



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Meeting of the Parliament

**Thursday 19 December 2019**

**Session 5**



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# Scottish Parliament

Thursday 19 December 2019

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

## General Question Time

### Northern Isles Ferry Services

1. **Jamie Halcro Johnston (Highlands and Islands) (Con):** To ask the Scottish Government what update it can provide on legal action in relation to northern isles ferry services. (S5O-03941)

**The Minister for Energy, Connectivity and the Islands (Paul Wheelhouse):** Scottish ministers are limited in what can be said at this stage of legal proceedings in order not to prejudice the outcome of those proceedings.

Arrangements are being made to extend the current contract so that the services operate as normal throughout the period, which will ensure that communities, passengers and businesses who rely on the services and the staff who work on them will not be affected during the proceedings.

Furthermore, the proceedings do not affect our commitment to fare reductions on the Aberdeen, Kirkwall and Lerwick routes from January 2020, which will proceed as promised.

**Jamie Halcro Johnston:** In Orkney and Shetland, reduced fares that have been promised for many years have been delayed by 18 months, so far, by legal action. Earlier this month, the tender process for the northern isles service was delayed again by legal action. Then, yesterday, we heard that in the Ferguson Marine Engineering Ltd shipyard, which is earmarked to provide replacement ferries for our islands, orders are again delayed and will now come in at double the already high cost.

The Scottish National Party's commitment to providing fair funding for our vital interisland ferries in the northern isles has still not been met. The Scottish Government's mismanagement of Scotland's ferry services has been chaotic and embarrassing. I therefore ask the minister how people in the islands are supposed to have confidence in the Government's management of our ferry services? Will the minister apologise for that catalogue of failures on his watch?

**Paul Wheelhouse:** Dear, oh dear. Jamie Halcro Johnston ought to reflect on the fact that Serco NorthLink, the current operator, has a 97 per cent satisfaction rating for the services to the communities in the northern isles. He might also

want to reflect on the fact that there is no absence of Scottish Government intervention to provide the services through Serco NorthLink. The member ought to recognise that the Scottish Government has a good track record of delivering services for the northern isles.

The interisland ferry services are provided by Orkney Islands Council and Shetland Islands Council, and we have increased funding to them. I point out that the situation that has arisen for them arose prior to devolution at the time of the then Conservative Government and Scotland Office. [Interruption.]

If Jamie Halcro Johnston would listen to my response rather than continuing to chunter from the sidelines, he might actually learn something. In the past two years, for the first time ever, Orkney Islands Council and Shetland Islands Council have received additional funding from the Scottish Government to improve the ferry services, even though the councils are legally responsible for delivering them. [Interruption.]

Jamie Halcro Johnston is continuing to chunter while I try to explain matters to him so that he can learn from my answer to his question. His party's Government in the 1980s put the current situation in place.

**Jamie Halcro Johnston:** The 1980s!

**Paul Wheelhouse:** Indeed. That was the last time the Tories had power in Scotland. Jamie Halcro Johnston might want to acknowledge that.

He ought also to recognise that the Scottish Government has made additional funding available to Orkney Islands Council and Shetland Islands Council. We are in positive dialogue with the councils on how we can help them to address the funding challenges that they face. Indeed, the figures that they have supplied to us have been fed into the budget process—which has, of course, been delayed by Jamie Halcro Johnston's Conservative Party's Government delaying its budget statement, potentially until as late as March. That situation is potentially very difficult for all local authorities in Scotland, including Orkney Islands Council and Shetland Islands Council.

**The Presiding Officer (Ken Macintosh):** I am pleased to see that members are in a festive mood, but they should try to restrict themselves to a question and an answer rather than also having a conversation with other members in the chamber.

**Liam McArthur (Orkney Islands) (LD):** We have the remarkable spectacle of the Government's own ferry company taking legal action against the Scottish Government. Can the minister advise Parliament on whether calculations have been made of the likely cost to CalMac

Ferries Ltd and the Scottish Government of that legal action?

**Paul Wheelhouse:** All I can say to Liam McArthur is that the matter is clearly now sub judice, so I have to be careful about what I say. We regret that legal action is being taken, but we also recognise that CalMac operates at arm's length from the Government and that it has the right to legal challenge of the Government about a commercial tender exercise. Obviously, we hope that the process can go forward as quickly as possible at minimal cost to CalMac and the Scottish Government.

I hope that Liam McArthur will accept that answer, and that he appreciates that I cannot give more information at this time. We regret that the legal action is happening, but we clearly want to see it being progressed as fast as possible and to put in place the long-term future of the services to the northern isles, which I know Liam McArthur cares about.

#### **Welfare Support (Christmas and New Year Period)**

**2. Anas Sarwar (Glasgow) (Lab):** To ask the Scottish Government what plans it has to provide additional welfare support for people in need over the Christmas and New Year period. (S5O-03942)

**The Cabinet Secretary for Social Security and Older People (Shirley-Anne Somerville):** The Scottish Government is already delivering a range of social security benefits, and is committed to ensuring that people receive all the support that they are entitled to throughout the year. We have also committed an additional £354,000 to support a range of initiatives that are tackling rough sleeping and homelessness this winter.

The majority of welfare benefits are still the responsibility of the United Kingdom Government. We continue to press UK ministers to reduce the unfairness of their welfare reforms, to improve support for the most vulnerable people and to ensure that safeguards are in place for those who need them.

**Anas Sarwar:** The cabinet secretary and I would prefer that food banks were not needed, but while they are we must support them. Will she join me in congratulating the *Evening Times* on its "Bank On Us" campaign, which has resulted in more than 5,000 bags being delivered to food banks across the city? Does she agree that that demonstrates the generosity, not just of the people of Glasgow, but of the people of Scotland, who are supporting people who have been left vulnerable, particularly in the run-up to Christmas and the new year?

**Shirley-Anne Somerville:** I absolutely endorse Anas Sarwar's comments about the *Evening*

*Times* campaign. I hope that all members in the chamber agree that there should be no place for food banks in our society. The fact that we have food banks is a demonstration of a broken welfare system. Although the welfare system is broken and the UK Conservative Government refuses to make the changes that are needed to fix it, it is highly commendable that the people of Glasgow and people across Scotland are stepping up, particularly at this time. It is also commendable that the *Evening Times* has been running a campaign to facilitate that.

#### **Rape Crisis Support**

**3. Rona Mackay (Strathkelvin and Bearsden) (SNP):** To ask the Scottish Government what its response is to recent figures from Rape Crisis Scotland, which state that on a typical day 1,035 people are waiting to access rape crisis support. (S5O-03943)

**The Minister for Older People and Equalities (Christina McKelvie):** Although it is welcome that more people are coming forward to seek support, we should unite in our outrage that women and girls continue to experience sexual violence at the hands of men. It needs to stop, and the Government will continue to take action, including by strengthening the law, investing in services and tackling the underlying attitudes and inequalities that perpetuate violence against women and girls.

We are investing £2 million in rape crisis work this year, including £800,000 of core funding for 17 rape crisis centres and £166,000 for the national rape crisis helpline. Rona Mackay will recall that, on top of that investment, last year the Government pledged an additional £1.5 million over three years to rape crisis services in order to improve access to support.

I will set out my plans for future funding in the new year, and we will continue to work to ensure that those who experience sexual violence have access to the right support at the right time.

**Rona Mackay:** Does the minister agree that that highlights the need for more support for victims, which the Scottish Government is giving, and that Rape Crisis Scotland's "£16 for 16 Days" campaign, which raised £15,269 for local rape crisis centres and the national helpline, is a massive achievement?

**Christina McKelvie:** As Rona Mackay has highlighted, it is clear from Rape Crisis Scotland's report that we have much more to do, so we are working with it to do it.

We recognise the difficulties that support services across the violence against women sector face and will take them into account as we explore the structure of our next equalities funding round. We hope to be in a position to announce

our future funding plans early in 2020. There is no doubt that Rape Crisis Scotland's "£16 for 16 Days" campaign was hugely successful, having raised more than £15,000. I join Rona Mackay in acknowledging that massive achievement for Rape Crisis Scotland.

### **Strategic Transport Projects Review 2 (Survey)**

**4. Mark Ruskell (Mid Scotland and Fife) (Green):** To ask the Scottish Government for what reason the Strategic Transport Projects Review 2 survey is taking place over the Christmas holiday period. (S5O-03944)

**The Cabinet Secretary for Transport, Infrastructure and Connectivity (Michael Matheson):** The strategic transport projects review survey was planned to start after the consultation on the national transport strategy, which closed on 23 October. That was to ensure that there was a distinction between the two processes.

In order to keep to the programme, Transport Scotland is keen to have the feedback from the survey by mid-January. The festive period has been taken into account and that is part of the reason why the survey will run for six weeks, and will close on 10 January 2020.

**Mark Ruskell:** The cabinet secretary will be aware of the considerable interest in west Fife and Clackmannan communities around the prospect of reopening of the rail route from Longannet to Dunfermline. He has previously committed to meaningful consultation of communities on the potential for that project through the STPR2 process, but all we have so far is an online survey that is very general, in nature. Will the cabinet secretary commit to running workshops with communities, as was expected, and to extending the online survey in order to give people, communities and stakeholders a proper opportunity to respond to the issues under STPR2?

**Michael Matheson:** An extensive range of engagement has already taken place. For example, 42 regional workshops took place in early summer this year, there have been seven national and thematic workshops, and there have been three business-focused events. So far, more than 300 organisations have engaged in the STPR2 process: that process has been extensive and will continue. We have also held 18 school workshops across the country, and another 30 are planned for the coming months.

There has been an extensive process that has allowed communities to engage on specific issues in their areas in order to feed into the STPR2 process. I encourage the member's constituents who have an interest in the issue that he has

raised to make sure that they take part in the online survey and any of the workshops that are taking place at regional level.

**Jamie Greene (West Scotland) (Con):** The cabinet secretary will be aware that the Rural Economy and Connectivity Committee recently wrote to him to highlight the £3 billion backlog of repairs to Scotland's roads. Will he confirm whether the STPR2 process will seek to redress that backlog?

**Michael Matheson:** The STPR2 process considers what strategic project initiatives we should be looking to support in the coming 10 to 20 years. It will assess what are, by and large, new projects or upgrading of existing projects. It will not look at specific road maintenance issues in the way that the member alluded to.

### **Prison Staffing**

**5. Alex Rowley (Mid Scotland and Fife) (Lab):** To ask the Scottish Government what action is being taken to address reported staffing shortages in prisons. (S5O-03945)

**The Cabinet Secretary for Justice (Humza Yousaf):** The most pressing challenge facing the Scottish Prison Service in relation to staffing is at HMP and YOI Grampian, where the attrition rate is more than double the national average. The SPS recognises the continuing challenges of the recruitment and retention of staff at Grampian and has adapted the recruitment process to include online testing and application processes, as well as running a number of other initiatives to attract candidates. The challenges associated with staffing, including staff absence and recruitment, are matters that I discuss regularly with the chief executive of the SPS, most recently on 26 November. The SPS continues to support Grampian with staff from elsewhere across the prison estate.

On the wider issue, to address the problem the scheduled recruitment of prison officers in 2020 and 2021 has been increased and, as a consequence, the SPS will bring in more than 800 new officers over the next 24 months. As I have said many times before and I am certain that Alex Rowley agrees, Scotland's prisons remain stable, safe and well run and that is very much down to the unwavering dedication and commitment of prison officers and staff across the country. I thank them for their dedication.

**Alex Rowley:** Prisons may well remain stable and well run, but if we are to adhere to the principles of crime, punishment and rehabilitation, there are shortages. As I have said to the cabinet secretary, I have met prison staff and I am happy to have that discussion further in private, but if the cabinet secretary is going to make the case to the

Cabinet Secretary for Finance, Economy and Fair Work for further resources for prisons—it is obvious to me that they are needed—surely he needs a proper assessment of those needs. I hope that he will do that and that we can work together, because it is in nobody's interests to keep our prisons so full and have the staffing problems that we face.

