse villages, because people would flee in fear of the soldiers advancing into their towns.

Over the weekend, I met women who, for more than 20 years, have been fighting for justice and pursuing the men who raped them so long ago. I consider that to be a historical sexual offence, not men being criminalised for their love of sex or, indeed, each other. Patrick Harvie’s point about our not sanitising the language or talking about the issues in politically correct terms is an important one.

I commend the Equalities and Human Rights Committee and its convener for a thorough and inclusive report, and I lend my support to the bill at stage 1.

The committee’s stage 1 report shows that the issues that we are dealing with are not even that old. As has been mentioned—Christina McKelvie made the point well in her opening remarks—the law has been entirely equal and sexual orientation neutral only since 2013 when the final provisions of the 2009 act came into effect.

The committee report is very sensitive. Other members have mentioned witnesses A and B, who were clearly given the space and the confidence to share their stories. That we were trusted with the stories of their lives is a credit not only to the committee but to the Parliament’s standing.

Witness A, who has been mentioned by Annie Wells and Gail Ross, was in his 20s in the 1990s when he got a criminal record for kissing a man in the street. That was not the 1920s, the 1960s, the 1970s or even the 1980s—it was in the 1990s. From what I have read in the report, witness A’s life was not destroyed, but it was materially affected. He lives a successful life and has been promoted several times at his workplace, but he has spent his life fearing applying for other jobs in case his disclosure check would categorise him as a sex offender. Imagine being categorised as a sex offender for kissing someone in the street! That is why this bill matters.

The bill matters to the people whom it directly affects, and in its excellent briefing the Equality Network has attempted to quantify those effects. It says that, pre-1981, the majority of gay men are likely to have broken the law at some point in their lives. Several thousand of those men were convicted. For thousands, their offences are no longer a crime, but most of those convicted are dead. The Equality Network considers that this affects a few hundred men who are alive today but many more families of those who have passed away.

The bill also matters because legislation is key to challenging attitudes. We know from the statistics that, in 2000, 37 per cent of the UK population supported same-sex relationships. In 2015, that percentage had risen to 69 per cent. It is no coincidence that civil partnerships and equal marriage happened in that time; the defeat of section 2A of the Local Government Act 1986, adoption rights introduced for gay couples, the lift on the ban of LGBT people serving in the military, the introduction of hate crime legislation and so many other progressive measures took place during that period, too.

I will make three specific comments about the bill. I was delighted to see such a clear statement on the first page of the bill under section 1 stating beyond all doubt that what happened was wrong and discriminatory.

Secondly, the committee’s recommendation 77, which focuses on the process being as straightforward and user friendly as possible, is critical. Christina McKelvie referenced that issue in her opening remarks, too. It is essential that the form is not off-putting. The rape clause was a horrible policy before the Department for Work and Pensions produced the form, but the form made it even worse. We have a great policy here, but it

can be fully realised only if the form is sensitive, straightforward and accessible. Although I would not ask the cabinet secretary to legislate for the paperwork, I would appreciate a commitment that the excellent collaborative relationships that he has built with the LGBT community will continue and extend as far as the detail of this matter and that no form will be introduced without the community's full support for it.

Thirdly, as I have said, the First Minister's apology at the time was full, heartfelt and unequivocal, but it should be repeated over and over. I support the Equality Network's call that pardons and disregards should be accompanied by an apology in the form of a letter—that would be a wonderful move.

As I have learned here and in Bosnia, history is rubbish at telling and recording the story of women. I made that point last year when the bill was first announced. The apology and the pardon do not apply to women. In reality, it was never considered to be a sexual offence for two women to be together. That does not mean that, over centuries, we have been more tolerant of women or lesbians being together; it is simply that the law never considered that women could be involved in sexual activity. As a consequence, women often had to live as men to live their lives. Some of them were convicted of a criminal offence—fraud—but all of them were treated as invisible, and demeaned and ostracised. They were punished in a different way and painted out of history.

I do not seek the extension of the bill's scope; I just want the story of women to be told. The LGBT community speaks with one voice on the issue, and it whole-heartedly supports the bill at stage 1.

16:05

Fulton MacGregor (Coatbridge and Chryston) (SNP): I commend the Government for taking through such an important bill in the fight for LGBTI rights, because although Scotland has grown to become a leading example in Europe for its promotion of progressiveness and acceptance of the LGBTI community, there are still relics of our intolerant past that need to be addressed if we are to truly support all Scottish people.

As other members have said, same-sex sexual activity between men was considered a criminal offence in Scotland as recently as 1980, the year in which I was born. I find that outrageous. In 1980, "The Shining" and "The Empire Strikes Back" were the top films, "Dallas" was the main programme on television and Blondie had the number 1 single of the year, yet same-sex sexual activity between men was still considered a criminal offence.

Therefore, hate and discrimination in our society are still a healing wound in our history, and it is our duty as representatives of the people to acknowledge and amend that shameful past. I applaud the First Minister for recognising the harmful impacts of our outdated legislation and offering her apologies to all those who experienced the hate and discrimination that it caused. I also commend my colleague Christina McKelvie for taking the first step with the bill in providing a form of redress to the men who continue to face the impacts of prejudiced legislation. I am pleased to say that, should Parliament approve a motion later this afternoon, I will become a member of the Equalities and Human Rights Committee, and I look forward to scrutinising the bill as it progresses.

Scotland is undoubtedly a different place from the place that it was 30 or 40 years ago when it comes to popular attitudes towards same-sex sexual activity. For example, as others have mentioned, a recent study by the Scottish social attitudes survey noted that the number of people in Scottish society holding a positive view of same-sex relationships rose from 37 per cent in 2000 to 69 per cent in 2015, while the number of people holding negative views decreased from 48 per cent to 18 per cent over the same period. However, a figure of 69 per cent still seems a bit low and one of 18 per cent a bit high.

Criminal offences such as that of a man chatting up another man remained offences until 2009, while the deletion from Scots criminal law of terminology such as "sodomy" was only completed at the end of 2013. It is clear that social attitudes surrounding same-sex sexual relations have far outpaced our political approaches to the issue, which has made it necessary for the Parliament to step up and create legislation that properly recognises LGBTI people to be fully equal citizens who deserve equal respect.

The purpose of the bill is twofold. On a symbolic level, its passage will send out a loud and clear message to those who have been negatively impacted by the past legislation and to those whose hate has been emboldened by the official acceptance of it by political representatives that the Scottish Parliament will no longer tolerate discrimination against the LGBTI community. The pardon acknowledges that the law should not have treated gay men as criminals and that they should now not be considered to be criminals. Instead, the Scottish Parliament understands that the wrong was committed by the state, not the individual.

Furthermore, the bill provides a form of redress by pardoning people who were convicted of criminal offences for engaging in same-sex sexual activity that is now legal and by putting in place a

system to enable a person with such a conviction to apply to have it disregarded, so that information about that conviction that is held in records that are generally maintained by Police Scotland does not show up in a disclosure check. That second part is crucial, because there have been many examples of individuals who continue to face hardships because of a past criminal conviction, even though their “crime” is no longer considered a crime.

Gail Ross, Kezia Dugdale and Annie Wells talked about the “homosexual act” of kissing another man in public, which a witness to the Equalities and Human Rights Committee discussed. He told the committee how he had to explain his conviction to employers. Such convictions seem ridiculous to us now but, as Kezia Dugdale highlighted, it was not that long ago when the man in question received his conviction. He noted that the difficulty that he had in explaining his conviction often put him off applying for other positions that would enhance his career.

Another witness was charged in the 1980s with loitering in a public convenience under a local authority byelaw dating from the 1930s. Although the byelaw did not explicitly criminalise homosexual behaviour, the witness said that the intention of the regulation was clearly aimed at gay men. Although the witness had forgotten about the incident, 40 years later, to his surprise, it came up in an enhanced disclosure that he was required to submit as part of charitable work. The witness explained that he was fined 40 shillings for loitering—equal to £2 today—nearly 40 years ago and yet it showed up on an enhanced disclosure check today, which is truly shocking. Someone fined under the same byelaw for failing to clear snow from the path outside their door would have been fined 40 shillings, but that conviction would not show up 40 years later in an enhanced disclosure. When asked, both those witnesses said that they would seek a disregard for their offences if they were given the chance.

I want to take a moment to note the value of having the conviction disregarded instead of just pardoned, because a pardon implies that the individual still did something wrong and that the Government is only excusing it and is not necessarily acknowledging that it should not have been treated as a wrong to begin with.

The bill is one of the many actions that the Scottish Parliament must take and is taking to continue its commitment to LGBTI equal rights. In the past, the Scottish National Party Scottish Government introduced historic same-sex marriage legislation, which, when passed by the Scottish Parliament, was recognised by many as being among the most progressive in the world. In addition, the SNP has committed to reviewing and

reforming gender recognition law so that it is in line with international best practice for people who are transgender or intersex.

The Scottish Government is also working with time for inclusive education to promote an inclusive approach to sex and relationships education through the inclusive education working group. The bill is thus in line with the Government’s goals and I urge the Parliament to vote in favour of it today.

16:11

Liam Kerr (North East Scotland) (Con): Like my colleagues before me, I will be pleased to agree to the general principles of the Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill at decision time.

It is my view that the state should have as small a role as sensibly possible in adjudicating on or proscribing consenting adults’ business. However, since the Labouchere amendment of 1885 made gross indecency a crime in the UK—which was only four years after the death penalty for sodomy had been reduced to life imprisonment—the state has played too great a role.

What is even worse is that the Criminal Law Amendment Act 1885 contains no definition of “gross indecency”, apparently because Victorian morality demurred from precise definitions of activity held to be immoral. People could not engage in certain behaviour, even in their own home, in private, but they were not told precisely what that behaviour was. Not until 1980 was it made no longer illegal for those aged over 21 to have gay sex. Only within the past few decades or so have we had an equal age of consent for both gay and straight sex—116 years after it was set for opposite-sex intercourse.

Annie Wells talked about how attitudes have changed and referred to the crime of “importuning”, which is, according to the 2000 Moxon report, a man chatting up another man and which was a crime until 2009. As many have noted, attitudes have advanced, but the law has spectacularly failed to keep pace.

This is therefore a welcome opportunity to pass a bill that offers not only a pardon but a mechanism to remove criminal records that persist for behaviour that is no longer illegal. On that point, part 2 offers a pardon to all those criminalised. It covers all consenting sexual acts between men who are over the age of consent for sexual activity as it is defined today and where there was not a relationship of trust or responsibility. No rights are derived from the pardon and convictions are not overturned—it is a purely symbolic measure.