Will the cabinet secretary bring forward a proper assessment in order to put the case to the finance secretary for the additional resources that will be needed?

**Humza Yousaf:** I will answer that question in the spirit in which I think that Alex Rowley asked it. Of course I will work with anybody from across the chamber to address the real challenges that face us in our prison population and estate. Alex Rowley is right that, if our prisons are overcrowded as they currently are, there is less time for the likes of rehabilitation and other such measures. Where I would disagree with him is on the fact that, where the SPS has asked for more money, the Government has not been found wanting. In this financial year alone, the SPS asked for an additional £24 million and received it; we have increased the budget when there has been a need to do so.

Any conversations that I have with the finance secretary will of course be held in private, but I will also have conversations with members from across the chamber. If there are additional resources in the budget, I am glad that Alex Rowley has now said that he would support such a budget. I am sure that the finance secretary will hear that in the discussions that will take place.

**Liam Kerr (North East Scotland) (Con):** One way in which the Scottish Government seems to want to tackle staff shortages is by emptying prisons. This week the Government had to breach parliamentary procedure and implement the restriction of liberty regulations without the necessary scrutiny from the Justice Committee. Does it not suggest a worrying absence of planning and preparation, and a disrespect for this Parliament, that such important legislation has had to be rushed through without the necessary scrutiny?

**Humza Yousaf:** It is HM inspectorate of prisons that says that Scottish prisons are stable, well run and safe. The inspectorate in England and Wales says that Tory mismanagement of prisons is draconian in comparison to Scotland. Not only that, we look after those who work in our prisons. Our prison officers have received a 6 per cent pay rise this year, compared with a derisory rise of 2.2 per cent offered by the Conservative Government.

Mr Kerr talks about prison overcrowding. If I went with his regressive justice proposals, which

would see whole-life sentences, the ending of automatic early release for short-term prisoners and opposition to the presumption against short sentences, we would have to build three more Barlinnies. Where the heck would the money come from for that? I will take no lectures from the Conservatives about the pressures on our prison estate. We are getting on with the job of managing that, while he carps from the sidelines.

### High Court Trials (Time Limit Breaches)

**6. Pauline McNeill (Glasgow) (Lab):** To ask the Scottish Government what action it is taking in response to reports that there are regular breaches of the time limits aimed at preventing delay in High Court trials. (S5O-03946)

**The Cabinet Secretary for Justice (Humza Yousaf):** I am sure that Pauline McNeill will be aware that Scottish ministers and the Scottish Parliament may not, by law, seek to influence either prosecutorial decisions or decisions by the judiciary about case management.

The Scottish Government has made additional resources available this financial year. We gave £5 million extra to the Crown Office and Procurator Fiscal Service and just shy of £2 million to the Scottish Courts and Tribunals Service to help them to respond to the changing nature and complexity of criminal cases.

The member may be aware that a large number of those trials relate to sexual offences. The review group led by Lady Dorrian, the Lord Justice Clerk, is considering what distinguishes sexual assault cases from other criminal cases, and how court processes and the experience of complainers and witnesses can be improved without compromising the rights of the accused.

**Pauline McNeill:** Section 65 of the Criminal Justice (Scotland) Act 1995, as amended by this Parliament in 2004, states that an accused may not be held for more than 140 days following a preliminary hearing. However, when the Scottish Courts and Tribunals Service wrote to me this year, out of the 492 trials started in 2018 only three did not extend the time limit, and there was an average of 16 weeks in 2018 in which courts did not meet the requirements of the 1995 act. That is a significant rise and the cabinet secretary has correctly said that there are many serious and sexual offences cases among that number, which are delayed because of a failure to meet that timescale.

Does the cabinet secretary share my concern? When he has a chance to study that picture in detail, will he respond to me about how we can get closer to what the spirit of the act intended when we passed it in 2004, so that the 140-day limit will be extended only in response to cause shown?



**Humza Yousaf:** I reassure Pauline McNeill that I do look at the detail, and have looked at it. I have discussed it with the Lord Advocate. He would be happy, from a prosecutorial point of view, as prosecutors have the responsibility up to indictment, to speak to Pauline McNeill.

I share the member's concerns about the 140-day limit. The majority of current High Court work is on sexual offences cases, which feature complex digital forensics as well as having a number of other complexities. That does not mean that the courts should not pay close attention to that 140-day limit; they should. I am happy to furnish Pauline McNeill with more detail, and the Lord Advocate is happy to meet her to discuss the Crown's role in this.

### **Referendums (Scotland) Bill**

**7. Adam Tomkins (Glasgow) (Con):** To ask the Scottish Government what discussions it has had with the Electoral Commission since the Referendums (Scotland) Bill completed stage 2. (S5O-03947)

**The Cabinet Secretary for Government Business and Constitutional Relations (Michael Russell):** As I have indicated previously, there have been multiple, constructive discussions between the Scottish Government and the Electoral Commission about the bill in recent months. Those conversations have continued since stage 2. I have lodged at stage 3, which will take place this afternoon, amendments that build on those discussions with the Electoral Commission.

**Adam Tomkins:** Not only is the cabinet secretary seeking to impose on Scotland a second independence referendum that Scots do not want, but he is seeking to rig its rules by bypassing the critical role of the Electoral Commission in its independent testing of any referendum question.

In a unanimous report, this Parliament's Finance and Constitution Committee made it clear that that is completely unacceptable and that the cabinet secretary must seek the agreement of the Electoral Commission on a way forward. Yet, this week, the Electoral Commission has said that no such agreement has been reached. The Electoral Commission says that it should be required by law to reassess any referendum question. Why does the cabinet secretary not agree?

**Michael Russell:** The member is getting his retaliation in early, before he is defeated on the matter this afternoon when the Parliament votes on it. [*Interruption.*] He will be defeated, because he has misled us on what the Electoral Commission says. The Electoral Commission says in its briefing that it is "satisfied" with the amendments that I have lodged. That position and

the position that Mr Tomkins has taken are not compatible.

We will have the debate this afternoon. I hope that, by then, Mr Tomkins will have read the Electoral Commission's recommendations and that, in those circumstances, he will not repeat the error that he fell into just now.

## First Minister's Question Time

12:01

### Scottish Government (Priorities)

**1. Jackson Carlaw (Eastwood) (Con):** All this week, and again this morning, the First Minister has set out her one priority for Government. There is no prize for guessing what it is.

Let us see how she is getting on this week with the people's priorities. For a commuter, the train that is overseen by the Scottish National Party is in chaos. For a person who lives on our islands, the ferry that they need to get to the mainland is in dry dock. For the parent of a sick child, either the hospital is not open or, if it is, the child might end up with a deadly infection. Is that a record with which the First Minister is proud to end the year?

**The First Minister (Nicola Sturgeon):** The Scottish Government works and will continue to work hard on all those priorities.

When we encounter failures of private companies in commercial contracts, such as has happened on the ferries and the railways, we—unlike the Conservatives, who continue to defend the situation—take decisive action. It does not surprise me at all that the Conservatives do not like that very much.

Let me take the opportunity, at this time of year in particular, to thank all the people who work so hard across our health service, caring for sick children and patients the length and breadth of the country. I thank everyone who works in our public services for the sterling job that they do.

Of course, the record of my Government—indeed, the performance of my party relative to that of Jackson Carlaw's party—was put to the Scottish people last week. The Scottish people recorded their verdict, and I think that Jackson Carlaw knows very well what that was.

**Jackson Carlaw:** People do not want the First Minister's thanks; they want the leadership that is so obviously lacking.

If the First Minister's Government is so decisive, will she answer me this? During the course of 2019, what is the Scottish Government's detailed record on meeting its national health service waiting time targets?

**The First Minister:** Let me quote Audit Scotland, who said that, on seven out of the eight waiting time targets, more people were being seen within the targets than was the case in the previous year. We are investing in the health service, to build the capacity that is needed to address rising demand.

What this Government is doing stands in stark, stark contrast to the performance of the Conservatives south of the border and indeed in contrast to the performance of Labour in Wales. We have record investment in our national health service and we have a record number of people working in it. Because we did not do what the Conservatives wanted us to do in the most recent budget and the budget before that, which was to hand tax cuts to the richest people in our society, we have been able to avoid a further half a billion pounds cut in our public services budget—a cut that would have been imposed on top of the other cuts that the Tories have imposed on Scotland's budget.

**Jackson Carlaw:** Well, First Minister, here is the current score. The 12-week treatment time guarantee—missed and never met. The 18-week referral to treatment—missed. The six-week wait for diagnostics—missed. The 18-week wait for psychological treatment—missed. The 18-week mental health target—missed. The 62-day target for cancer treatment—missed. The four-week wait for musculoskeletal treatment—missed. The chronic pain target—missed. That is the First Minister's record in 2019.

When the First Minister was showboating before the cameras again this morning, did she not think—*[Interruption.]* This morning, did the First Minister not think that the thousands of patients who have been let down by her Government should have been due her apology?

**The First Minister:** I am sure that I am not the only one who is struck by the fact that Jackson Carlaw's angry demeanour is always in inverse proportion to his levels of confidence.

On the issue of health service performance, let me remind Jackson Carlaw that this Government has an £850 million waiting times improvement programme, which is delivering improvements and making progress. For Jackson Carlaw, the leader—as he calls himself—of the Scottish Conservative Party, to stand up in the chamber, the week after the worst waiting times on record were recorded in England, under the Conservatives, is, frankly, a bit rich.

It is this Government in Scotland that is investing record sums in spite of Tory austerity. It is this Government that is supporting a record number of workers across our national health service, and we will continue to do that and stand up against Tory austerity. That is why the record and the performance of this Government were endorsed by the people of Scotland just a few days ago.

**Jackson Carlaw:** The First Minister can run from her record of missed targets, but she cannot hide from it. *[Interruption.]*

As we enter 2020, we have seen figures from the programme for international student assessment show science and maths performance at record lows; violent crime going up for the fourth year in a row; NHS Greater Glasgow and Clyde suing the construction firm that built our largest hospital, which was commissioned by Nicola Sturgeon; and embarrassing failures in public transport, on sea and rail. Some might even say that it is unarguable that every public service that is in the care of this SNP Government ends 2019 in a worse state than when the year began. Surely, in 2020, fixing those issues should be the priority of any Government that is worthy of the name.

**The First Minister:** Those are my priorities, day in and day out. I do not run from the record of my Government—[*Interruption.*] I put that record before the Scottish people in an election last week, and let me remind Jackson Carlaw what happened: the SNP won that election comprehensively and the Tories lost it just as comprehensively. All those tired lines were rejected by the electorate just last week, which is why, in 2020, I will get on with the job of improving our public services and making sure that Scotland's public services continue to perform better than public services do under the Tories in England and under Labour in Wales. By contrast, I am going to predict that the Tories will probably spend at least part of 2020 electing a new leader.

### Renewable Energy (Burntisland Fabrications Ltd)

**2. Richard Leonard (Central Scotland) (Lab):** I refer members to my entry in the register of members' interests.

On 22 May, speaking about the future of Scottish renewables and of the three Burntisland Fabrications Ltd yards in Scotland, the First Minister told me and the Parliament:

"I fully support the trade unions in their campaign to bring contracts and jobs to Scottish yards."—[*Official Report*, 22 May 2019; c 66.]

Why, then, do we learn today that more contracts and more jobs are going to the far east?

**The First Minister (Nicola Sturgeon):** I stand by what I said about BiFab and about other companies that are competing for such work in Scotland. I gently remind Richard Leonard that, if it was not for the action that this Government took, there would be no BiFab in Scotland as it would already have closed.