I want to pick up something that the cabinet secretary and Gail Ross raised. I have sympathy with the view that the word “pardon” is perhaps not ideal. I understand that the view was expressed to the committee that the semantics of the word “pardon” imply the pardoning of a committed crime. I have sympathy with that analysis. Those who debated the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill with me will know about my fondness for dictionary definitions. “Pardon” generally means to forgive or to excuse. There could be a risk of the insinuation that something less than normal took place for which there used to be a sanction and only due to societal, attitudinal change is a pardon now required. I am not sure that I know what the solution is, if indeed one is required, but I express sympathy with that view and suggest that it might be something to discuss as the bill progresses.

Kezia Dugdale: The member is talking about semantics and definitions. Does he recognise that really there is no such thing as “gay sex”—it is just sex conducted by gay people—and that language matters?

Liam Kerr: I absolutely would recognise that. I will go off tangent slightly by saying that Patrick Harvie earlier made some very important points in that regard, in that a lot of the language on the subject has been about love and loving relationships. He was absolutely right when he said that, sometimes, it is just about sex and people enjoying themselves.

The second main limb of the bill is to give those convicted of such offences an opportunity to have them disregarded. Nearly a thousand people are currently identified by Police Scotland as having a criminal conviction on their record for a matter that is not an offence. The pardon does not remove that conviction. It is possible, therefore, that such convictions could be required to be revealed—for example, at a job interview. It is right to introduce a system that requires an application to have the convictions disregarded. I understand the view that, if the record could simply be wiped, there is a danger that legitimate crimes could inadvertently be removed. However, as a number of members have said, it is imperative that the system that is to be set up is appropriate and that it works. Not everyone is an activist or linked to the groups that have worked so hard to get us to this point. Not everyone will be aware that they require to take action to clear their record, which, as Christina McKelvie made clear in her speech, is likely to contribute to low uptake elsewhere. Therefore, the disregard process must be publicised extensively so that people understand that it is a necessary step.

When the disregard scheme is developed, it must be as user friendly as possible. I note that, at

the committee, Tim Hopkins said that, because of the complexity of both the application form and the system,

“We estimate that only about 2 per cent of the people in England and Wales with those convictions who are still living have applied for the disregard.”—[*Official Report, Equalities and Human Rights Committee*, 1 February 2018; c 4.]

The committee recommended that the Government co-operate closely with stakeholders in designing the system, and I am sure that those comments will be taken on board, given the cabinet secretary’s response to Jamie Greene earlier in the debate.

I conclude by saying that I am happy to support the principles of the bill and look forward to voting in favour of them today. Perhaps because no rights are derived from the pardon and because convictions are not overturned, the pardons section in the bill is—to use the cabinet secretary’s term—symbolic. Perhaps the disregard process requires more work and thought. However, let there be no doubt that the passing of the bill will mark a hugely important step in the fight to secure equal rights for all in Scotland. I look forward to supporting it this afternoon.

16:17

Stuart McMillan (Greenock and Inverclyde) (SNP): Sometimes in life, doing the right thing might not be politically positive or get the backing of the public. Thankfully, the Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill is not one of those examples. I believe that the time for the bill has come. I commend all my colleagues on the Equalities and Human Rights Committee for their excellent scrutiny of it, which led to the stage 1 report and also led us where we are today in the chamber.

We know that society changes—sometimes quickly and sometimes slowly. On this issue, sadly, it has been the latter. However, we are now in a better place both politically and socially. I am not aware of any of my constituents having raised concern about the bill, but I have constituents who are pleased about and fully support it and what Parliament is trying to do. Days such as this make me think about a local SNP member who was gay—sadly, he is no longer alive. Clearly, he wanted a Scotland that was independent but he also wanted one that had LGBTI equality. I know that he would be proud of the Government’s introduction of the bill and of the Parliament in working to help make Scotland a country of equals.

The stage 1 report and the Cabinet Secretary for Justice’s comments earlier in the debate highlight the desire that the bill should redress previous unjust laws by saying that the state was

wrong. That is the clear message that has come out from the chamber this afternoon. The statement from the First Minister, which the cabinet secretary mentioned, was absolutely correct. The pardon is welcome, as is the apology—but the disregard is absolutely crucial. I expect the disregard scheme to be as clear and unambiguous as possible. The people who will go through the process have suffered enough. As a consequence, the very least that the state can do now is make it as seamless and easy as possible.

In the past, the law should not have treated certain people as criminals and they should not be considered to have been criminals. However, the Scottish Parliament now recognises that a wrong was done to them.

I said that, thankfully, society has changed. Fulton MacGregor touched on that in his comments on the Scottish social attitudes survey. It is worth putting on the record again that the Scottish social attitudes survey reported that the percentage of people in Scottish society holding a positive view of same-sex relationships rose from 37 per cent in 2000 to 69 per cent in 2015, and that the percentage of people holding negative views in that regard decreased from 48 per cent to 18 per cent over the same period. In my opinion, the figure of 18 per cent is still far too high, but progress is certainly being made.

The many legal actions in the past in this area are now regarded as abhorrent and we can appreciate the bill as another step forward in dealing with discrimination. Scotland is now considered to be one of the most progressive countries in Europe when it comes to LGBTI equality. Christine McKelvie, the convener of the Equalities and Human Rights Committee, spoke of the detail of the disregard scheme and the opportunity that we have through the bill to learn from the experiences of similar legislation at Westminster. Paragraph 26 of the committee report is important in that regard, and paragraphs 109 to 115 are of particular interest to me as deputy convener of the Delegated Powers and Law Reform Committee. I am sure that the recommendation in paragraph 115 will be considered in due course when the bill comes before that committee.

Someone's sexuality is a personal matter for them. I have no desire or need to be aware of people's sexual orientation. I believe that the discrimination that was in place for so long in the past is a stain on the reputation of past political classes, who did not see it as something that needed to be changed or fixed. Importantly, Christina McKelvie and other colleagues highlighted the historical legislation timeline, and it is staggering to realise how recently the law was changed in this area.

Fundamentally, the bill is about people, and our job—Parliament's job—is about people. The psychological effect on many men of past law might not be totally resolved with the passing of the bill, but the bill will help to redress many of the wrongs of the past. When I vote on the motion on the bill at 5 pm, I will be thinking about one person in particular. He was a private person, so I have no idea about his personal life. However, I know that he would be proud that Scotland's journey on equality continues.

16:22

Maurice Corry (West Scotland) (Con): Today, with stage 1 of the bill, we take the next step in the process of righting an historic wrong.

The process started in the chamber on 7 November last year, when the First Minister, on behalf of the Scottish Government, apologised to those who were wronged. She rightly received support for that from the leaders of the political parties in the chamber. Ruth Davidson said at the time that

“the jigsaw of equal rights is not yet complete, and today we see a significant piece added.”—[*Official Report*, 7 November 2017; c 9.]

When we vote on the motion on the bill at decision time, we will be adding another historic piece to the jigsaw.

Of course, what we now need to consider and discuss is how we take the bill forward to ensure that it will work in practice and that every man who wants to get a disregard is able to. The Equalities and Human Rights Committee, which I thank for all its hard work on the bill so far, noted in its stage 1 report that

“the design and delivery of the application system will be key to encouraging men with historical convictions to apply for a disregard.”

The Government will need to ensure that all necessary steps are taken so that the system and the paperwork that goes with it are intuitive and as easy as possible to understand. To ensure that that happens, as the Equalities and Human Rights Committee's report makes clear, the Government will need to ensure that it works closely with key stakeholders on the design and roll-out of the application system. It would be interesting to hear in the cabinet secretary's summing up what thought and work the Government has done on that so far.

It is important to make sure that no one is put off from applying for a disregard due to the system being too difficult to navigate, because the convictions have had a real-world effect. Their effect lingers on, so to speak. That is highlighted by the cases of witnesses A and B, who spoke to the committee and are mentioned in its report.

Their evidence clearly showed the negative effect that the offences have had on their lives.

Witness A spoke of how he felt that he had been held back from advancing his career. It made him wary of applying for new jobs or promotions because he would need to explain his conviction. Witness B told of how it had affected his ability to do charitable work and help his community because the conviction came up during disclosure checks. Those are but two examples that I think it would be easy for anyone to picture. There are countless others who have been held back from career advancement, prevented from helping out in their communities or denied opportunities in other ways, and a disregard can help them all if they can access it.

Of course, the issue is not just about the legal side; the emotional side also needs to be considered. I welcome the committee's recommendation that the Scottish Government considers the families of deceased men who may wish to have their loved one's name cleared.

At this point, I refer to Alex Cole-Hamilton's moving comment about Alan Turing. I, too, am reminded of his brave endeavours, the incredible work that he did and the fact that he was so unjustly treated during the second world war. He did so much to bring success to our nation and peace to our country as we know it today.

The Scottish Government should consider how it can build into the system that is delivered through the bill a mechanism that will allow a deceased man to be cleared. Some witnesses suggested to the committee the creation of a certificate or letter of acknowledgement, and that option would offer some comfort and closure for the loved ones of deceased men with such convictions.

It is right that we are taking the opportunity to do this now, because attitudes in Scotland have changed. The Scottish social attitudes survey of 2015, which has been mentioned several times, found that, in just over 15 years, the number of people in Scottish society holding a positive view of same-sex relationships had risen to 69 per cent, while those holding negative views decreased to 18 per cent over the same period. I expect that that trend will continue.

I welcome this debate and the bill, and I look forward to being able to vote in its favour at decision time.

16:27

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I am delighted to join the unanimous support in the chamber for the Historical Sexual Offences (Pardons and

Disregards) (Scotland) Bill. I have come to it comparatively late, and my starting point, as it often is, is that I have read the bill. I want to make one or two observations that I hope will be seen as seeking to improve it.

Section 5 is entitled "Application to have conviction for historical sexual offence disregarded". I note that the Government is going to consult on the application process, but I think that we may be being too prescriptive in areas where we might need flexibility. My particular example is section 5(2)(b), which provides that an application must include

"the applicant's name and address at the time of the conviction".