It is just a matter of weeks since BiFab won a contract, and we will continue to work with companies and trade unions to make sure that more of the work from the development of

renewables in Scotland goes to the excellent Scottish supply chain.

I hope that that is an issue on which we will get the support of Scottish Labour; I hope that we will continue to get that support from Richard Leonard and his colleagues.

**Richard Leonard:** This is about jobs. Jobs for the NnG offshore contract are going to Indonesia. If this morning's reports are correct, jobs for the Seagreen offshore contract are going to China. Fabrication yards in Scotland are underutilised and skills are lying idle, yet we know that less than 15 per cent of the work on the NnG contract is going to Scottish yards. This is not half a loaf; it is crumbs from the table. Even at that, these workers are being hired and fired on short-term, casual contracts. In fact, workers at Arnish point are being paid off tomorrow, just days before Christmas. Meanwhile, CS Wind in Machrihanish is also serving its workers with P45s.

A decade ago, Alex Salmond promised that renewables would create so many jobs that we would become the Saudi Arabia of marine power. He predicted that there would be 130,000 jobs from offshore power generation. Ten years on, can the First Minister tell the workers at Arnish point, at CS Wind and at those yards in Fife how many jobs there really are?

**The First Minister:** I say to Richard Leonard that I genuinely appreciate his interest in these matters, but I point out to him that many of the powers that influence this—powers over energy and over employment law, for example—remain reserved to the United Kingdom Government, so as Labour continues its period of reflection and considers again, in a very welcome way, its position on independence, perhaps those are all points that he and his colleagues should bear in mind.

On the issue of the yards, I say to the workers in BiFab that there would not be a BiFab now but for the investment that this Government has made to secure its future and will continue to make. We will host the second summit for the offshore wind sector in Edinburgh in January and continue to maximise the potential of that sector. We have a good record in supporting the offshore wind industry and we will continue to do that, but our hand in that would be considerably strengthened if we had Scottish Labour's support in getting all the powers into the hands of this Parliament. I hope that in 2020 that is a position that Scottish Labour will belatedly support.

**Richard Leonard:** But the Scottish Government is in charge of the licensing of the sea bed for offshore wind. In 2012, the SNP reached an agreement with China. It spoke of Scotland as "the destination of choice" for key areas, including

renewable energy. In 2016, the SNP Government secretly signed a memorandum of understanding with China, but it seems that under this Government the destination of choice for renewable energy jobs is not Scotland but China. Why are companies such as EDF and SSE ignoring the First Minister? Will she urgently speak to the chief executive of SSE today? Will she pick up the phone this afternoon? Will she finally understand that we do not need more summits but an industrial strategy and a plan for jobs? This is too important to be left to the market.

**The First Minister:** I know that Richard Leonard has had a really difficult week, but that is really desperate stuff. I suggest to him that over the Christmas break he does a bit more homework on this. Maybe he could look at who controls the contract for difference process and who continues to control the regulatory framework for these issues. If he were to come back from that and actually support the devolution of those powers, perhaps we could have a more constructive conversation. He asks me to talk to the chief executive of SSE. It is the work that I did with SSE and other companies that made sure that BiFab did not close a couple of years ago. We will continue to support BiFab and all the other companies.

As on so many other issues, Richard Leonard cannot get away with simply willing the end; he also has to will the means for this Scottish Government. When he does that, perhaps—just perhaps—a few more people across Scotland might take him and his sorry party seriously.

**The Presiding Officer:** We have some constituency questions.

#### **Dover Fueling Solutions (Agency Workers)**

**Shona Robison (Dundee City East) (SNP):** I ask the First Minister what the Scottish Government's response is to reports that Dover Fueling Solutions in my constituency has terminated, with little or no notice, the employment contracts of almost 200 agency workers, which is understandably devastating to many in the run-up to Christmas. Although it is a reserved matter, does the First Minister agree that it is time that the employment rights of temporary workers should be reviewed, in the light of that kind of practice?

**The First Minister (Nicola Sturgeon):** Yes, I agree with that, and I thank Shona Robison for raising an important constituency issue. The news will obviously come as a blow to the agency staff affected at Dover Fueling Solutions in Dundee, especially at this time of year. I understand that some of the products and services are seasonal; that is what the company says requires a reduction in temporary staff. Partnership action for continuing employment staff have already made

contact with the agency, and will offer support for any individuals if that is required. The Scottish Government, through Scottish Enterprise, continues to provide support to Dover Fueling Solutions, to help grow the business with new export markets and products.

The Scottish Government is fully committed to ensuring that all workers across the country are treated, and paid, fairly by their employers. In the absence of powers over employment law, which should come to the Scottish Parliament, but remain reserved to the United Kingdom Government, we will continue to do everything that we can to promote fair work practices.

#### **Amy Lornie**

**Liam Kerr (North East Scotland) (Con):** Amy Lornie was a beautiful, happy five-year-old, who tragically passed away from a brain tumour in September. Her mother, Angela Bain, started a petition to bring in Amy's rule, which she believes, like Ryan's rule in Australia, could prevent others having to go through a similar tragedy.

At the beginning of November, Angela wrote to the Cabinet Secretary for Health and Sport seeking her thoughts both on the tragic death of poor Amy, and on Amy's rule. Disappointingly, six weeks later, Angela has received no response to that letter.

Will the First Minister ask the health secretary to respond to Angela's letter, to give her some sense that she is being listened to, as she faces her first Christmas without brave Amy?

**The First Minister (Nicola Sturgeon):** I convey my sincere condolences to Amy's family. It is indeed a tragic case, and I am sure that the thoughts of all of us are with the family as they face their first Christmas without her.

I am sure that the letter is being given full consideration. I give an assurance that it will indeed be given full consideration, and that a reply will be sent as soon as possible. We will take very seriously, and give proper consideration to, the suggestions that are being made. I will ask the health secretary to correspond with Liam Kerr once we have had the opportunity to conclude that consideration.

#### **Cycle Storage (Planning Permission)**

**Alison Johnstone (Lothian) (Green):** We are in the midst of a climate emergency. The First Minister has ambitions to decarbonise aviation and develop carbon capture and storage. However, simple commonsense measures are still being overlooked, as her Government's failure to have even 10 per cent of journeys made by bike by 2020 looms. It is hard to cycle, of course, if you have nowhere to store your bike. People who want

to install a simple bike shed in a front garden must apply for planning permission at a cost of over £200. Will the First Minister act now to make bike storage simple and affordable?

**The First Minister (Nicola Sturgeon):** I am always happy to consider suggestions of that nature. Planning decisions are for local authorities; they are not for the Scottish Government to take nationally. However, I agree that it is important that we do the small things—I do not mean that pejoratively—as well as the big things, to help us deal with the climate emergency. We are investing in active travel; a couple of years ago, we doubled the budget for it. In the spirit in which I am sure the question was asked, I will take away that suggestion and come back to Alison Johnstone as soon as possible.

#### Life Expectancy (Dundee)

**Jenny Marra (North East Scotland) (Lab):** Under the current Government, Scottish life expectancy is falling and, last week, National Records of Scotland said that it is falling fastest in the city of Dundee. That very sad and disgraceful fact cannot be separated from the Scottish drugs crisis and the tragic suicide rate. I also believe that the lack of economic opportunities has a longer-term impact on the physical and mental health of our citizens. What special measures is the First Minister putting in place to look at the Dundee economy and at opportunities for our citizens? Also, what is she doing about the drugs crisis? As the weeks and months go by, it is not getting any better.

**The First Minister (Nicola Sturgeon):** Over recent years, there have been welcome improvements in life expectancy not just in Scotland but across the United Kingdom and the wider world. We have started to see those improvements stall, not just in Scotland but across the UK, Europe and the wider world, and all of us have to address that. That is why we continue to be ambitious in our public health measures not just on smoking and alcohol but in relation to the drug deaths task force, which is important to ensure that we learn from lived experience. I hope that we can build consensus across the chamber on some of the action that we want to take in the future.

In relation to Dundee, I will simply say a few words to Jenny Marra. The Government has invested in Michelin, the V&A museum and the waterfront development. There is no shortage of evidence in Dundee of the investment, commitment and confidence that the Government has in that great city.

#### Nursery Education

**3. Willie Rennie (North East Fife) (LD):** Chloe Milne is from the east neuk of Fife. She has a three-year-old daughter. She was expecting nursery education to be provided with flexibility and choice, as was promised by the First Minister, but she has been told that she can have only five half days—take it or leave it. Does that sound like choice and flexibility to the First Minister?

**The First Minister (Nicola Sturgeon):** I am not familiar with the details of the case but, on the face of it, no—we want there to be greater flexibility. We are in the latter stages of the transformation of early years education and childcare, which is vastly increasing the hours of childcare to which parents are entitled and is increasing flexibility. I am more than happy to look into the individual case but, on the generality, there is no doubt that many more children will benefit from many more hours of flexible high-quality childcare in the years to come because of the investment and ambition of the Government.

**Willie Rennie:** I hope that the First Minister will look into the case, because she made that promise. This week, Chloe said to me:

“I’m really angry about these changes. These sessions are not suitable for anyone who works a full day.”

There are other problems with the nursery roll-out. The two-year-old take-up rate lies between poor and miserable, the graduate recruitment target has been missed and private nurseries are closing.

However, the problems are not just with nurseries. The sick kids hospital in Edinburgh is still not open, and the Queen Elizabeth university hospital has been beset by crisis. Our schools are falling behind in maths and science. The promised jobs in renewables have still not materialised. Homelessness services are broken beyond repair. *[Interruption.]* I notice that Scottish National Party back-bench members are shouting out their own examples of the failure of the Government. The cost of the two new ferries has doubled, and they are four years late. The ScotRail contract has failed, and mental health waiting times for children are at the worst levels ever. The Government should be embarrassed. *[Interruption.]*

**The Presiding Officer:** Order.

**Willie Rennie:** Does the First Minister not see that every hour she takes off to hold another press conference at Bute house is another hour wasted in trying to sort out those issues for the people of Scotland?

**The Presiding Officer:** Before the First Minister replies, I say to the chamber that it is unacceptable not to listen to a member when they are asking a question. *[Interruption.]* Mr Swinney, that was barracking a member. I ask members to

please listen to members when they ask their question. We will now listen to the First Minister make her response.

**The First Minister:** I cannot help feeling for the Opposition parties this week—their frustration is palpable. Not for the first time, Willie Rennie appears to have borrowed Jackson Carlaw's questions. As I said the other day, maybe they should just merge and be done with it.

Let me look at the individual issues that Willie Rennie raised. On early learning and childcare, he talked about graduate numbers and staffing. The number of staff working in funded ELC has increased, and more children are getting access to more hours of early learning and childcare as we double the entitlement from 600 hours to 1,140 hours, which will take full effect next year. That is good news, which is probably why the Liberal Democrats do not really like it.

We are investing record sums in the health service. We are ensuring that record numbers of staff are working in our health service, and we will continue to deliver the improvements in waiting times under the waiting times improvement plan.

On education, the programme for international student assessment results have shown a vast improvement in reading performance and we are going to ensure that that happens in maths and science, too. There are increasing numbers of teachers in our schools and we continue to invest in raising attainment and closing the attainment gap.

We will continue to do all those things and get on with the job of building a better, fairer, more prosperous Scotland—and that is what the Opposition does not like.

#### **School Estate (Fire Sprinklers)**

**David Stewart (Highlands and Islands) (Lab):** The First Minister will be well aware from reports in *The Times* yesterday that only one quarter of Scotland's schools have sprinklers installed to slow down fires. According to the Scottish Fire and Rescue Service, 66 primary and secondary schools face a high risk of fire. New schools, of course, require sprinklers. Will the First Minister arrange an urgent meeting in the new year with local authorities to identify high-risk older schools and retrofit sprinklers in order to protect our pupils, teachers and staff?