That is not necessarily as easy as it sounds, because people, particularly those who have felt vulnerable, may have moved on a number of occasions and may not be able to provide the necessary accuracy in relation to their address at what might be a relatively distant event. The form of words in the next paragraph—

"in so far as known to the applicant"—

could usefully precede the reference to the address. It is a small matter, but the cabinet secretary might even consider taking the requirements at section 5(2) out of the bill and putting them into secondary legislation so that they can, if necessary, be modified relatively straightforwardly in the future.

Section 7(1) will require Scottish ministers

"in particular ... to obtain ...any record of ... any subsequent proceedings relating to the conduct."

I raise the question whether that explicitly requires ministers to go and look at newspaper information, which might turn out to be the only preserved information that relates to the issue. I ask ministers to have a wee think about that.

There is a more substantial point to be made about removal of records. Section 10(4) says that

"Regulations may provide that removal from records means recording with the details of the conviction ... the fact that it is a disregarded conviction".

High Court records go to National Records of Scotland after 10 years, and sheriff court records go after 25 years. That might be well within the lifetime of the person whose record has been marked as having been disregarded, and the marking will, of course, be a public record and available for people to see. I am not sure that that is absolutely right. I accept that the original record needs to be available somewhere, but I suggest that we think about redacting the personal information that goes to NRS, and about not making the record generally available until a substantial time has passed. The period in relation

to the register of births is 100 years—I speak as someone who does genealogical research.

Section 10(5) provides that the Scottish ministers may designate a “relevant record keeper”, by Scottish statutory instrument. I invite the Government to ensure that National Records of Scotland is among the relevant record keepers, so that the provisions can cover NRS—otherwise, they might be thought not to do so. If the Government wants a model, I suggest that it consider how privacy is protected in the context of adoption records. Records are available in specified circumstances; I had to look for an adoption in relation to a probate case and was able to find the information, having given adequate reasons for my search.

Maurice Corry and Alex Cole-Hamilton referred to Alan Turing, who is someone whom I, as a mathematician and a software engineer, admire enormously. Alan Turing came from a family of Scottish merchants and was a computer scientist, mathematician, logician, cryptanalyst, philosopher and theoretical biologist. He covered almost the whole gamut. He was in charge of hut 8 at Bletchley Park during the war, where people were working in particular on Ultra and the code that the German navy used, which used aspects that the German army was not using and delivered some 16 billion billion variant outcomes.

Some people have suggested that the contribution of Alan Turing and hut 8 to the war effort helped to shorten the war by two years and might have saved as many as 14 million lives. That is the upper end of the estimate, but it could well be true. Alan Turing was recognised for his work—he was made an Officer of the Most Excellent Order of the British Empire in 1946 and was elected as a fellow of the Royal Society in 1951.

None of that protected him when, in 1952, he was convicted of an offence such as those to which the bill makes reference. His security clearance was withdrawn and he could no longer contribute to the security and safety of the country. He committed suicide in 1954, as a result of how he had been treated. Today, we continue to celebrate Alan Turing’s memory—the Turing test is an important part of modern work on artificial intelligence.

Be they ever so great or ever so humble, the people who were convicted of such offences were all caught by the injustices of the past. We will not forget the records and the detail. Sometimes we see the past glinting through the mist. If members go to Rose Street Lane, they will see engraved on a wall, at the corner, “No loitering”. We have been talking about the particular meaning of “loitering”. Most people who look up and see the notice will be absolutely puzzled as to what it means. When

we reach a point at which people are equally puzzled by the past in relation to the subject that we are considering, we will have succeeded.

16:34

Daniel Johnson (Edinburgh Southern) (Lab): I begin by associating myself with much of what has been said today. This has been a rewarding debate to take part in because of the clear consensus that exists across the chamber. I am also keen to associate myself and Scottish Labour with the intent and objectives of the legislation to extend pardon for and disregard of historical offences.

I thank the committee for its diligent work and its extremely useful report, which has been referred to throughout the debate. It is clear that there is an overwhelming moral case for the bill. The discrimination that we are seeking to tackle and to put right today is of the worst possible kind: it is discrimination against people on the basis of their identity and their sexuality. There is no more fundamental part of our identity than our sexuality. Who we love and who we have sex with are fundamental parts of who we are as public and social human beings, and as private human beings. The fact that such discrimination was prosecuted by the state and set out in our laws is an injustice that we must put right.

There was also a human historical injustice. It is the fact that everyday normal behaviours were made illegal that makes putting this right so important. As many members have stated today, it is easy to bank recent progress because we are at a point at which it feels like a long time ago that these injustices were tolerated as normal. It was not all that long ago. Much of today’s debate has focused on history: Christina McKelvie put it very well when she pointed out that not only was Scotland not the shining beacon that we hope it will be in the future, but we were laggard in many ways because we implemented legislation sometimes hundreds of years after our continental peers.

The committee’s report did well to highlight that these are not just historical issues; people are having to face current and on-going issues. A number of members have referred to the evidence that was given by people whose careers have been hindered and whose jobs today are not what they might have been because of legislation that so grossly discriminated against them. That context is very important and critical to the debate that we are having. We cannot view all this as history or as a job done. The work is on-going and global in nature; Patrick Harvie and Margaret Mitchell set out the vital global imperative to keep going and pushing forward.

On another point about context, Alex Cole-Hamilton also put it very well in an intervention. We do not want simply to delete our history and expunge it from our records. We must remain mindful and aware of it.

There is also the context of what has been done elsewhere. Mary Fee set out the comparison with the UK legislation very well. Although that legislation is right in its intent and we can support that intent, the fact that as few as 2 per cent of the people who might be eligible for pardons have applied for them is cause for consideration, as is the fact that its scope is more limited. Our proposed legislation addresses that.

I would also like to reflect on something that the cabinet secretary said about people continuing to suffer as a result of laws that were passed by previous parliamentarians. That is important. We should use this debate to reflect. The things that we are discussing are obviously wrong to us today. We should therefore continue to think about the laws that we pass and the things that we say and how they might be viewed by future generations. What is obviously wrong to us today might not have been viewed as such in the past, so we must consider how our actions might be viewed in the future. I particularly liked those comments. We should be mindful of the point, going forward.

On some of the technical points, the legislation is well conceived. While being mindful of some of Stewart Stevenson's comments, I say that the bill's definitions are broadly flexible and useful. It is important that the bill defines sexual activity so broadly and that it captures importuning, because that means that people who were criminalised for chatting people up will be pardoned and eligible for disregards.

I want to mention the discussion around the issue of the pardon. I thought that Gail Ross's contribution was useful in that regard. She was right to highlight the fact that we need to be careful about how we consider the issue of the pardon, and she also linked that to the consequences that convictions had—inadvertent consequences that might not have been foreseen. That is important because we are dealing with a two-stage measure: there is the pardon, and there is the disregard. A couple of times during the debate, I intervened to highlight the importance of awareness. It is important that people are aware of the difference between the pardon and the disregard. It would be extremely unfortunate if people thought that the pardon is sufficient and did not realise that they have to apply for the disregard.

I was pleased with the cabinet secretary's explanation about the emphasis that will be placed on simplicity in the process, but I hope that there

will be as great a focus on awareness and communication, so that people understand the difference between the pardon and the disregard, and that they need to apply for the disregard.

A number of other considerations were raised in the debate. Kezia Dugdale raised the need for ease, and Maurice Corry made a good point about the need for some sort of acknowledgement, whether it is a letter or something else, of disregard for posthumous cases.

Above all, we need to be constantly reflective about how the legislation operates both in a narrow sense, so that we can ensure that we keep it up to date and that it does what we intend, and in a wider sense, because we always have to think about the implications of what we do in Parliament and about how it will be regarded by people outside and by future generations.

I will be happy to support the bill at decision time.

16:41

Jamie Greene (West Scotland) (Con): I have quite a lot to get through in my summing-up speech, Presiding Officer, so please give me a nod if I eat into the time that the cabinet secretary has for his closing remarks.

I want to thank members across the chamber for their speeches. In this debate, I have heard some of the most heartfelt and eloquent speeches that I have heard in my two years in this Parliament. I am privileged to take part in this debate today as a member of the Equalities and Human Rights Committee and particularly as the convener of the Parliament's cross-party group on LGBTI issues, as we have been discussing this issue since the formation of that group.

The bill was introduced last November, and the Equalities and Human Rights Committee has collated a huge amount of evidence on it. We have received written submissions and testimony and have heard from various witnesses. Further, the Equality Network undertook an excellent survey, which had more than 700 responses. I want to personally thank those who made submissions and spoke to the committee, as well as the organisations that got involved, such as Stonewall UK and the Equality Network, agencies such as Police Scotland, Disclosure Scotland and the Law Society of Scotland, and, within the Parliament, the clerks, my fellow committee members, the committee convener and the staff in SPICe, who worked so diligently in preparation for today.

The bill follows on the tail of what is commonly known as Turing's law in England and Wales. There has been a lot of discussion around that legislation. Is it perfect? Probably not. Do we have

a chance in this Parliament to get it right? We absolutely do. Could this bill perhaps improve the situation in England and Wales? Possibly—I hope that that is the case.

Throughout the process, we have heard telling testimony from individuals who shared their stories. Too often, men were forced to remain in the closet for fear of not only persecution but prosecution. Men were simply not free to pursue consensual relationships—loving or otherwise—with other men. As we have heard, simple acts such as holding hands, kissing or even chatting in public resulted in bizarre convictions that remained on people's records for their whole lives, preventing many of them from applying for jobs and serving as a long-lasting stigma on their records.

Patrick Harvie spoke about the Glasgow Gay and Lesbian Centre. I recall, as a 17-year-old, getting on the train from Greenock to go there—I think that it was on Dixon Street, just down from the St Enoch centre. My goodness, I was petrified when I walked in the doors, but what a warm welcome I received. Let us not forget that, in 1997, it would have been illegal for me to have a relationship with another man. We are talking about modern history and not just the 1950s and 60s. Many atrocities were committed at that time, but the issue also resonates personally with me.

Maurice Corry explained that today's debate is not just about the legal aspects of the bill. I appreciated Stewart Stevenson's technical contribution, in which he made excellent points that I hope we will reflect on at stage 2, but we are really looking at the painful emotional impact that the convictions had.

Many members said, rightly, that the problem is not localised; it is global. In 72 countries, having a gay relationship is still a criminal offence and, in a third of those countries, people in such a relationship can be prosecuted, jailed or executed. Many of those countries are in the Commonwealth, so we should not shirk our responsibility to raise such issues.

Throughout the stage 1 proceedings, I have raised the issue of people who were in our armed forces. The bill is about pardoning people and disregarding offences, but many people were dismissed from the armed forces simply for being gay; they had not committed any offence whatever. Unfortunately, neither the bill in Scotland nor the act in England and Wales addresses that issue.

Conversations about the matter are going on between the forces and Government agencies, and I am pleased that lots of positive messages have come out of that. I hope that we will right the wrongs against those who served our country in

the armed forces. I pay tribute to many friends of mine who left the military in such circumstances. There is nothing that I can say to them or do today to make up for the loss of their proud careers, which were taken away from them. I hope that we will address the issue.

I would like to touch on some of the other themes that came up in the debate, as it is important to consider them.

Liam Kerr and I often discuss the semantics of dictionary definitions. On the issue of whether there should be a pardon, there is a definition of the noun "pardon" that says that it is a cancellation of the legal consequence of an offence or conviction. That is acceptable to me and to many. It is not necessarily about just forgiving; it is a technical matter and, in that respect, we need a pardon.

We know that the application process must be simple but robust, and it should not put anyone off going through the process. I hope that the Government will work with organisations such as the Equality Network when producing the process, the guidelines and the form. I am sure that that will be the case and I hope that such organisations will play a big part in the development process.

The Government should widely promote the disregard as best it can; Christina McKelvie mentioned the role that Disclosure Scotland will have to play in that, which is a pertinent point. There are many agencies and third-party bodies that will have a role to play in that.

We discussed compensation. At the beginning, I was perhaps minded to look at the model in Germany, where compensation is offered, but the feedback that we received, generally, was that this is not about money but about achieving justice for those who have been treated badly. I have a huge amount of respect for that view.

The automatic disregard definitely seems to be a technical impossibility and there are many reasons for that, which have been well presented to us today. I asked one witness whether there could be an automatic disregard for certain types of offence that are not ambiguous and are clearly related to sexual offences. The book should still be open—if there is a will, there may be a way—and we should look at that further.

We also discussed a disregard for those who are now deceased, which I think has not been mentioned. Some members felt very strongly that those who had loved ones who were prosecuted should have the option to apply for a disregard. What benefit it might bring those families and how that might happen is hard to pinpoint, but views were expressed that that could be an option.

On certification, which also comes from a concept in Germany, I have no doubt that if someone successfully applies for a disregard, they will receive some documentation or paperwork. However, how symbolic, official looking or official feeling the wording will be is still up for discussion, and I hope that the bill team will take that on board.

My hope is that the bill sets an example of Scotland being a gay-friendly and tolerant country, but the work is not over. The bill should be not the end of the journey, but the springboard for future progress in how we, as a nation, treat our LGBTI community. A true gay-friendly nation is one that is free of not just legal discrimination, but bullying, harassment and social discrimination. We might not be in the era of police raids on bars in our cities but the reality is that today, still, many gay people are bullied simply because of who they are. I know this because I have often been on the receiving end of such bullying, even since taking office as an MSP.

Let us welcome the bill and congratulate those who helped to shape it, but let us ensure that this is not the end of the journey. We can disregard; we can pardon; but we should also make progress.

16:50

Michael Matheson: I thank all the members who have participated in the debate this afternoon. As has been said in the chamber before, there are often issues that can divide us, but it is always encouraging when we introduce legislation that has such strong and clear cross-party support.

I want to acknowledge in particular the two witnesses who gave evidence in private to the committee that is considering the bill and the very sensitive manner in which the committee made provision for hearing their evidence. People may feel at times as though this is an academic exercise, but the reality is that although the bill may touch the lives of a limited number of individuals, we should not underestimate the significance of the difference that it can make to those individuals and the way in which they conduct their lives, particularly when they have been convicted of an offence in the past under discriminatory legislation.

It is extremely important to state that this legislation is not about rewriting our history—a number of members referred to that. It would be a serious error for anyone to try to take an approach that is about revising or trying to delete our history; Alex Cole-Hamilton and Annie Wells pointed that out. As Annie Wells said, there is a potential danger in trying to rewrite our history. The very fact that we had discriminatory laws that were

pursued by the state during a period of time is part of our history and who we are today, and we should always be prepared to learn from such errors of the past. The bill is not about deleting records; it is about correcting the impact on an individual's life from having a conviction attached to their record.

I have been struck by the issues that have been raised by members. Very often, when it comes to a stage 1 debate, we receive a committee report in which there are a host of recommendations, which we can see are likely to lead to amendments. I will hold Alex Cole-Hamilton to his commitment to non-meddling amendments to the bill at stage 2 and stage 3.

Having said that, I believe that the bill is in good shape in terms of the provisions that are set out in it, particularly because we took the time to look at what were, in our view, some of the errors in the legislation in England and Wales in order to get the Scottish bill correct. We did that for the very reason that was highlighted by Kezia Dugdale in her intervention during my opening speech about the definition of “sexual activity”. The definition in our bill will allow the holding of hands, and kissing in public, to be considered as part of both the pardon and the disregard provisions. That is not provided for in England and Wales. We have sought to get that balance right, and the broad definition that we have created will help to fulfil greater flexibility in dealing with a wider range of issues.

Daniel Johnson: Given that there has been such concern about making sure that the process works well, I understand that it will be governed by regulation and that it will be subject to the negative procedure. Will the cabinet secretary consider the use of the affirmative procedure so that the process can have that level of scrutiny and clarity?

Michael Matheson: The committee made a recommendation on that matter in its report, and we have written to the committee to confirm that we are content to move to an affirmative procedure.

The report is not about the technical aspects of the bill, but there are concerns about the process elements, which are not about what we are trying to do but about trying to get the process right. As I said in my evidence to the committee, I am committed to making sure that the gatekeeping mechanism—the application process to which some members have referred—should be as user friendly, intuitive and simplified as possible.

Margaret Mitchell made a point about representations that have been made regarding the provision for legal aid for the application process and the letter of response from the Law Society of Scotland. To be honest, I would prefer

legal aid not to be required for the application process, because, if the process is as open and simple as possible, there will be no need for someone to engage a lawyer to make an application for a disregard. That is the approach that I want to take; the last thing that I want—this is not for any personal reasons—is for someone who wants to make an application to be driven into the hands of a lawyer and to think that they have to go to a lawyer to make the application.

I am keen to ensure that we make the process as open and user friendly as possible. The development of the application process includes collaborative and co-operative engagement—as we had when shaping the bill—to make sure that we consult and listen to the views of others who can help us to shape the process to get it right.

Alex Cole-Hamilton: I appreciate and accept the Government's intent to make the application process as simple as possible. However, there will be circumstances in which a disregard is not awarded, in which case the person may need a right to appeal. Will the Government consider legal aid in that circumstance?

Michael Matheson: As we set out in our response to the committee, we are looking at existing legal aid provisions in order to make legal aid, by way of advice and assistance, available to individuals in those circumstances in which they choose to appeal to the sheriff court against a decision not to award a disregard. I hope that that reassures members of our commitment to make sure that we get the application process as open, transparent and easy as possible for people. Alongside that, we will have a public information campaign that will inform people about the process through which they can make an application for a disregard. I am more than happy to keep the committee up to date about progress on those matters.

Members will be aware of the practical challenges around the proposal for the provision of a posthumous disregard. That is not because I am minded to oppose such a proposal; if it could be achieved in a straightforward matter, I would have no problem whatsoever with including it in the bill. However, it is worth keeping in mind that details on the police criminal records system are removed and deleted from the system when a person dies. That system would be key to gathering information when an application is received.

It is also necessary to understand when the conviction took place and, potentially, the court in which it took place. If we do not have that information, hundreds of thousands of court records would have to be trawled through to try to find the information that would be needed, which would be completely impractical to achieve.

The third issue is more sensitive. It may be that the family's information does not entirely reflect the conviction that took place. When an application has been received, the family may receive information that says that the disregard has been refused and why, and that may cause them upset and concern as a result. We have to recognise that issue of sensitivity.

However, if there is a means by which we can—on the basis of information that the family has made available to us—say that a person is entitled to a pardon and that they may have been entitled to a disregard, I am happy to consider how we can achieve that. We have to recognise the risks and real challenges around the posthumous disregard system.

As a number of members have stated, the bill will be a landmark piece of legislation, as it will ensure that we rectify the discriminatory mistakes that were made in the past in discriminating against individuals because of their sexuality and relationships. The bill will allow this generation to put that right, and I hope that, in the chamber tonight, we will be united in sending out a clear view that Scotland wants not only to be a world leader on LGBTI rights but to put its own record straight by removing the provisions from our legislation and righting the situation for individuals who were affected by discriminatory law in the past.

Business Motions

17:00

The Presiding Officer (Ken Macintosh): The next item of business is consideration of two business motions. Motion S5M-11683 sets out a business programme and motion S5M-11684 sets out a stage 1 timetable.

Motions moved,

That the Parliament agrees—

(a) the following programme of business—

Tuesday 24 April 2018

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Topical Questions (if selected)

followed by Scottish Government Debate: National Plan for Gaelic

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 25 April 2018

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions:
Justice and the Law Officers;
Culture Tourism and External Affairs

followed by Stage 3 Proceedings: Social Security (Scotland) Bill

followed by Business Motions

followed by Parliamentary Bureau Motions

6.00 pm Decision Time

Thursday 26 April 2018

11.40 am Parliamentary Bureau Motions

11.40 am General Questions

12.00 pm First Minister's Questions

2.30 pm Parliamentary Bureau Motions

2.30 pm Stage 3 Proceedings: Civil Litigation (Expenses and Group Proceedings) (Scotland) Bill

followed by Appointment of Member of the Standards Commission for Scotland

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

Tuesday 1 May 2018

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Topical Questions (if selected)

followed by Scottish Government Business

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 2 May 2018

1.15 pm Parliamentary Bureau Motions

1:15 pm Members' Business

2.00 pm Portfolio Questions:
Education and Skills

followed by Scottish Government Business

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 3 May 2018

11.40 am Parliamentary Bureau Motions

11.40 am General Questions

12.00 pm First Minister's Questions

followed by Members' Business

2.30 pm Parliamentary Bureau Motions

followed by Scottish Government Business

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

and (b) that, in relation to First Minister's Questions on 26 April 2018, in rule 13.6.2, insert at end "and may provide an opportunity for Party Leaders or their representatives to question the First Minister".