**The First Minister (Nicola Sturgeon):** I thank David Stewart for raising an important issue. I will ask the Deputy First Minister to respond in detail, including on the suggestion of a meeting in the new year. Of course, local authorities are responsible for the school estate, working with the Scottish Fire and Rescue Service to make sure

that fire safety plans are in place for our schools and, indeed, for other public buildings.

The Government is investing and has invested heavily in the fabric of the school estate. The number of new and refurbished buildings across the country and the percentage of young people learning in good, fit-for-purpose and state-of-the-art buildings is increasing. We are determined to continue that investment.

#### **Impact of United Kingdom Welfare Reform**

**Kenneth Gibson (Cunninghame North) (SNP):** The festive season is a difficult time of year for people who are homeless and for those struggling on low incomes, who might even have to seek the assistance of food banks. To what extent have such problems been exacerbated by the heartless United Kingdom Tory Government, which has impoverished so many, not least through its ideologically driven welfare reform policies?

**The First Minister (Nicola Sturgeon):** I think that everyone, with the possible exception of the Scottish Conservatives, accepts the link between welfare cuts and the rise in poverty and homelessness. We know from expert opinion during the general election campaign that the policies in the Tory manifesto are likely to lead to a rise in child poverty, taking it to historically high levels. That is unacceptable and deeply shames the Conservative Party. I hope that the new Government—I do not have high expectations that this will happen—takes action to address that as a matter of urgency.

This Government will continue to take its responsibilities seriously. We are investing heavily in helping those who are homeless or rough sleeping. We are also changing how we provide those services. The housing first scheme is a key plank of what we are doing to try to make sure that people have access to housing and the support that they need to sustain tenancies. We will continue to mitigate Tory welfare cuts as far as we can and use our own welfare powers to lift those who are in poverty out of poverty. We will do everything that we can, but I hope that we see an urgent change of attitude and response from the UK Government.

#### **Grouse Shooting (Werritty Review)**

**Andy Wightman (Lothian) (Green):** A month ago, the First Minister said to Alison Johnstone:

"We will continue to take the right steps to protect wildlife, and will do that without fear or favour with regard to any vested interests or other interests."—[*Official Report*, 21 November 2019; c 21.]

We have waited more than two years for the Werritty review. Is the First Minister surprised that

the representatives of the grouse shooting lobby she appointed to a review of grouse shooting have used their effective veto to sabotage what would otherwise be a clear recommendation to license grouse shooting?

**The First Minister (Nicola Sturgeon):** The Werritty review has been published and all members can look at its recommendations. The central recommendation on the timescale for moving to greater regulation was not unanimous—Andy Wightman is right to point to that. That is one of the reasons why the Government will take time to consider the recommendation. I want to be very clear that part of that consideration will be looking at whether we move to regulation on a much quicker timeframe. We will take the views of stakeholders before coming to a final view on that.

The option of a licensing scheme needs to be considered. If that is the view of stakeholders and we consider that necessary—as I said, that is a serious consideration—we will move to implement that earlier than the five-year timeframe that was suggested by the review group.

#### **Design and Build (Schools and Hospitals)**

**Daniel Johnson (Edinburgh Southern) (Lab):** Yesterday, Audit Scotland published a section 22 report on issues surrounding the delayed opening of the new sick kids hospital in Edinburgh. It drew a clear and explicit comparison with the issues with Edinburgh schools that led to the wall collapse at Oxfords primary school in my constituency. The Cole report on the Edinburgh schools centred on the issues with the design-and-build methodology—a methodology that outsources the quality control and detailed design of critical public buildings. Audit Scotland says that the lessons of those issues, which were identified by Cole, have not been learned by NHS Lothian.

Given that there is a total of five capital projects currently under construction in the health estate across Scotland, does the First Minister agree that we cannot wait for an inquiry in order to learn lessons, and that all those projects must be reviewed urgently to see whether they will be safe when they are opened? Does she agree that there are fundamental questions about the suitability of design and build when it comes to building critical buildings such as schools and hospitals? As one senior professional put it to me, design and build is fine if we are building supermarkets, but it is not good enough if we are building hospitals or schools.

**The First Minister (Nicola Sturgeon):** I generally agree with Daniel Johnson's comments. I will make two points: the first is more immediate and the second is slightly longer term, in relation to looking at fundamental questions.

As I am sure that Daniel Johnson is aware, we have made a commitment to establish a new national centre for infrastructure expertise. That has absolute relevance to on-going projects because we need to ensure that we are learning lessons as we go, rather than simply waiting for the public inquiry. That said, the public inquiry is very important. It is an opportunity to look at some of the fundamental questions. The Audit Scotland section 22 report that was published yesterday, which Daniel Johnson referred to, sets out areas that the public inquiry might want to consider, including clarity of guidance, contractual implications and the role and effectiveness of oversight and scrutiny.

We need to make sure that lessons that need to be learned are being learned now—they are relevant to on-going projects. However, we must also make sure that some of the longer-term questions are properly considered. The approach that the Government is taking is designed to do both those things.

#### **Werritty Review (Implementation)**

**Claudia Beamish (South Scotland) (Lab):** Further to Andy Wightman's question on the long-awaited Werritty report, and recognising the complexity of the issue and the need for sustainable development for rural Scotland—let us all recall that a fifth of Scotland is driven grouse moors—Scottish Labour is very disappointed that the report recommends a five-year delay, in a climate emergency and a biodiversity emergency, before consideration is given to licensing. Does the First Minister agree that now is the time to consult on licensing; the possibility of the ban on burning deep peat, with appropriate exemptions as one of a range of options; the outlawing of particular types of snares and the mass mountain hare cull; and a range of other issues? Now is the time to do it—not in five years.

**The First Minister (Nicola Sturgeon):** I answered that specific question in response to Andy Wightman, but I am happy to do so again. First, the Werritty review was independent of Government. It has made a set of recommendations, not all of which were unanimous, as has already been pointed out. We will give careful consideration to all the recommendations alongside other evidence before we issue a full response. As part of that, we will meet key stakeholders to discuss the review's findings.

Secondly, on licensing, as I said very clearly to Andy Wightman, part of our consideration will be to move to a licensing scheme much earlier than the five-year timeframe that was suggested by the review group. We welcome the input of everyone who has an interest in the matter. We will issue

our response to the Werritty recommendations as soon as we are able to do so.

### Budget

**4. Bruce Crawford (Stirling) (SNP):** To ask the First Minister when the Scottish Government expects to publish its budget. (S5F-03813)

**The First Minister (Nicola Sturgeon):** We are focused on introducing a Scottish budget for 2020-21 at the earliest practical opportunity, and we are working closely with the Finance and Constitution Committee and the Scottish Fiscal Commission to determine the best approach in the circumstances that we face. However, without the United Kingdom budget, we do not have clarity on the funding available for public services in Scotland. That unnecessary delay has knock-on effects, including for Scotland's local councils, health boards and third sector. We will continue to engage with the Parliament, local government, trade unions and others in the process, but we need the UK Government to announce its budget date and publish its budget as soon as possible. I hope that that is what happens.

**Bruce Crawford:** Since the election of the Johnson Government, has the Scottish Government been given any hard information on the date of the UK budget for the financial year 2020-21? I am aware of speculation that the UK budget could be set as late as February or even March. If that speculation proves accurate, does the First Minister agree that a UK budget at such a late stage shows either a fundamental misunderstanding of the serious problems that that creates for the devolved Parliaments or a total disregard for the consequences of the impact on vital public services and on the setting of local council budgets?

**The First Minister:** In truth, I think that it is a combination of all those things—misunderstanding, disrespect and disregard—but the most important thing, from the Scottish Government's perspective, is that it makes it impossible for us to put forward a budget and pass it through this Parliament.

People assume that the budget was delayed because of the election. Of course, if we remember, the UK Government cancelled the budget before the election was called. There we have that misunderstanding, disregard or disrespect—call it what you want.

Since the new UK Government was elected last week, we have not had confirmation of the budget date. There has been, as Bruce Crawford said, speculation that it will not be until March, which would be completely unacceptable. The finance secretary wrote to the Treasury on the matter in early November, but still has not had a reply. I

welcome Bruce Crawford's recent letter to the Treasury, in his capacity as convener of the Finance and Constitution Committee.

The Treasury really should be in no doubt about the seriousness of the matter. I look forward to dialogue and meaningful progress, and I hope that, putting party differences and party politics aside, the whole Parliament will unite in making clear to the Treasury how important it is that a date is set as soon as possible, and that that date is as early as possible, so that this Parliament can get on with its vital task of setting a budget.

**Murdo Fraser (Mid Scotland and Fife) (Con):** I am sure that the First Minister would acknowledge that there would have been no point in proceeding with a UK budget in advance of the general election, and that the general election, which she and her party called for, meant that the budget could not be brought forward at that time.

Will the First Minister also accept that the Conservative victory in the general election means that the Conservative manifesto pledge of billions extra in Barnett consequential for the Scottish Government will now be delivered, in contrast to the pledges in the Scottish National Party manifesto, which the respected Institute for Fiscal Studies has said would deliver greater austerity for Scotland than would be the case under the Conservatives?

**The First Minister:** I remind Murdo Fraser of what I said in response to Bruce Crawford: it is a myth that the election led to the delay in the budget. The Government pulled the budget before the election was called. It did so, as I recall, in a fit of pique after it lost one of the many votes that it lost in the House of Commons.

The UK Government was always playing politics with the budget. That has to stop, and I hope that it stops very quickly. I hope that even Murdo Fraser, with his blind loyalty to Boris Johnson and his Tory colleagues, will see how unacceptable it is for this Parliament not to be able to present and pass a budget.

As far as the consequential are concerned, I hope that Parliament will understand that I will wait to see the colour of the money before spending it. We have had promises before from the Tories about extra money for the health service that did not fully materialise.

My final point is this: our budget next year will be £1.5 billion lower, in real terms, than it was at the start of the decade. That is the impact of Tory austerity. The UK Government is going to have to go some considerable way to make up the loss that Scotland has suffered because of Conservative Governments at Westminster. Hopefully soon, that will be coming to an end.



### **Pupils with Additional Support Needs**

**5. Michelle Ballantyne (South Scotland) (Con):** To ask the First Minister what action the Scottish Government is taking to help pupils with additional support needs. (S5F-03811)

**The First Minister (Nicola Sturgeon):** There has been a significant increase in the number of pupils with additional support needs. The latest statistics show that in 2019, 215,897 pupils were reported as having additional support needs, which represents 30.9 per cent of all school pupils. That is an increase of 2.2 per cent compared with last year.

To support education authorities in their duties under the Additional Support for Learning (Scotland) Act 2014, the Scottish Government will invest an extra £15 million, over this financial year, to recruit around 1,000 extra pupil support assistants to work with children with additional support needs.

We have also commissioned an independently chaired review on the implementation of additional support for learning. The findings of that review are expected in early 2020.

**Michelle Ballantyne:** The First Minister is quite correct. We have had an 82 per cent rise since 2012 in schoolchildren who have been identified as having additional support needs. Although it is encouraging that we are now identifying these issues, organisations such as the Scottish Children's Services Coalition and the Educational Institute of Scotland had highlighted the fact that children who require support are experiencing frustration and stress as demand for ASN specialists grows.

The Scottish Government's own figures suggest that the problem may be getting worse. We have fewer teachers than in 2007, the number of special needs teachers has fallen year on year since 2013, and spending on ASN pupils has fallen by almost £1,000 per pupil.