That the Parliament agrees that consideration of the Age of Criminal Responsibility (Scotland) Bill at stage 1 be completed by 16 November 2018.—[*Joe FitzPatrick*]

Motions agreed to.

Parliamentary Bureau Motions

17:01

The Presiding Officer (Ken Macintosh): The next item of business is consideration of two Parliamentary Bureau motions. I ask Joe FitzPatrick to move motion S5M-11685, on deadlines for questions for bank holidays, and motion S5M-11686, on committee membership.

Motions moved,

That the Parliament agrees that the period for Members to—

lodge a Topical Question for answer on Tuesday 8 May should be 9.30am on Tuesday 8 May;

submit their names for Portfolio and General Questions on Wednesday 16 and Thursday 17 May should end at 12 noon on Friday 4 May;

lodge a First Minister's Question for answer on Thursday 10 May should end at 12 noon on Friday 4 May;

lodge a Topical Question for answer on Tuesday 29 May should be 9.30am on Tuesday 29 May;

submit their names for Portfolio and General Questions on Wednesday 6 and Thursday 7 June should end at 12 noon on Thursday 24 May; and

lodge a First Minister's Question for answer on Thursday 31 May should end at 9.30am on Tuesday 29 May.

That the Parliament agrees that the following changes to committee membership apply from close of business on Thursday 19 April 2018—

Gil Paterson is to be appointed to replace Kate Forbes on the Environment, Climate Change and Land Reform Committee;

David Torrance is to be appointed to replace Kate Forbes on the Standards, Procedures and Public Appointments Committee;

Jenny Gilruth is to be appointed to replace Fulton MacGregor on the Justice Committee;

Kate Forbes is to be appointed to replace Fulton MacGregor on the Rural Economy and Connectivity Committee;

Tom Arthur is to be appointed to replace David Torrance on the Delegated Powers and Law Reform Committee;

Fulton MacGregor is to be appointed to replace David Torrance on the Equalities and Human Rights Committee;

Fulton MacGregor is to be appointed to replace Tom Arthur on the Economy, Jobs and Fair Work Committee;

Kate Forbes is to be appointed to replace Jenny Gilruth on the Health and Sport Committee.—[*Joe FitzPatrick*]

Decision Time

17:01

The Presiding Officer (Ken Macintosh): The first question is, that motion S5M-11659, in the name of Michael Matheson, on the Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill be agreed to.

Motion agreed to,

That the Parliament agrees to the general principles of the Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill.

The Presiding Officer: The next question is, that motion S5M-11685, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, on deadlines for questions for bank holidays, be agreed to.

Motion agreed to,

That the Parliament agrees that the period for Members to—

lodge a Topical Question for answer on Tuesday 8 May should be 9.30am on Tuesday 8 May;

submit their names for Portfolio and General Questions on Wednesday 16 and Thursday 17 May should end at 12 noon on Friday 4 May;

lodge a First Minister's Question for answer on Thursday 10 May should end at 12 noon on Friday 4 May;

lodge a Topical Question for answer on Tuesday 29 May should be 9.30am on Tuesday 29 May;

submit their names for Portfolio and General Questions on Wednesday 6 and Thursday 7 June should end at 12 noon on Thursday 24 May; and

lodge a First Minister's Question for answer on Thursday 31 May should end at 9.30am on Tuesday 29 May.

The Presiding Officer: The next question is, that motion S5M-11686, on committee membership, be agreed to.

Motion agreed to,

That the Parliament agrees that the following changes to committee membership apply from close of business on Thursday 19 April 2018—

Gil Paterson is to be appointed to replace Kate Forbes on the Environment, Climate Change and Land Reform Committee;

David Torrance is to be appointed to replace Kate Forbes on the Standards, Procedures and Public Appointments Committee;

Jenny Gilruth is to be appointed to replace Fulton MacGregor on the Justice Committee;

Kate Forbes is to be appointed to replace Fulton MacGregor on the Rural Economy and Connectivity Committee;

Tom Arthur is to be appointed to replace David Torrance on the Delegated Powers and Law Reform Committee;

Fulton MacGregor is to be appointed to replace David Torrance on the Equalities and Human Rights Committee;

Fulton MacGregor is to be appointed to replace Tom Arthur on the Economy, Jobs and Fair Work Committee;

Kate Forbes is to be appointed to replace Jenny Gilruth on the Health and Sport Committee.

Artificial Intelligence

The Deputy Presiding Officer (Linda Fabiani): The final item of business is a members' business debate on motion S5M-10161, in the name of Kenneth Gibson, on artificial intelligence. [*Laughter.*] It is nothing personal, Mr Gibson. The motion is entitled "Artificial Intelligence: Future Prosperity, a Threat to Employment or Existential Threat?" The debate will be concluded without any question being put.

Motion debated,

That the Parliament considers that artificial intelligence (AI) represents a potential asset to Scotland's economy and could contribute to growth in productivity and gross domestic product (GDP); acknowledges the findings of the PwC report, *The economic impact of artificial intelligence on the UK economy*, which was published in June 2017 and states that the impact of AI across Scotland's economy could boost annual GDP by up to £16,700 million by 2030; realises that the development of AI will require new industries to be formed in order to supply and service new automated solutions, therefore contributing to net employment growth; appreciates that Scotland embracing AI technology could bring benefits across society, including greater prosperity, productivity and more individual leisure time, not least to the people and communities of Cunninghame North; also notes the Cities Outlook report, published in January 2018, which suggests that 230,000 jobs in Scottish cities could be lost to automation and globalisation by 2030; is aware however, that some experts in the field of AI fear that its development will ultimately be detrimental to humanity, a matter often raised in science fiction; understands that Professor Kevin Warwick, of Coventry University, attests that networked AI systems cannot be just "switched off" when they go rogue, which is a particular problem in military applications where AI is currently being developed; understands that the Tesla car maker, Elon Musk, asserts AI to be as big a threat to humanity as climate change or nuclear war; believes that, in California, a "singularity", which will be an ultra-intelligent machine that can make itself even more clever will have been developed within three or four decades; notes the view that, to ensure systems are developed in a responsible and controlled way, open up economic opportunities and minimise potential threats, a debate on AI and its implications for Scotland is long overdue; concludes that AI and its growing importance is an issue of global significance, and notes calls for the Parliament to address this.

17:04

Kenneth Gibson (Cunninghame North) (SNP): I thank colleagues who took the time to sign my motion—in particular, Gordon Lindhurst and Tavish Scott, because without their cross-party support the debate could not have taken place. I also thank Mark Dames, who is the head of public affairs at BT Scotland, his colleague Dr Andrew Starkey and Heriot-Watt University for their excellent briefings.

Just four weeks ago, the world lost Stephen Hawking, one of our most inspiring and high-profile scientists. As someone who relied upon

automation and artificial intelligence to continue leading his incredible life far beyond the two-year prognosis that he was given in 1963, Mr Hawking was also one of the loudest voices warning against the dangers that are posed by the future relationship between humanity and AI. Speaking in 2014, he went so far as to say that the development of artificial intelligence

“could spell the end of the human race.”

He is not alone in having expressed such concerns. Tesla car maker and space pioneer Elon Musk has suggested that AI is as big a threat to humanity as climate change or nuclear war. Sundar Pinchar, who is the chief executive of Google, has said that the impact of artificial intelligence will be more profound than that of electricity or fire.

Although some people prefer to consign AI to the fringes of science fiction and simply ignore the inevitable universal adoption of automation, I believe that it presents perhaps the biggest challenge that society will face in our lifetime. It is therefore disappointing that the Scottish Government has not brought to the chamber a debate on the topic.

Of course, the apocalyptic notion that computers with superior intellects will eventually go rogue and turn against us is—I am assured by AI engineers—“highly unlikely”, as technical limitations hold back the ability of computers to process the same volume of information as our brains process with ease daily—even mine, Presiding Officer. Although they have potential for evolutionary and exponential growth, they may think in completely different and more peaceful ways than humans, who have survived and evolved through millennia of war, famine and disease.

What we must prepare for is the rapid acceleration of the three main technological trends that will impact on Scotland’s economy. First, there will be rapidly increasing and diversifying capabilities of machines, and data-driven decision making. Secondly, there will be a departure from traditional business models, with new start-ups trending towards asset-light and digital-platform based business. Thirdly, there will be global connectivity that will enable collaboration in decentralised online communities.

Those trends will dramatically shift the standard relationship between humans and machines by substantially reducing the involvement of workers in everyday business processes and customer transactions. Although that may be good news for businesses that benefit from streamlined processes, fears are mounting that AI technology will destroy jobs and, indeed, entire industries faster than it creates them, thus creating mass

unemployment and handing market control to a handful of dominant firms that are quick to harness the new technology.

The current wave of technological change is so far reaching that it has been described as the “fourth industrial revolution” in an excellent report that was published by the Scottish Council for Development and Industry in collaboration with BT Scotland, entitled “Automatic ... For the people?” Of course, each preceding industrial revolution has produced winners and losers, but the distinction here is that the influence and effects of AI and machine-learning technology will be ubiquitous, transformational over a few short years and not reserved to a few sectors. Unless we radically reassess our workforce—especially those in the most vulnerable jobs—we risk considerable social dislocation.

As the motion highlights, the recent report by the Centre for Cities suggests that as many as 230,000 Scottish jobs could be lost in our four biggest cities over the next decade. However, according to the SCDI and BT report, as many as 837,290 jobs are at high risk of being lost to automation, from 8 per cent in education to 44 per cent in retail and 63 per cent in water supply. The last alone would mean 10,642 fewer jobs.

Highly skilled private sector occupations are expected to increase, while lower-skilled and more routine activities will shrink. We are not just talking about the future. Businesses of all types already use AI to forecast demand, hire staff and provide customer services. In 2017 alone, companies globally spent £15 billion on AI-related mergers and acquisitions—more than 26 times more than in 2015, which demonstrates the momentum that AI now has. The McKinsey Global Institute estimates that applying AI technology in marketing, sales and supply-chain departments could be worth £2 trillion in profits and savings over the next 20 years.

In financial services, AI already shapes new processes in financial controls, regulatory reporting, applicant checks and referencing data, thereby eliminating human error on critical financial reporting. In healthcare, AI can eliminate subjectivity in patient diagnosis and use algorithms to connect symptoms and test results, thereby delivering more accurate prognoses. Its uses also range from detecting criminal activity to identifying web material that is designed to radicalise Facebook or YouTube users.

AI could transform the workplace and give employers unprecedented control over staff. From Amazon-style wristbands that track the efficiency of warehouse staff to smart ID badges that track interaction between employees, data will be harvested and used in ways that we may not yet conceive. Big brother could be watching you.

John Mason (Glasgow Shettleston) (SNP):

The picture looks a little gloomy on the jobs front, but does Kenneth Gibson accept that, in hospitality and coffee shops, for example, a lot of people want to be served by a person and that that makes a real difference?

Kenneth Gibson: Yes. I certainly hope that human interaction remains at the forefront. I am one of those people who never uses a machine at Tesco or Asda, for example; I always prefer to be served by a shop worker. However, the trend is quite simple and straightforward and is heading in one direction. We have to adapt our economy and consider the fact that some people who own coffee shops might agree that some people will want to be served by a human, but other owners will look just at the bottom line.

It seems reasonable that AI could be used to screen for anomalies or to flag up differences in pay between genders and races that conscious or unconscious bias could cause a human to overlook. However, as the Cambridge Analytica saga has demonstrated, data is a valuable asset, and our laws are not yet fit to protect workers from automated surveillance that goes beyond the consent that is baked into employment contracts.

I am not here to provoke alarm or to theorise about the end of days, but rather to encourage the Scottish Government to join other Governments that have, in collaboration with industry and civil society, already set out their AI and automation strategies. Indeed, the programme for government states the intention to transform Scotland into a nation that will lead in AI, machine learning, data analytics and low-carbon energy. Nevertheless, I doubt that AI is currently being given the high priority that is required.

Germany already has a 10 to 15 year strategy to advance the adoption of new digital technologies across industry, and federal departments are exploring aspects of AI, including the ethics of self-driving cars—as was raised in Ivan McKee's members' business debate—the impact on the workplace, and use of drone technology. France has commissioned a national AI strategy, and Estonia is exploring the use of automation in healthcare, finance and other sectors.

With some of the world's leading research universities being in Scotland—notably Heriot-Watt University—already undertaking cutting-edge work, and a plethora of data-intensive businesses having chosen to set up in our cities, I am confident that with the right strategy and outlook Scotland can make the most of the opportunities that are afforded by those innovations.

The Fraser of Allander institute has already advised that much of the research that has been undertaken into the potential impacts of

technological change on Scotland has used United Kingdom-wide data and applied it to Scotland's unique industrial structure. To predict more accurately and plan for technological transformation, the Scottish Government should lead the way in researching what tasks and activities will be impacted by automation, and the distinct impact that that will have on Scotland's businesses and workers.

With careful planning and proper regulation, technological change will create growth and help businesses to grapple with a shrinking working-age population and weak productivity growth. According to the PricewaterhouseCoopers report entitled "The economic impact of artificial intelligence on the UK economy", which was published last June, the impact of AI across Scotland's economy could boost annual gross domestic product by £16.7 billion by 2030 through developing new industries.

I have talked at length about technology, but what really matters is Scotland's people. It is critical that education and training equip not just our young people with the skills that are necessary to adapt to upcoming technological changes, but that they do so for the 80 per cent of Scotland's current workforce who will still be of working age by 2030. There is consensus that the principles and design of the curriculum for excellence are right for the opportunities and challenges of life and work in the 21st century, but there is more that we can do to prepare our workforce better for the economy of the future.

We are all familiar with the stereotype of the worker edging closer to retirement who suddenly finds that there is no market for their skills and is unable to adapt to new technology. However, in this digital era, people could face that prospect far earlier in their careers. The Scottish Government must foster a culture in which lifelong on-the-job learning is not just an optional extra, but an inherent feature of working life.

I am sure that everyone has their own vision of Scotland's future, but surely we must all agree that artificial intelligence is an issue of global significance that cannot be ignored. In the words of the chief executive of Centre for Cities, Andrew Carter,

"The time to act is now".

17:13

Gordon Lindhurst (Lothian) (Con): I did not realise that the words

"Big Brother could be watching you"

would be the cue for John Mason to make an intervention, so I will not use them. I see that he is leaving the chamber at this point anyway.

I thank Kenneth Gibson for bringing this debate to Parliament. I signed his motion because it raises a number of important points about artificial intelligence that are worth reflecting on.

As the convener of the Economy, Jobs and Fair Work Committee, I can see that there are potentially huge and positive implications for Scotland in the coming years. As has already been highlighted, other issues may need to be looked at more closely. However, it is important not to be alarmist about future developments. I think about the concerns when computers first became mainstream not that long ago; people were worried that everyone would be out of a job. We soon learned that—at that stage anyway—a digital copy and a hard copy of everything had to be kept, which meant that we had a double workload. We may be beyond that in this paperless Parliament, but that is certainly how it was in the beginning.

New jobs were created by the computer industry, and we are all familiar with the resulting cyberworld, whether we want to be or not. Research by Deloitte has found that, although technology is estimated to have cost 800,000 lower-skilled jobs between 2001 and 2015, 3.5 million higher-skilled jobs have been created in their place as a result of technology.

We should not exaggerate the effects of AI. After I had signed the member's motion, a constituent wrote to me to express concern about it, suggesting that it may be an

"exercise in futurism reminiscent of the predictions made in the 1960's that we would now be having holidays on the moon".

I do not think that any of us have had a holiday on the moon—at least not yet today.

Nevertheless, my constituent agreed that a debate on AI was well overdue in the Scottish Parliament. Their principal concern was that that debate should be an evidence-based one. I hope that we can all agree on that, because there are identified and legitimate concerns, such as the social and economic implications of increased automation; the use of obsolete data; the protection of personal privacy; and the inappropriate application of biases and prejudices established from real-world data transferred into automated systems without adjustment. Those are just a few of the legitimate concerns about the advance of AI.

However, let us remember those concerns at the same time as noting that, as it says in the motion, the effects on productivity and the resultant contribution in boosting the economy can be positive and immense. Increased productivity is something that we could do with in Scotland, given the lack of growth over the past eight years. We

can harness our advantage by the progress that we have made on the AI front, which could prove key to being at the forefront of the technology of the future.

That aspect is recognised in the UK Government's industrial strategy, in which

"growing the Artificial Intelligence and data driven economy"

is one of the four "grand challenges" that the UK can take advantage of. The autumn budget included £75 million on AI-related developments last year and £21 million for tech specialisms in the UK, including for a hub here in Edinburgh, which is a city with a successful AI track record—and, indeed, in this very chamber.

We must recognise the benefits that AI brings at the same time as we remain live to the risks and the difficulties it could also create.

17:18

Tom Arthur (Renfrewshire South) (SNP): I thank Kenny Gibson for bringing this debate to Parliament. A few weeks back, we discussed driverless cars in a members' business debate sponsored by Ivan McKee. Mr Gibson made a particularly interesting speech, in which he referred to the trolley dilemma and wondered how a driverless car would decide to interact in such a situation. That speaks to some of the problems and the challenges that we will have with AI; it also speaks to the profundity of our attempting to understand the impacts that it will have.

In looking forward, it might be useful to begin by looking back and situating what might happen within the broader context of previous industrial revolutions. Mr Lindhurst referred to the potential for alarmism and overstating what might happen. If we consider the impact of the first industrial revolution, we see that steam and the railways led to some of the most profound changes since the agricultural revolution. We can also consider the profound impact of synthetics, including dyes, chemicals and plastics. However, one of the most profound inventions was the washing machine. It emancipated many—by a large majority, women—from domestic drudgery—

Jackie Baillie (Dumbarton) (Lab): Men, too.

Tom Arthur: And men, too.

The Deputy Presiding Officer: Do you think?

Tom Arthur: The microwave oven, the kitchen, plumbed water and sanitation have had the most profound impacts. If we are to suggest that a fourth industrial revolution as a consequence of AI and automation will be equally profound, we must consider what we mean by that.

I think that AI could have an impact on that scale. The reason for that is that, if we reach the stage at which machines can start to learn for themselves, the potential will exist for exponential growth. Some people forecast that machines will pass the Turing test within our lifetime. When that happens, it will give rise to a range of considerations that seem to belong to the realms of science fiction but which could become real. If a machine develops the capacity to think and, potentially, to feel, should it have rights and responsibilities and duties and obligations? In future, we might face such questions. The fact that that is even a possibility suggests how profound the impact could be.

Gordon Lindhurst: Would the right to vote be one of the rights that would have to be considered in the scenario that Mr Arthur postulates?

Tom Arthur: Such a scenario might sound so speculative as to be almost farcical, but it becomes less so if we think about the role that machines could play in law as paralegals and the introduction of machines to generate automated responses for the civil service, which some jurisdictions are experimenting with. Machines could have a role in supporting politicians in doing the job of representing their constituents. For example, a machine could potentially take on a piece of constituency casework. Therefore, there are significant implications for our democratic system and how we think about it, even before we get to the stage of having genuine artificial intelligence.

Speculative concerns aside, the most profound point concerns the potential threat to jobs. As has been highlighted, the issue is whether we are talking about job displacement or job replacement. I welcome the Scottish Government's latest publication on the subject, "Technological Change and the Scottish Labour Market", which I am sure the minister will refer to. It takes a very balanced view. My experience of the Economy, Jobs and Fair Work Committee's evidence taking is that although there are people on the fringes who make predictions that we face a catastrophe or, alternatively, that artificial intelligence will make no difference at all, the general consensus seems to be that, as with previous industrial revolutions—for example, when the use of horses as a means of transportation and power declined—new jobs will emerge. That is potentially the situation that we will be in.

It is extremely important that we are cognisant of the opportunities and risks that exist. Although we are talking about a speculative and inchoate development, we have a duty as politicians to put such ideas into the public domain and to make sure that the population at large is aware of them, because there is an inevitability to the whole

process. When the changes in question take effect, it is vital that we—and, most importantly, the public—are prepared.

17:23

Jackie Baillie (Dumbarton) (Lab): As others have done, I thank Kenny Gibson for bringing the debate to Parliament. For some strange reason, some of my colleagues—and, indeed, some of Mr Gibson's—burst into laughter when I said that the debate was on artificial intelligence and that it would be led by Kenny Gibson. Who knows why they would do that? Frankly, I find that shocking.

Tom Arthur struggled to make the point about women being liberated from the kitchen through the invention of the washing machine, plumbing and various other things. Far be it from me to point out that men were liberated through such inventions, too, and far be it from me to say that artificial intelligence might liberate women from men completely; that is a novelty for another time.