In the past year, nearly 15,000 children across Scotland were handed exclusions. Although that is a welcome decrease, the figures highlight that students with additional support needs are five times more likely to be excluded than those without. As such, although it may be the right decision in some cases, does the First Minister recognise that the current framework can disadvantage pupils with ASN?

**The First Minister:** Those are important issues. First, it is important that the additional needs of children are being identified, which we should all welcome. That means that we must invest to ensure that those needs can be properly addressed. That is why what I said in my original answer about the extra investment to recruit

around 1,000 extra pupil support assistants to work with children with additional needs is so important.

In addition, teacher numbers are rising. The statistics that were published just a week or so ago show that teacher numbers have increased for the fourth year in a row, and that there are now more teachers in our schools than at any time since 2009. The number of additional support for learning teachers has increased in the most recent years, as has the number of all staff who support pupils with ASN. We are investing in supporting local authorities to meet their duties under the legislation. That is one of the many reasons why this Government has always opted for—and will always opt for—investment in public services over the Conservative priority of tax cuts for the wealthiest in our society.

### **Homelessness (Mental Health)**

**6. Pauline McNeill (Glasgow) (Lab):** To ask the First Minister what action the Scottish Government is taking to prevent people with mental health conditions becoming homeless. (S5F-03806)

**The First Minister (Nicola Sturgeon):** Our mental health strategy aims to ensure that people get the right help at the right time, free from stigma, through a range of actions that are being rolled out across the country. We continue to work with partners to develop specific support that is aimed at tackling the risk of homelessness among those who experience mental health difficulties.

Scotland has some of the strongest rights in the world for homeless people, ensuring that those who are threatened by homelessness are entitled to help from their local authority to secure a stable home. Of course, we want to go further and end homelessness altogether. We have invested £32.5 million out of our £50 million ending homelessness fund into the delivery of rapid rehousing and the housing first approach, in order—together with local authorities—to support people into settled accommodation.

**Pauline McNeill:** The First Minister will be aware that the number of people in Scotland who cite mental health as a factor in becoming homeless is rising. In fact, in the past year, compared to 10 years ago, more than twice as many people said that they struggled to maintain their accommodation because of a mental health condition.

Crisis suggested that hospitals that see more than 200 homeless patients a year should have a full pathway team—that is, a general practitioner, nursing staff and a dedicated housing worker—to stop the decline of an individual and, first and foremost, keep them in their home. Am I right that

the Scottish Government has committed to a legal duty among agencies to prevent homelessness? If that is the case, will the First Minister tell Parliament whether the Government is committed to doing that, and whether any progress has been made? Would she also consider a commitment to ensuring that there are no winter evictions during the cold months, so that we can keep people in their homes before they lose their tenancies in the first place?

**The First Minister:** We are committed to taking forward all the recommendations that came out of the homelessness and rough sleeping task force. I will ask the Minister for Local Government, Housing and Planning to write to Pauline McNeill with a specific update on all that.

As a general response to Pauline McNeill regarding ending winter evictions, I want us to work towards a situation in which we reduce the potential for eviction not just in the winter, but at all times of the year, and support people to sustain tenancies. That is why the housing first approach is so important. Scotland is leading the United Kingdom in the investment and commitment that we are showing to that approach, which is about making sure that people who have been homeless, or who are at risk of homelessness, get not only stable accommodation but the range of support services that allows them to sustain that tenancy. Those are all important issues.

Pauline McNeill mentioned Crisis. We have worked closely with Crisis and will continue to do so in taking forward all those different strands of work. I will be happy to get an update to Pauline McNeill on where progress is at on each and every one of those strands.

#### **Emergency Services Workers (Alternative Holiday Arrangements)**

**7. Edward Mountain (Highlands and Islands) (Con):** To ask the First Minister what alternative holiday arrangements have been made for staff from the emergency services who will be working over the Christmas period. (S5F-03803)

**The First Minister (Nicola Sturgeon):** I am enormously grateful, as we all are, for the hard work of all our emergency services workers—at all times of the year but particularly over the festive period. I thank them and their families for the sacrifices that they make in order to support us to feel safe and well.

Emergency workers receive either time off in lieu or an additional payment for working on public holidays.

**Edward Mountain:** I thank the First Minister for those comments. I agree with her that we should all take time to remember and thank those who work over Christmas and the new year. They do

so in order that we can celebrate that festive time with our families. They are working not only to keep us safe but to provide help, should we need it. Will the First Minister join me in thanking again all those who work on our behalf over the festive period? Will she encourage everyone to pause briefly over the Christmas period and remember those from the emergency and armed services who, because they have given us their all, will always be on duty? [*Applause.*]

**The First Minister:** Yes, I am happy to endorse those comments and that sentiment. I thank all those who work in our emergency services for what they do all year round but particularly for the sacrifices that they make at this time of year, in order to keep the rest of us feeling safe, secure and well looked after.

Therefore, I offer my grateful and heartfelt thanks to our nurses, doctors and everyone who works in our national health service; to our police officers, our firefighters and to those in the armed forces. Over this festive period, I encourage everybody to take that moment to pause and remember the great sacrifices that they make on behalf of the rest of us. I wish all of them a very happy Christmas. I wish the Presiding Officer, all members in this chamber and all members of the public across the country a very happy Christmas. [*Applause.*]

**The Presiding Officer:** That concludes First Minister's question time.

**Maurice Corry (West Scotland) (Con):** On a point of order, Presiding Officer. I realise that the excitement of Christmas is nearly upon us but it was utterly impossible to hear the latter part of Willie Rennie's question and points. [*Interruption.*]

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

**Maurice Corry:** Perhaps the Presiding Officer will invite him to repeat his question and points to the chamber now.

**The Presiding Officer:** Thank you, Mr Corry. The point is well made. I excuse members today. They are tired after the election and are looking forward to Christmas.

12:47

*Meeting suspended.*

13:45

*On resuming—***Business Motion**

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of business motion S5M-20250, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Referendums (Scotland) Bill.

I call Graeme Dey to move the motion.

**The Minister for Parliamentary Business and Veterans (Graeme Dey):** I move the motion with pleasure, First Minister—sorry, Presiding Officer.

**The Presiding Officer:** It is all right, Mr Dey—it is Christmas.

**Richard Lyle (Uddingston and Bellshill) (SNP):** I'll vote for that—[*Interruption.*]

**The Presiding Officer:** There is a counter-coup behind you, Mr Russell.

*Motion moved,*

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

Groups 1 to 4: 1 hour

Groups 5 to 7: 1 hour 35 minutes

Groups 8 to 11: 2 hours 15 minutes.—[*Graeme Dey*]

*Motion agreed to.*

**Referendums (Scotland) Bill:  
Stage 3**

13:45

**The Presiding Officer (Ken Macintosh):** The next item of business is stage 3 proceedings on the Referendums (Scotland) Bill. In dealing with the amendments, members should have with them the bill as amended at stage 2, the marshalled list and the groupings of amendments.

The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for that first division will be 30 seconds. Thereafter, the period will be one minute for the first division after each debate. Members who wish to speak in the debate on any group of amendments should press their request-to-speak buttons as soon as possible after I call that group.

**Section 1A—Referendums to which this Act applies**

**The Presiding Officer:** Amendment 1, in the name of Adam Tomkins, is grouped with amendments 21 and 2.

**Adam Tomkins (Glasgow) (Con):** We will be supporting amendment 21, which is the only Government amendment in the group. I will let the cabinet secretary speak to that in due course. I will speak to my amendments 1 and 2. The operative one is amendment 2, which seeks to enshrine what has become known as the Gould principle in this legislation.

Ron Gould, as members will know, was appointed to conduct an independent review into electoral events in Scotland following the combined local authority and Scottish parliamentary elections in May 2007, and he published his report later that year. His recommendations included what has become known as the Gould principle, which is to say that electoral legislation, including legislation on referendums, cannot be applied to any election or referendum held within six months of the new provision coming into force. My amendment seeks to give effect to that principle for the purposes of this legislation. It is not about delaying any referendum on any subject; it is about ensuring that the people who run referendums for us and the people who vote in referendums have enough time to prepare for the referendum and for its effective delivery, whether they are helping to put it on or participating in it.

The Gould principle is widely accepted by electoral administrators: for example, the Finance and Constitution Committee was told by the

Scottish Assessors Association that it is important for the effective delivery of a referendum that the rules surrounding the running of it are clear and in place at least six months prior to the referendum taking place. The Electoral Commission is of the same view. It has recommended that all legislation for any future referendums should be clear at least six months before it is required to be implemented. That is to allow sufficient time for campaigners and administrators fully to prepare to comply with the rules once they are in force, but it is also vital for the interests of the people who matter most in referendums, which is to say the people who vote in them. It enables voters to be informed about the issues at stake in the referendum and to have confidence in the process.

That is one of the elements of the gold standard of referendums; we must legislate for referendums so that voters have the fullest possible confidence in the process, leading to a free and fair referendum with a result that has overall legitimacy for the public on both the winning and the losing sides.

In its report on the Scottish independence referendum in 2014, the Electoral Commission highlighted the benefits of the legislation being clear, not just six months but, in that case, nine months before the referendum date.

All that has been accepted by the cabinet secretary, who gave evidence to the Finance and Constitution Committee on the bill a few weeks ago. He accepted in his evidence, as the committee recorded in its report, that six months is the gold standard. The amendments in my name in this group are designed to give effect to the Gould principle, which ought to be one of the fundamental principles of our electoral law, and which is simply to say that all the rules must be in place six months before any electoral event that occurs under those rules. That is the force of amendments 1 and 2.

I move amendment 1.

**The Cabinet Secretary for Government Business and Constitutional Relations (Michael Russell):** It is important to say at the outset that the vast majority of the amendments that will be debated this afternoon are on technical matters. There will be two debates on political matters of some import, but I hope that the chamber can come together on many of the issues that will be discussed. Those were ventilated greatly at stage 2, and solutions were found to issues that were raised at that stage. That will become apparent.

I should also say what this bill is, because I want to make that absolutely clear. This is a framework bill for referendums. It is not about the approval of a specific referendum. The approach that the

Scottish Government took to the bill from the very beginning was to say, “Let us put a framework in place, and then let us approach that framework with not even secondary legislation but a shorter bill that confirms the subject, the question and the date.”

In supporting this bill, all that is being supported is the principle that there will be a piece of legislation that allows and organises referendums. That will become important in a second when I address the amendments.

As Mr Tomkins said, I addressed this issue during the stage 1 evidence sessions on the bill, and I stand by the comments that I made at that time. I think that the six-month period is a reasonable one, but I am not absolutely committed to it in all circumstances, for a variety of reasons.

Some referendums may not necessarily need that long, depending on the topic. There are global examples of referendums that take place comparatively quickly, on comparatively minor matters. To tie a referendum absolutely to six months is not necessary.

The second issue, which Mr Tomkins raised, is about ensuring that administrators have adequate time to know the rules and regulations. This is, as I said, a framework bill. It contains the rules and regulations—there will be no changes to this bill after stage 3, so people will know, from now on, what those are.

**Adam Tomkins:** This is an important point. It is now the case that any future referendum on a devolved matter in Scotland will require an act of this Parliament. Such an act authorising any referendum on any future devolved subject at any point in the future will, of course, be able to amend this bill. So, it is not quite the case that this bill cannot be amended after today, because this bill could be amended by any future enactment that triggers and authorises a referendum on a devolved matter in Scotland.

**Michael Russell:** The principle of this bill is clear and has been accepted by the committee. This is the framework to which other details of a referendum can be plugged in. This is how referendums will be run in Scotland. The administrators and others will know how referendums will be run in Scotland. In a sense, we are catching up, because some of those rules and regulations are in the equivalent Westminster legislation from 2000.

Of course, the last time a referendum was organised in Scotland by the Scottish Parliament, a different approach was taken and everything pertaining to that referendum was in that bill. This time, we know how referendums are going to operate. The key point is that administrators and others will know how referendums will be run—

they will know the rules. Therefore, the period of six months is not an issue for those matters.

The Government has also set a 10-week referendum period—we agreed to that at stage 2. There are a number of weeks included in appointing designated campaigns. Nothing is being rushed in connection with any potential referendum. The date of any future referendum will be set out in primary legislation, giving Parliament the ability to amend or move the proposed date if it felt that it was too soon.

I urge members not to tie the hands of every subsequent Administration—or of every subsequent request to an Administration—with an absolute. Nobody is in any doubt that proper time should pass. That is confirmed here, and in the detail that the bill gives about the referendum period, but to tie it absolutely to six months is not only unnecessary but unhelpful.

Amendment 21 will make a minor but valuable technical amendment, to put beyond any doubt—by putting it in the bill—that it is intended that the act should apply only to a referendum that is held under an act of the Scottish Parliament. That will become relevant later this afternoon when we consider what might happen if dates clash in relation to a referendum. I am glad that Mr Tomkins indicated that he will support amendment 21.

I ask members not to support amendments 1 and 2, in Mr Tomkins's name, because they create an absolute that I do not think is required.

**Patrick Harvie (Glasgow) (Green):** I ask Mr Tomkins—if he is listening; I am not sure that he is—to clarify, when he winds up the debate on group 1, exactly what he intends. If we agree to amendments 1 and 2, am I correct in assuming that if the Scottish Government subsequently introduces a bill for a specific referendum sooner than six months before the bill that we are considering has received royal assent, the framework in this bill will not apply and the bill to establish the referendum will have to copy and paste all the rules that are in the framework bill? In effect, the people who administer and participate in the referendum will not have clarity until the subsequent, referendum bill has passed.

If that is correct, surely the way to achieve clarity about the rules at the earliest time and for the longest period is to ensure that the framework bill that we pass today applies, instead of bringing all the work in the bill into further doubt and confusion.

**Adam Tomkins:** I am grateful to Patrick Harvie for making that point. My point is simply this: we had a problem in Scotland in 2007, when multiple electoral events took place on the same day, and we invited an independent investigator to report on

that for us. He concluded that it would be appropriate for the law to reflect the principle that the rules should be set six months in advance of any event taking place under those rules. Given our history with elections and referendums in Scotland, it behoves us to consider and reflect on those recommendations.

I do not think that there should be a referendum on any subject in Scotland within the next six months under the rules in the bill, because I think that the rules in the bill need to be understood as fully as possible by the people who help to run referendums on our behalf and by the people who vote in referendums, and all the expert testimony is that that takes a minimum of six months. That is the proposal that I think should be the opening provision of the bill.

**Patrick Harvie:** Let me be very clear. What Adam Tomkins is suggesting is that if—and it is a big if—a referendum were to be proposed within that time period, the rules should be set later rather than earlier; the rules should be set in the subsequent bill, rather than today.

**Adam Tomkins:** No. The rules should be those that apply under this bill, but no such referendum should be held within six months, because that is what the Gould principle means.

During a number of the debates that we will have this afternoon, we will hear references not to the Gould principle but to the gold standard. It seems to me that, with this bill, we are trying to enact state-of-the-art referendums legislation for Scotland that looks to the future—and therefore needs a degree of flexibility, which we will talk about in the debates on later groups of amendments—and which needs to reflect the best possible national and international practice on the running and holding of referendums.

The key element of that, surely, is that we must all put voters' interests first. That is what the Electoral Commission is there for. The Electoral Commission is there to identify the best interests of voters, and it has said that it supports the Gould principle and it is in the interests of voters that referendum and election rules are set in legislation and are clear at least six months in advance of any referendum or election taking place under those rules.

If we are serious about trying today to enact the best possible legislation for referendums in future in Scotland, we should be supporting rather than resisting amendments such as amendments 1 and 2.

I press amendment 1.

**The Presiding Officer:** The question is, that amendment 1 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** We will move to a vote after a five-minute suspension in order to call members to the chamber.

14:00

*Meeting suspended.*

14:05

*On resuming—*

**The Presiding Officer:** We move to the division on amendment 1.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD)

#### Against

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

Wightman, Andy (Lothian) (Green)  
Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 54, Against 67, Abstentions 0.

*Amendment 1 disagreed to.*

*Amendment 21 moved—[Michael Russell]—and agreed to.*

*Amendment 2 moved—[Adam Tomkins].*

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

**Members:** No.

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

#### For

Baillie, Jackie (Dumbarton) (Lab)  
Baker, Claire (Mid Scotland and Fife) (Lab)  
Balfour, Jeremy (Lothian) (Con)  
Ballantyne, Michelle (South Scotland) (Con)  
Beamish, Claudia (South Scotland) (Lab)  
Bibby, Neil (West Scotland) (Lab)  
Bowman, Bill (North East Scotland) (Con)  
Boyack, Sarah (Lothian) (Lab)  
Briggs, Miles (Lothian) (Con)  
Burnett, Alexander (Aberdeenshire West) (Con)  
Cameron, Donald (Highlands and Islands) (Con)  
Carlaw, Jackson (Eastwood) (Con)  
Carson, Finlay (Galloway and West Dumfries) (Con)  
Chapman, Peter (North East Scotland) (Con)  
Cole-Hamilton, Alex (Edinburgh Western) (LD)  
Corry, Maurice (West Scotland) (Con)  
Davidson, Ruth (Edinburgh Central) (Con)  
Fee, Mary (West Scotland) (Lab)  
Findlay, Neil (Lothian) (Lab)  
Fraser, Murdo (Mid Scotland and Fife) (Con)  
Golden, Maurice (West Scotland) (Con)  
Gray, Iain (East Lothian) (Lab)  
Greene, Jamie (West Scotland) (Con)  
Griffin, Mark (Central Scotland) (Lab)  
Harris, Alison (Central Scotland) (Con)  
Johnson, Daniel (Edinburgh Southern) (Lab)  
Halcro Johnston, Jamie (Highlands and Islands) (Con)  
Kelly, James (Glasgow) (Lab)  
Kerr, Liam (North East Scotland) (Con)  
Lamont, Johann (Glasgow) (Lab)  
Lennon, Monica (Central Scotland) (Lab)  
Leonard, Richard (Central Scotland) (Lab)  
Lindhurst, Gordon (Lothian) (Con)  
Lockhart, Dean (Mid Scotland and Fife) (Con)  
Macdonald, Lewis (North East Scotland) (Lab)  
Marra, Jenny (North East Scotland) (Lab)  
Mason, Tom (North East Scotland) (Con)  
McArthur, Liam (Orkney Islands) (LD)  
McNeill, Pauline (Glasgow) (Lab)  
Mitchell, Margaret (Central Scotland) (Con)  
Mountain, Edward (Highlands and Islands) (Con)  
Mundell, Oliver (Dumfriesshire) (Con)  
Rennie, Willie (North East Fife) (LD)  
Rowley, Alex (Mid Scotland and Fife) (Lab)  
Rumbles, Mike (North East Scotland) (LD)  
Sarwar, Anas (Glasgow) (Lab)  
Simpson, Graham (Central Scotland) (Con)  
Smith, Elaine (Central Scotland) (Lab)  
Smith, Liz (Mid Scotland and Fife) (Con)  
Smyth, Colin (South Scotland) (Lab)  
Stewart, Alexander (Mid Scotland and Fife) (Con)  
Tomkins, Adam (Glasgow) (Con)

Wells, Annie (Glasgow) (Con)  
Whittle, Brian (South Scotland) (Con)  
Wishart, Beatrice (Shetland Islands) (LD)

#### Against

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

Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 55, Against 66, Abstentions 0.

*Amendment 2 disagreed to.*

### Section 3—Referendum questions

**The Presiding Officer:** Amendment 6, in the name of Michael Russell, is grouped with amendments 7, 3, 8, 9 and 10. If amendment 3 is agreed to, I cannot call amendment 8, as it will have been pre-empted.

**Michael Russell:** The issue of question testing has been the most difficult and, probably, the most divisive issue in the bill. We have debated the issue at length, and the Government agreed concessions at stage 2 in an attempt to make the framework workable and agreeable to Parliament.

Today, I have brought forward further enhancements to the proposal that was accepted at stage 2 by the committee. I am pleased to say that they follow further discussions with the Electoral Commission, which has indicated that the amendments will enable Parliament to seek advice whenever it wishes to do so. That addresses the commission's concern at stage 2.

Amendments 6 to 10 will require the Electoral Commission, where its views on the wording of a referendum question have been requested either by the Scottish Government or by Parliament, or when it is consulted before the lodging of a motion to extend the validity period of a question from the preceding session of Parliament, to lay its views before Parliament as soon as is reasonably practicable, and to publish those views. The commission will therefore be in a position to respond not just to the Government but to Parliament on those issues. It is standard practice for the commission to publish its views, but including a duty to publish, as we will do in the bill, means that the process can be seen to be entirely transparent.

Amendments that were agreed at stage 2 require ministers to lay a report before Parliament stating any views that have been expressed by the Electoral Commission as to the intelligibility of the question. However, on reflection and after discussion with the commission, I have agreed that the commission should offer its views direct to Parliament. Amendments 6 to 9 therefore provide for that.

Amendment 10 would allow Parliament, through a resolution, to consult the Electoral Commission on the wording of a question. Again, that will allow Parliament at any time to seek a view as to whether a question remains valid, and to seek the

commission's expert advice on the intelligibility of the question. That responds to a request from the commission and will adjust the amendments that were made at stage 2.

I hope that members will acknowledge the major concessions that the Government has made on the issue, with the aim of achieving cross-party agreement. Members will also note that the Electoral Commission has said that my amendments will enable Parliament to seek advice "whenever it wishes to do so",

thereby fulfilling the request that the commission made after stage 2. I therefore urge members to support amendments 6 to 10.

I am disappointed that Adam Tomkins has lodged amendment 3, when his stage 2 amendment that would have required all questions to be tested, even if they had previously been tested in the same session of Parliament, was rejected by the lead committee. At stage 2, Mr Tomkins made the point that we must make sure that we do not bypass the Electoral Commission: my proposals absolutely fulfil that requirement. The Electoral Commission is central to my proposals, but a blanket requirement for all questions to be retested, instead of the commission being asked for its views, is not necessary. The bill will ensure that the commission is able to provide its expert advice to Parliament. If the commission's view is that a previously tested question requires further testing, the Parliament can request that the commission do that.

Given that the Finance and Constitution Committee agreed with the principles of my proposal at stage 2, and that further adjustments to that proposal have been welcomed by the commission, I ask members—

**Neil Findlay (Lothian) (Lab):** I will make an appeal to the cabinet secretary. If he seeks to bring people on board and to build consensus, he is going about it exactly the wrong way by seeking to manipulate the situation and the question. I say to him with 100 per cent sincerity that if he seeks to bring members on board, he must be seen to be 100 per cent straight on this. Seeking to manipulate the situation will have the opposite effect.

**Michael Russell:** With respect, I say that I do not think that Mr Findlay has listened to the points that I have made. I want to make it clear that I have moved a considerable distance in order to ensure that not only the Government but Parliament can seek permission, and that any question will expire. The only small area of difference between us is on whether the same question could be used within the same parliamentary session.



I will give Mr Findlay two examples of why that is necessary. If a bill to hold a referendum were to be passed in the first year of a parliamentary session and, for some reason, that referendum was delayed, the same question could be asked throughout that parliamentary session. A question must expire at some stage: it could not be reused in a subsequent session without Parliament specifically supporting that.