The Labour Party has, of course, long been committed to protecting workers' rights, ensuring high standards of working conditions and creating the opportunity for organisations and businesses to thrive. I have no doubt that, in the 21st century, the world is changing, the economy is changing and work is changing. Equally, I have no doubt that the on-going life-changing technological advances that we are seeing will change the face of work as we know it.

Given that we are on the brink of the next industrial revolution, it would be foolish of us to approach such a fundamental change to our country's industrial landscape with anything less than the enthusiasm that previous progress was met with. The opportunity to innovate our sectors, to improve the experience of workers and to strengthen our position on the world stage through the likes of artificial intelligence should be embraced with open arms, while ensuring that precautions are taken to minimise any negative impacts that might arise.

It is vital that we seize this change and maximise its potential benefits, but we need to stay in control. We should be shaping how automation works for us, rather than allowing artificial intelligence to shape us.

That means working with the trade unions and working alongside employers to dictate how best artificial intelligence can fit into our economy to guarantee that we get the most that we can from such progress.

The changes that automation presents are far greater than we previously thought. Automation will affect every part of our economy. However, I am sure that Kenneth Gibson agrees that the

current state of our economy leaves little room for complacency. That was evidenced in the recent figures on the minimal growth that Scotland's economy achieved in the previous quarter. That suggests that if we want to improve economic performance in Scotland, as we all do, automation could provide an opportunity to drive a significant boost to our productivity and our gross domestic product.

It is worth repeating that, as Kenny Gibson highlighted, in June 2017 PricewaterhouseCoopers told us that the impact of AI across Scotland's economy could be to boost annual GDP by up to £16 billion.

Tom Arthur: Will Jackie Baillie give way?

Jackie Baillie: Indeed.

Tom Arthur: I am grateful—

The Deputy Presiding Officer: I am sorry for not calling you, Mr Arthur, but I was waiting with bated breath to hear what you were going to say next. I call Tom Arthur.

Tom Arthur: Thank you very much, Presiding Officer. I would be interested to hear Jackie Baillie's view on the potential for a combination of the internet of things, big data and artificial intelligence to revive the idea of a planned economy.

Jackie Baillie: We believe that planning in the economy is critical. Take for example some of the recent debates that we have had on procurement. I think that our view on the opportunity to secure more of the supply chain in Scotland is shared across the chamber. If we can use artificial intelligence and big data to achieve even more of that, I do not see what the problem with that is. I want us to get the maximum that we can for our investment. If artificial intelligence helps with that, we should embrace it.

I want to see better conditions for workers and maximum productivity in our sectors, but we know that industries such as transport, retail and administration are likely to diminish in size. Industries such as those currently hold the majority of Britain's 900,000 zero-hours contracts and Scotland's something like 75,000 such contracts. In many cases, those are for low-skilled, low-wage jobs.

Labour has put a huge amount of time and effort into trying to change the exploitative nature of those jobs. I commend to the chamber our industrial strategy and Tom Watson's future of work commission, in which there are plans to ensure that workers will receive the retraining required to take full advantage of the high-skilled, high-wage jobs that often come hand in hand with automation.

We are seeing new technology and telecommunications industries emerge and information and communication technology and digital tech jobs in Scotland are expected to increase from 84,000 to 150,000 by 2020. That is an increase of 11,000 new skilled jobs each year in that sector. However, we have a challenge: there is a distinct lack of skilled young workers and we need to train even more 16 to 24-year-olds to meet that challenge.

I see you waving at me, Presiding Officer. Despite the earlier hilarity, I think that artificial intelligence provides us with an opportunity to secure economic prosperity for future generations. There is an opportunity to make it work for our economy.

17:29

Ivan McKee (Glasgow Provan) (SNP): I thank my colleague Kenny Gibson for bringing this very important subject to the chamber for debate this evening. The subject of AI, or artificial intelligence—I am not sure whether Jackie Baillie had a different AI in mind in the earlier part of her speech—is one of the biggest challenges facing our society and economy at the moment. It is a hugely broad subject and I will focus on two particular areas. First, there is the economic impact and how we manage that. Then I will say something briefly about the moral impact that was mentioned earlier in the debate.

The scale of the economic impact has been referenced by the reports that we have talked about: the city impact report, the PWC report and the SCDI automation report. The PWC report talks about a potential growth in the Scottish economy due to AI of 8.4 per cent by the year 2030. It refers to that of the UK, which it thinks could grow by 10.3 per cent due to the difference in the structure of the economies, which we need to bear in mind as we talk about how best to exploit the opportunities of AI for the Scottish economy.

As many members have said, we have been here before. I remember that when I was growing up in the 1970s, people talked about the changes that technology was going to make. In the early 1980s, we had huge unemployment as a consequence, but we came through that and new technologies and new jobs took up the slack. We do not still have huge pools of people typing out letters; they have been replaced by technology. We do not still have a million people working in coal mines, which are largely gone, and such jobs have been replaced by others. AI and technological developments have huge potential dramatically to increase productivity and enable us to do a lot more that is, as Kenny Gibson mentioned in relation to healthcare, of better quality.

The question is what we, as a society, should do to prepare to manage that best. It is about focusing not on the breadth of what might happen but about picking out a number of specific sectors in which we can leverage the skills base that we have and put some investment and focus into them. We should look at the research and development strengths that we have and work with academia, business, Government, trade unions and the third sector to identify a handful of sectors that we should invest in and focus on with a view to becoming world class. I have previously brought the subject of self-drive vehicles to the chamber for debate. That could be one of the sectors; we need to identify another.

In business, one of the hardest things that we need to do as far as strategy is concerned is to anticipate when to move on from a very successful business model and build a completely different one for the future. We need to embrace disruptive technology now, before it is too late. We must ask how we configure our education and skills system to be able to deal with it, and how we create the attitude that a job—or even a career—is not for life and that we must constantly reskill into different jobs. My moving into a career in politics at the age of 50 is perhaps an example of that. As Jackie Baillie said, the important thing is that we should stay in control through all that and be able to manage the impacts.

I want to say a brief word on societal impact. Clearly, a lot of things will happen in such a transition and it will be very difficult for individuals and their families. At this stage, it is worth talking briefly about the role that a universal citizens basic income might play in smoothing out the transition. It would give people a support network and also the confidence to be able to take risks, identify opportunities and start up businesses. Even if they fail, they will know that there is a support network there to enable them to move from one career to another without hitting huge financial hardship as a consequence. That has to figure very largely in where we are going with AI.

I will make a very brief point on the moral side of things. Clearly, the singularity concept is potentially scary if things go wrong. Tom Arthur entertainingly asked whether machines should have rights and responsibilities, which is perhaps something for discussion—who knows?

In conclusion, I would like to ask the Government to focus on four or five areas. The first is what we are doing to identify the specific sectors on which we should focus to take best advantage of the coming technological revolution. What are we doing on education and skills to prepare ourselves for that? What are we doing to ensure that the social transition is as smooth as possible? That is perhaps where the citizens

income could come in. We need to start a debate on the moral aspects of that and, as Kenny Gibson identified, perhaps to pull together to identify an AI strategy that allows us to move forward with some confidence.

17:34

Brian Whittle (South Scotland) (Con): I, too, congratulate Kenny Gibson on securing time for the chamber to debate what is a hugely interesting topic, on which I am delighted to be able to contribute. It gives us so much scope for what we can talk about.

Death, taxes and change are the three guarantees in life. Of course, change is happening at such a rate that we increasingly have to adapt to it and change our skill sets, as Ivan McKee pointed out, just to stay in the job market or even keep up with life. We humans are instinctively wary of change and tend to resist it, but, as all the Trekkies in the chamber will know, resistance is futile.

Technology has advanced at an incredible rate in my lifetime. I have mentioned in the chamber previously that I did not have a mobile phone until I was in my 30s and I remember black-and-white television, when we had to get off the sofa to change only three channels. Can you imagine that, Presiding Officer? Now, we are on a technological highway that moves at such a speed that it is increasingly difficult to keep up with it.

I have always been interested in the mythical technological singularity, which comes from the prediction that there will be a point in time when machines will be smarter than human beings. Ray Kurzweil, Google's director of engineering and a well-known futurist, predicts that we will hit that point within the next 30 years or so; in fact, he reckons that it will happen around 2029. We should take heed of him, because he has an 86 per cent accuracy rate for the 147 predictions that he has made since the 1990s. He says that the singularity will lead to

"computers having human intelligence, our putting them inside our brains, connecting them to the cloud, expanding who we are. Today, that's not just a future scenario. It's here, in part, and it's going to accelerate."

That takes me back to Seven of Nine and the Borg.

We all have to accept that the singularity will come sooner or later, but the question is whether we should fear it. Everyone knows, of course, that when machines become smarter than humans, they tend to take over the world, matrix style. Right? As Kenny Gibson indicated, many of the world's science and technology leaders, such as the late Stephen Hawking, Elon Musk and even Bill Gates, have warned us about that kind of

future. The issue certainly helps to keep the world's sci-fi film studios busy and that, in turn, keeps us royally entertained.

Kurzweil suggests, though, that the singularity—the point when a single brilliant AI enslaves humanity—is just fiction. I suggest that AI offers us opportunity. We might consider the idea of a cybernetic society to be more of a fantasy than a glimpse into the future, but there are people with computers in their brains today: Parkinson's patients. That is an example of cybernetics getting a foothold. Perhaps technology will be invented in future that can go inside our brain and help our memory, which would have implications for dementia sufferers, for example

Perhaps the vision of machines taking over the world at the point of the singularity should be replaced with the vision of a future of human-machine synthesis. That would, literally, open up whole new worlds in terms of space exploration. How can we as a species, with our frail bodies and minds, travel the vast distances across the galaxy that are required for us to continue in our thirst for knowledge and our need to consume resources? Currently, we could not survive journeys in space to explore other parts of the solar system, let alone the stars beyond. AI is the most feasible option that science has come up with in that regard, and perhaps it will even involve downloading our own consciousness into a machine. Currently, a Mars rover continues to send back information from the surface of Mars. Ultimately, we will need to leave this planet if the human race is to survive, so perhaps we need to rethink our definition of what constitutes a human being.

As Kenny Gibson's motion suggests, we do not know what is coming down the track, but we need to ensure that Scotland is ready to take advantage of the opportunities that AI will undoubtedly bring. We have a great track record in developing new technologies in Scotland. However, whatever our thoughts and fears about AI are, we can confidently say that AI is not so much a case of "I'll be back", but more a case of being here to stay. We need to embrace the opportunities that it will bring.

17:38

Clare Adamson (Motherwell and Wishaw) (SNP): Thank you, Presiding Officer, for letting me speak in the debate. I had not intended to do so, but I am, because I have been fascinated by the contributions so far.

In the 1980s, I was studying for my computing degree. It was quite an interesting degree at what is now Glasgow Caledonian University because, although it was a science degree, we also studied psychology and business and accounting. As part

of our psychology course, we were asked to look into the effect that the computing industry might have on future generations and what impact it could have on working lives. That was put to us in the context of the riots during the Wapping dispute, which arose because some newspaper production was moving from the manual printing process to a digital one. We saw what happened at Wapping because of that and how the police reacted to it, and it was a really interesting lesson.

I remember reading an essay—I cannot remember who wrote it—that talked about the human race as a whole, our collective psyche, and how we respond to technology. The author talked about Copernicus and his view that the sun rather than the earth was the centre of the solar system, which was of course proved years later with Foucault's pendulum. Galileo was excommunicated from the Catholic church, so shocking was the thought that human beings were not the centre of the universe.

The author suggested that the next stage that would have a shocking effect on humans would be when artificial intelligence came about. It would have the same effect on the human race because we would no longer be the sentient being in our universe. It was fascinating to read that, especially in the context of the real ways in which technology was changing. We talked about the Luddites and how they approached technology in their time, destroying weaving machines because they were a threat, and we came right up to the modern day and what was happening in our country at the time.

That whole thought about how we approach technology has remained with me, and if it has taught me anything, it is that the people who stand against the advancement of technology very rarely win. It is something that we cannot hold back, and the way to get an advantage from that is to be the leaders and the experts: to be the people who lead in new technology and innovations.

As someone who worked in IT, I want to be clear that a lot of what we have talked about today is not AI but what, in my time studying, was called expert systems. That is about taking the knowledge that we have as humans, applying it to a computing function of some kind and getting a result from that. The computer does not do anything other than replicate what it has been told to do by humans. That is absolutely not artificial intelligence; it is just about capturing data and using it in a positive way to achieve an outcome.

In the health situations that I looked at, information was captured from medical people to arrive at a diagnosis based on the steps that those people would go through to achieve a diagnosis. When we look at current opportunities such as the work that is being done at CENSIS on sensor

technology, again, that is all about capturing information and environments and using that in a positive way. We do not have real artificial intelligence yet.

The warnings that we have heard should be noted and we should be cognisant of them. We have examples from Marvin the paranoid android, and Holly in “Red Dwarf”, right through to HAL 9000, who killed off his entire crew. The warnings and concerns exist, and although we can look at ASIMO, the Honda robot, which is cute and looks benign and unthreatening, we know that the technology in there can be used in a military form to weaponise. As with all such things, the most important thing is that we understand the technology and use it for the benefit of humanity.

The Deputy Presiding Officer: I call Paul Wheelhouse to respond to the debate for about seven minutes—although, given the way it has gone, I would say that you can have as long as you like, really, minister. [*Laughter.*]

17:43

The Minister for Business, Innovation and Energy (Paul Wheelhouse): Thank you, Presiding Officer. I, too, congratulate Kenneth Gibson on securing the debate, and I welcome the speeches that we have heard from members throughout the chamber. Regardless of which study we talk about—whether it is the Centre for Cities one, the BT and SCDI one or the PWC one—and which we rely on for our estimates of the impacts in society, we cannot overstate the significance of the issue for our economy, Scotland’s people and our workforce, so it is right that Kenneth Gibson has brought the topic to the chamber. I take on board his point about Government time and I will play that back to my colleagues, but I reassure him and members throughout the chamber that we take the issue particularly seriously.

The topic of artificial intelligence and other emerging technologies has always interested me. A number of references to science fiction have been made today, and I mention on the record “Do Androids Dream of Electric Sheep?”, “Blade Runner” and its successor film as personal favourites. They raise some ethical issues about how robots and artificial intelligence can be used, and that ties in with what Clare Adamson has just said. The important point, which cut across all the speeches in the debate, is that the issue is not just the technology’s development but whether it can be used to benefit mankind and our planet, rather than do us harm.

The topic that we are debating interests me and resonates strongly with the Scottish Government. It is an area to which attention is increasingly

being turned. Tom Arthur talked about the work that Jamie Hepburn is leading in respect of technological change in the Scottish labour market, which relates to some of Ivan McKee’s points about the need to consider the labour market and adjust the curriculum in our schools, colleges and universities to ensure that our young people are prepared for the world that they will encounter.

In March last year, my colleague Keith Brown, Cabinet Secretary for Economy, Jobs and Fair Work, was asked to provide a welcoming speech at the European robotics forum. It was the first time that that prestigious event had been held in the UK. The forum attracted more than 800 delegates and provided a valuable opportunity for policy makers and stakeholders to engage.

The organisers’ choice of Edinburgh as the location for the conference is a testament to Scotland’s strengths in computer science research and proof that our skills and expertise in the area have achieved recognition across Europe. Indeed, the Edinburgh centre for robotics, which is led by Heriot-Watt University and the University of Edinburgh, is a UK-wide collaborative body, and, as Brian Whittle said, the University of Edinburgh is working with NASA on its Valkyrie robots, which are to be used in future missions to Mars.

We are at the cutting edge of the technology and we can be proud of that, but Kenneth Gibson rightly challenged us to think about how it will impact on the people of Scotland. It is understandable that there has been much focus on the impact on occupations and jobs. There is sometimes an emphasis on the loss of jobs and employment, but technology might replace tasks and make processes easier, with the jobs remaining but the way in which they are done changing fundamentally.

Tom Arthur: Will the minister comment on the metrics that we use for the economy, such as headline employment figures, GDP and productivity, which often do not capture exploitative work, zero-hours contracts and work that is not stimulating? We are seeing the hollowing out of medium-skilled jobs, and although there might be growth in high-skilled jobs, greater automation could lead to an increase in low-skilled jobs. Does the minister agree that we need a superior set of metrics if we are to understand what is happening and direct change so that it improves people’s wellbeing and overall quality of life, instead of simply focusing on increased GDP?

Paul Wheelhouse: I certainly do. The Government has been considering, with stakeholders, alternative measures of the economic success of our society, which go beyond GDP. I entirely take the member’s point about the current measurements’ difficulty in picking out

issues such as zero-hours contracts and other exploitative practices. AI will further complicate our ability to understand the impact on individuals and translate that into wages and wage growth. We need to be mindful of the issue.

Emerging technologies such as AI present exciting opportunities for Scotland, as Jackie Baillie rightly said, but we must acknowledge that with those opportunities come a number of concerns. To be fair, Jackie Baillie recognised that.

It is a part of human nature to have concerns about the unknown, but where there is an unknown, we can learn—and learning is an area in which Scotland thrives. Our universities are considered to be world class and have a history of excellence in fields such as data science, machine learning and artificial intelligence. I take Clare Adamson's point that we need to be careful about how we use the term "artificial intelligence" and I defer to her knowledge, as an information technology specialist, of the difference between expert systems and true artificial intelligence.

Emerging technologies can drive growth and productivity, as Gordon Lindhurst said. As we move further into the modern commercial environment, our industries are required to continuously adapt. Ivan McKee asked about the sectors on which we are focusing. Manufacturing is clearly an area to which we will have to give a lot of attention. Equally, in financial services, for example, the growth of fintech is already causing concern to many members. The loss of branches across the country is partly a response to the move to technology, which will increase as artificial intelligence is used more. These things are happening now.

Technology is bringing opportunities in the public sector. In healthcare, for example, there are opportunities to improve patient experience and quality of life. Stephen Hawking's points about the threats were well made, but he clearly benefited from technology, and we need to identify opportunities to improve quality of life for individuals—as I said, we need to focus on areas in which there can be a gain for mankind.

By integrating processes such as automation, we can remain competitive in the global marketplace. That is particularly key to the future of our manufacturing base, which is a sector that has been highlighted in a number of studies as one that will be strongly impacted on by emerging technologies.

That is why the Scottish Government has committed £48 million to a national manufacturing institute for Scotland at Inchinnan to help accelerate innovation by enabling manufacturing companies to trial and test new processes,

applications and technologies. We are also supporting development through the manufacturing 4.0 service to help companies to understand how emerging technologies can be integrated into their businesses effectively and efficiently. That service will be launched properly very soon. The NMIS will also help to support our workforce by providing resource to develop and enhance the skills that they and employers need, resulting in more competitive businesses while safeguarding jobs.

We are a small nation, but we are proud to be a vibrant, inclusive and outward-looking digital nation. The Scottish Government has a vision for making the most of data by championing across Scotland a trustworthy use of it for public benefit. Delivering innovation using our skills in data science and artificial intelligence techniques is an important strand of us achieving that vision and we are working to accelerate that through data-driven research.

Scotland's refreshed digital strategy, "Realising Scotland's Full Potential in a Digital World", which was published in March last year, sets out plans for ensuring that we put digital at the heart of everything we do. Data innovation plays an important role within that strategy and, along with digital, it will create an irresistible force to drive innovation in our public services.

There is also the importance of transparency. This work needs to be carried out under robust ethical and governance frameworks. Kenneth Gibson, Clare Adamson and others made powerful remarks about the need for ethics, and Ivan McKee's earlier debate on autonomous driving also touched on these issues.

We are investing £300 million in the Edinburgh and south-east Scotland city region, including £60 million for innovation. That investment, and investment from the UK Government, which we should acknowledge, will help to secure our place as the data capital of Europe and to create an environment that will nurture and attract further innovation and investment to Scotland.

I have much that I could say about cyber-resilience, but I am conscious that I have already run out of time. This has been a valuable debate and I know that members on all sides are focused on ensuring that, in Scotland, we take an ethical and informed approach when considering artificial intelligence. I note the concerns that Mr Gibson raised, and it is important that Parliament acknowledges that concern and is mindful of the potential impact on the workforce of Scotland.

I hope that I have assured members that we are taking steps to strike the correct balance when considering the needs of economic development against our social and ethical values. The future

will bring many opportunities, and I hope that we all agree that Scotland is well placed to be a global leader in the development of artificial intelligence and other emerging technologies.

Meeting closed at 17:52.

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

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