Why would a question be reused? We need to look at the evidence on that. Sometimes—as I said at the start of the process—questions have validity and are well understood: opinion poll evidence on that is absolutely unequivocal. A question that is well understood, recognised and used repeatedly, for example in opinion polling—

**Adam Tomkins:** Will the cabinet secretary give way?

**Michael Russell:** I want to finish the point.

It is absolutely obvious that such a question would be something that the public would know about. Even so, I have accepted the right of Parliament and the Electoral Commission in that context. Nobody can hide from the fact that the commission will be able to say what its position is. I am absolutely sure that if the commission says that the question should be tested again, Parliament and the Government will agree with it. Far from avoiding things, we have accepted everything that has been put to us.

**Adam Tomkins:** This is the most crucial point in this afternoon's proceedings. If what the cabinet secretary says is true—if there are referendum questions that are clear and well understood by the public—what does he have to fear?

**Michael Russell:** I have absolutely nothing to fear. The commission has made it clear that it is “satisfied” with the process. As I said to Mr Tomkins at general question time, the word “satisfied” is in the commission's briefing.

In all the circumstances, we have taken a sensible and commonsense approach. We have given way to Parliament and the commission—we have listened to the arguments and put forward a reasonable position.

**Mike Rumbles (North East Scotland) (LD):** Will the cabinet secretary give way?

**Michael Russell:** I will not, at the moment.

I am asking Parliament to be reasonable about the progress that we have made, and not to be unreasonable. I have to say that, so far, Mr Tomkins has not been reasonable, but I hope that other parties will look at what we are proposing and realise the progress that has been made, which is overwhelming.

14:15

**Mike Rumbles:** Will the cabinet secretary give way?

**Michael Russell:** If I must.

**Mike Rumbles:** I thank the cabinet secretary for giving way, but what he said about the Electoral Commission is just not true. In its letter to all MSPs, it says:

“we continue to be of the view that should a future referendum on Scottish independence be brought forward, the Commission should be required to reassess the question regardless of whether”

it has been asked previously.

**Michael Russell:** I am sorry, but the commission says that it is “satisfied” with the progress that has been made. That is clear from the document. Members are, in order to take us back to where we started, ignoring the progress that has been made and the fact that Parliament and the commission will have those rights. That is not a sensible position to take.

I ask members to think very carefully, because my amendments represent a major step forward and several major concessions by the Government. I hope that members will support my amendments, as pragmatic recognition of the progress that has been made, and that they will not revert to political type—which, unfortunately, is what we have seen.

I move amendment 6.

**Adam Tomkins:** At stake here is a very simple principle that has applied to every referendum that has been held in the United Kingdom since the creation of the Electoral Commission. The principle is that ministers propose referendum questions, the Electoral Commission tests those questions, with the interests of voters being put first, then Parliament decides, on the basis of recommendations that are made to us by the Electoral Commission. The cabinet secretary is seeking to rig the rules, which is completely unacceptable.

Throughout this entire process, the Electoral Commission has been robust, fearless and entirely consistent. Earlier in the process—at stage 1—the Electoral Commission said that it

“firmly recommends that it must be required to provide views and advice to the Scottish Parliament on the wording of any referendum question ... regardless of whether we have previously published our views on the proposed wording.”

We are now at stage 3, and the cabinet secretary, both at general question time earlier and in this debate, is wilfully misleading Parliament about what the Electoral Commission is saying. In its briefing, the Electoral Commission says:

“we continue to be of the view that should a future referendum on Scottish independence be brought forward, the Commission should be required to reassess the question regardless of whether it will take place within the”

so-called “validity period” of the cabinet secretary’s imagination. It says that that

“will ensure confidence in the legitimacy of the referendum result.”

Only one amendment in the group would give effect to the independent Electoral Commission’s view. That is amendment 3, which is in my name. The amendments in Mr Russell’s name continue to do him quite a disservice, because they are dishonourable. He is trying to rig the rules of a future referendum in this country to suit his partisan interests. The Parliament’s Finance and Constitution Committee unanimously recommended that he should not be allowed to get away with that. The committee unanimously recommended that Mr Russell should seek the “agreement” of the Electoral Commission—not its satisfaction, although it is not really “satisfied”—before stage 2. He manifestly failed to do that. He has not even sought, achieved or attained its agreement before stage 3. The Electoral Commission is not “satisfied” because, as the bill stands, reassessment of the intelligibility of a referendum question that has been used previously will not be required. Why is that the cabinet secretary’s position? He thinks that the position suits the Scottish National Party, but it does not suit voters.

As I said earlier this afternoon, if we are serious about passing legislation on referendums that meet the highest international standards of best practice, Parliament will accept my amendment and reject all of Mr Russell’s amendments in the group. This Parliament should not stand for rigging of future referendums.

**Mike Rumbles:** The Liberal Democrats support amendment 3, in the name of Adam Tomkins, because that is the right thing to do. On this issue, the Electoral Commission, in its stage 3 briefing—every MSP has received it, so we cannot pretend that we do not know this information—clearly says it continues

“to be of the view that should a future referendum on Scottish independence be brought forward, the Commission should be required to reassess the question regardless of whether it will take place within the ‘validity period’. This will ensure confidence in the legitimacy of the referendum result.”

Surely that is what we all want.

This is a very serious issue—it is no small matter. The Electoral Commission’s view is that any future question will need to be assessed, and that a question that has previously been asked will have to be reassessed in the light of experience.

All framework bills should have support from across the chamber. This bill should not be controversial but, unfortunately, the SNP Government and Mike Russell have made it a partisan issue by trying to circumvent the Electoral Commission’s input on a question that the Scottish Government wants to re-ask. The cabinet secretary is being deliberately disingenuous about what the Electoral Commission is saying to us. We all know what it is telling us: it is not what Mike Russell has said. That clear attempt at manipulation is not acceptable—it should not be acceptable to any member. Agreement to amendment 3 is essential in order to right that wrong.

The very idea that a “validity period” is needed is nonsense. That is simply designed to enable the SNP Government to fix the question that it wishes to put. That undermines the whole bill. If amendment 3 does not succeed because the two parties in the chamber that are supportive of it—I assume that the Greens support it; I would love to be convinced that they are listening to the argument—

**John Finnie (Highlands and Islands) (Green):** We are listening.

**Mike Rumbles:** That is good; I am pleased that the Greens are listening. Maybe I was doing them a disservice, but I would like to hear what they have to say about the matter.

The SNP Government is certainly trying to fix things. The very idea that MSPs have to articulate such concerns should be a worry to everybody in the chamber. The mask of nationalism has really slipped—[*Interruption.*] It has. The whole idea of a “validity period” for the question to be asked is an attempt by the SNP Government to win any future referendum by hook or by crook.

Amendment 3 would restore the bill to what it should be—an agreed framework bill. If Amendment 3 is not passed, the Liberal Democrats will oppose the bill at decision time.

**Alex Rowley (Mid Scotland and Fife) (Lab):** If the SNP and Green members do not support Professor Tomkins’s amendment 3, they are setting up the bill not to be the gold standard of referendums, but legislation that has been put through in order to rig the question. That is the reality of the situation. I cannot, for the life of me, understand why the Government will not listen to the overwhelming expertise and advice that has been given.

On the issue of question testing, expert advice has been clear. At stage 1, the Electoral Commission told the Finance and Constitution Committee that it strongly believes that it

“should be asked to test the question”,

even when that question has been asked before. Its view was that

“a formal testing of the question helps to provide confidence and assurance to the voter and to the Parliament that is posing the question and, with regard to the integrity of the process, to establish that the question is clear, transparent and neutral in its setting.”—[*Official Report, Finance and Constitution Committee*, 18 September 2019; c 37.]

Who would object to that? I ask myself why anyone would ignore that advice and the answer must be that they want to have the opportunity, if needed, to rig the question.

The Law Society noted that it would be very concerning if it was assumed that,

“once approved, the wording of the question is suitable for ever.”

At stage 2, the Government rejected Opposition amendments and amended the bill to create the “validity period”, which represents a period of time during which the question is subject to less scrutiny by the Electoral Commission—that is not acceptable. If best practice is not the Government’s key concern, we must assume that it is seeking to circumvent proper process.

We will support Adam Tomkins’s amendment 3 to delete the “validity period”. [*Interruption.*]

Members can sit in the Parliament and shout and hee haw all they wish, but at the end of the day if we are going to have a referendum bill, it has to be fair and transparent. No political party in the Scottish Parliament should be able to rig a referendum question. [*Interruption.*]

**The Presiding Officer:** I call Patrick Harvie. [*Interruption.*] Order, please!

**Patrick Harvie:** Thank you, Presiding Officer. I could not hear you call me the first time for the sound of the demands for the end of partisanship in the chamber, which were ringing in all our ears.

I wish that the bill was not being seen as a partisan issue. Framework legislation on referendums is something that we should be able to agree on. I assure Mike Rumbles that I have listened to the arguments, not only on this aspect of the bill but on all aspects of the bill. I hope that those who have engaged actively in the committee process would recognise that, from the start of the bill process, I have publicly urged the cabinet secretary to give ground and to respect the independence of the commission. He has given some ground.

There are three relevant paragraphs in the Electoral Commission briefing that we have all received. There have been calls for an end to partisanship, but using the rhetoric of “rigging the rules”, “manipulation” and “the mask of nationalism”, which is the language of

performative partisanship, does not help. The three paragraphs—[*Interruption.*]

I have been accused of not listening to others—perhaps other members ought to be listening. The briefing contains three key paragraphs, the first of which says:

“the Electoral Commission is concerned to ensure that Parliament is able to access the Commission’s independent advice on the intelligibility of a proposed referendum question at any point it requests it”.

If we had not achieved a position that ensures that the Parliament will be able to access that advice, I would not be recommending to my colleagues that they vote in favour of the bill. We have achieved that position.

**Mike Rumbles:** Will the member give way?

**Patrick Harvie:** I will in a moment.

Some people are choosing to interpret what they like about one or other of the paragraphs. The second paragraph says:

“we are satisfied that the Government amendments on the question assessment process will enable Parliament to seek our advice whenever it wishes to do so, and the Commission will be able to put our views directly before Parliament.”

The third paragraph says:

“we continue to be of the view that should a future referendum on Scottish independence be brought forward, the Commission should be required to reassess the question”.

That can happen: under the bill, as amended by the Government, that requirement can be imposed by the Scottish Parliament. It will be for the Scottish Parliament to make that determination at any time when a bill is brought before it to establish a specific referendum.

**Daniel Johnson (Edinburgh Southern) (Lab):** Will the member take an intervention?

**Patrick Harvie:** I indicated that I would give way to Mike Rumbles. If there is time, I will come to Daniel Johnson afterwards.

**Mike Rumbles:** The Electoral Commission said that

“the Commission should be required”

by the bill

“to reassess the question regardless of whether it will take place within the ‘validity period’”.

I think that Patrick Harvie is incorrect. According to the bill, if such a referendum came forward during the current session of Parliament, it would still fall under the validity period.

14:30

**Patrick Harvie:** I draw Mike Rumbles's attention to the paragraph as it is written:

"However, we continue to be of the view that should a future referendum on Scottish independence be brought forward, the Commission should be required to reassess the question".

It does not say that that should be in the bill. Any referendum that is established will be established by a subsequent bill—by a piece of legislation that the Parliament will be able to vote on. The Parliament's ability to make that requirement of the Electoral Commission will be unchanged.

We should recognise that the commission is satisfied with the changes that have been made to the bill. Simply to delete whole sections on which the commission's concerns have been satisfied would be more worthy of words such as "manipulation" than are the actions that others have used such words for.

**Daniel Johnson:** With the greatest of respect, there is a difference between the words "can" and "must". Either we believe that the Electoral Commission is an important part of this process as an arbiter of fairness, or we do not. If we believe that it is, there must be a requirement that it acts as such an arbiter.

Furthermore, this boils down to whether, if a question is tested once and deemed to be valid, it is valid for all time and in perpetuity. Patrick Harvie argues that the context of a question is of no interest and no import whatsoever, and that cannot be right. Culture changes, understanding changes and context changes, and when they do, the question changes. That is why a question would have to be retested, regardless of whether it had been tested before by the Electoral Commission. That is what is at stake. I would be grateful if Patrick Harvie could respond on that point.

**Patrick Harvie:** I think that if Daniel Johnson is using phrases such as "in perpetuity" or "for all time", he might be misreading what is in front of us. I do not think that that is being proposed.

The proposal is that it will be for this Parliament, in passing legislation that establishes any specific future referendum, to decide whether it wishes to require that commitment. It will still be within our power, or the power of any subsequent Parliament, to do so.

I am satisfied, as the commission is, with the changes that have been made. I fear that some people—perhaps predictably—are turning the bill into a proxy for issues that are way beyond framework legislation for referendums in general. I will oppose Mr Tomkins's amendment.

**Michael Russell:** I want to take some of the heat out of this. I said at the start that it has been divisive, and it remains divisive, so I want to stick to the facts of the matter.

Patrick Harvie is right that it is entirely possible for the third paragraph of the section on question testing in the Electoral Commission's briefing to be used in the legislation to allow that test. The question arises about what the commission asked to happen and what has happened. I have moved substantially on all the issues; there is no doubt about that.

If we start at the beginning, at stage 1 the committee asked me to do things for stage 2. We entered into discussion and we made proposals, and the Electoral Commission suggested further changes to those proposals that we then accepted. All the proposals have been accepted.

On the issue of whether a question should always be tested, the point about "in perpetuity" is a misreading, to put it as kindly as I can, of what the legislation says. The legislation means that, within a single parliamentary term, the question can continue to be valid during that term; that is all it means.

Mr Rumbles is also wrong to say that a question is still valid. There is no question that is still valid in Scotland, because no question has been passed in the current parliamentary term. There is no valid existing question. Should there be a recommendation to use the same question again—

**Alex Rowley** *rose*—

**Michael Russell:** Let me make this point; it is really important. Should there be a recommendation to use the same question again, the Parliament will have the right to say to the Electoral Commission that it should be tested, and it will be able to be built into existing legislation. There has been considerable movement forward.

I will not react to some of the over-the-top remarks that were made by Mr Tomkins. This is a serious bill, with serious intent. In my view, the only small area of difference is around whether a question would continue to have validity in a single parliamentary term—that is the issue.

**Mike Rumbles:** Will the cabinet secretary give way on that point?

**Michael Russell:** No—I have heard Mr Rumbles's arguments. We are at the stage of making a decision on whether that point is worth this decision, or whether—in actual fact—the commonsense understanding is that language does not change, and that meaning does not change, in the period of four or five years. To suggest that they do is—I am afraid—to

exaggerate beyond anything that I could accept. As such, I will press my amendments.

*Amendment 6 agreed to.*

*Amendment 7 moved—[Michael Russell]—and agreed to.*

*Amendment 3 moved—[Adam Tomkins].*

**The Presiding Officer:** I remind members that, if amendment 3 is agreed to, I cannot call amendment 8. The question is, that amendment 3 be agreed to. Are we agreed?

**Members:** No.

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

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)

Whittle, Brian (South Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD)

#### Against

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

Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 54, Against 67, Abstentions 0.

*Amendment 3 disagreed to.*

*Amendments 8 to 10 moved—[Michael Russell]—and agreed to.*

### After section 3

**The Presiding Officer:** We turn to group 3, which is on the power to change the date of a referendum if there is a United Kingdom election on the same date. Amendment 22, in the name of the cabinet secretary, is the only amendment in the group.

**Michael Russell:** I hope that this amendment will steer us into calmer waters. During the discussion at stage 2 on Adam Tomkins's amendment 80, which identified issues around there being two polls on the same day, I undertook to discuss ways of avoiding such a situation. Mr Tomkins subsequently agreed to withdraw his amendment. In line with that undertaking, Mr Tomkins and I met and discussed ways in which we could avoid two polls—one of which would be outwith the control of the Scottish Parliament—falling on the same day. Amendment 22 gives effect to the outcome of those discussions.

If, for whatever reason, a poll is set for the same day that has been set by this Parliament as the date of a referendum, in the first instance, I would expect this Parliament to consider whether there is a need to change the date of the referendum. However, there is a slight possibility that a situation may arise where this Parliament is not in a position to make such a decision: that is, if there is an early Westminster general election, the date of such a poll may be set with little notice. Therefore, this amendment allows for the Presiding Officer to delay the date of a referendum by up to six weeks if the Parliament is either dissolved or in recess and cannot, for whatever reason, be recalled to make a decision. The Presiding Officer will, following consultation with the Electoral Commission, have the power to appoint by statement a new date for the referendum that is no later than six weeks after the original date.

Members will appreciate that the need to use the power is very unlikely to arise. However, I brought forward the amendment to address the concerns that were expressed by members about the risk of two polls falling on the same day. Taken together, the options mean that there is no reason why the date of a referendum should fall on the same day as another national poll unless—this is

important—there is a positive decision by this Parliament for that to take place. I hope that members will agree that amendment 22 addresses the concerns that were expressed by the Parliament.

I move amendment 22.

**Adam Tomkins:** I am satisfied with amendment 22. There is no “however”.

**Michael Russell:** I am delighted to hear the word “satisfied” used.

*Amendment 22 agreed to.*

### Section 29—Report on the conduct of the referendum

**The Presiding Officer:** Amendment 4, in the name of the cabinet secretary, is in a group on its own.

**Michael Russell:** During the stage 2 proceedings on 27 November, James Kelly agreed not to press amendments 108 and 109, which would have required the Electoral Commission to consult the Equality and Human Rights Commission and to include its representations in its report on the conduct of a referendum. Mr Kelly's decision was probably due to concerns around requiring consultation of only one particular body rather than a range of bodies. I would have had no objection to Mr Kelly's proposed amendment 108 had it said that the Electoral Commission was expected or required to consult a range of bodies. In keeping with that view, I have brought forward amendment 4 to require the Electoral Commission, when drafting its report, to consult a range of bodies. We considered whether a specific list of bodies or individuals to consult would be appropriate but, since there could be a referendum on any subject, it is not possible to produce a definitive list. Therefore, I have deliberately left the Electoral Commission with flexibility to consult those bodies that it thinks might have an interest in a particular referendum.

However, it is already normal practice for the Electoral Commission to consult widely when drafting a report on any electoral event. My amendment simply gives statutory effect to something that already happens in practice. I hope that members will agree that, when the Electoral Commission is drafting its report, consultation with the relevant persons is appropriate and that, therefore, they will support the amendment.

I move amendment 4.

*Amendment 4 agreed to.*

### Section 37—Power to modify this Act

**The Presiding Officer:** Amendment 11, in the name of Adam Tomkins, is grouped with amendment 12.

**Adam Tomkins:** As we have heard, this bill is forward facing. It is framework legislation for referendums to be held in the future in Scotland. As introduced, section 37 would give ministers broad powers to amend the bill in the future—by order or regulation—in order to take into account developments elsewhere in electoral law.

The Finance and Constitution Committee recognised that, for it to be modified in that way in the future, the bill needed a degree of flexibility and dynamism. At the same time, in order that we have effective and robust parliamentary scrutiny of those order-making powers, Parliament's interests needed to be more fully safeguarded than they were in the bill as introduced. Unlike its position with regard to question testing, the Government has been constructive in engaging with Opposition members on that question.

Amendments 11 and 12 have been prepared in co-operation with the Government; I thank the cabinet secretary and his officials for that. The amendments do not prohibit ministers from making future modifications—by secondary instruments—to provisions of this legislation, but they ensure that, in that process, Parliament's interests, as an effective and robust scrutineer of Government policy, are protected.

I move amendment 11.

**Michael Russell:** I welcome amendments 11 and 12. As Mr Tomkins said, I gave an undertaking to discuss with him how we might widen the range of bodies that should be consulted. Amendments 11 and 12 put what is normal practice on to a statutory footing. Changes to electoral legislation are already shared widely with the electoral community. The Government welcomes comments from anyone involved in elections and, now, referendums.

However, just because a body or individual is not included in the formal consultation, it does not mean that they have not had the opportunity to contribute at an earlier stage of the process. The formal consultation takes place once the regulations are available in draft form, which occurs at the end of the consultation process, before regulations are laid.

Amendments 11 and 12 address the issue that was raised at stage 2 and do so to the satisfaction of the member who raised them. Therefore, I encourage members to support them.

*Amendment 11 agreed to.*

*Amendment 12 moved—[Adam Tomkins]—and agreed to.*

### After section 39

14:45

**The Presiding Officer:** Group 6 is on the consultation on the role of referendums in the democratic process. Amendment 23, in the name of Patrick Harvie, is the only amendment in the group.

**Patrick Harvie:** I lodged amendment 23 with the intention of airing some issues for debate, rather than pressing it to a vote. I want to make that point clear at the outset.

In among the sound and fury of some of the issues that we have disagreed on, there have occasionally been some interesting and deeper debates about challenges to our democratic process and some of the questions that cannot reasonably be fully resolved in this bill. Overwhelmingly, the evidence has been in favour of the idea of a framework bill for referendums, but it is clear that that is not sufficient as a vehicle to address some of the wider and deeper questions about the state of our democracy.

We also have two pieces of legislation on the subject of elections going through the Parliament at the same time. They are necessary pieces of legislation, but are not adequate to address those deeper questions. Some of the questions came up in, for example, the amendments on false statements that I moved during stage 2 in the committee. We know that it is a criminal offence to make false statements about a candidate during an election, but that restriction and requirement for honesty during the electoral process and in campaigning does not apply to the issues in an election; nor does it apply to the issues in a referendum. The offence of making false statements about candidates has no equivalent in relation to referendums.

I understand the reasons why the proposals that I made at stage 2 were not supported by the committee or the Government. The questions require deeper thought. Some of the contributions that Adam Tomkins made at stage 2 explained why false statements about candidates may once have been more relevant than they are now, as the focus on individual candidates and local campaigning was much more prominent in previous generations, compared with today's focus on national issues and figures.

There were also discussions about the regulation of online and offline activity and campaigning. Even though we have seen some progress in this area—we will debate the matter later—we must recognise that how we regulate

online campaigning is based on models that were designed for the needs of the previous century. We do not yet have answers to a lot of these questions.

As well as that, there is the interaction of the different forms of democracy that operate in Scotland. We have representative democracy—we are here within a representative democratic chamber—and we also have direct democracy in the shape of referendums. The story of the last few years of turmoil in the UK has, in some ways, been about the conflict between direct and representative democracy and about what happens when those two systems clash. I am pleased to say that we are also now exploring greater use of deliberative democracy through the use of citizens assemblies. There are questions yet to be resolved about how we expect representative, direct and deliberative democratic processes to interact and what their relative roles will be.

I have lodged this amendment to give the Government an opportunity to reflect on what it thinks should be the vehicle for consideration of these issues. Frankly, I am not fixated on whether there should be a consultation, a committee inquiry, a piece of work through the Scottish Law Commission, or discussions with the Electoral Commission, but there needs to be some vehicle for debating the wider issues. There are fundamental vulnerabilities to our democratic processes in the 21st century that have not been, and cannot be, addressed by the bill. I am keen to hear the views of the Government and other members on how we go about addressing the wider questions that cannot be resolved in the bill.

I move amendment 23.

**Michael Russell:** One of the positive aspects of the bill and its outcomes has been some of the debate that arose in committee about what our democracy should be doing and how we should move forward in legislating for, without restricting or discouraging, participation in our democracy.

Mr Tomkins has also raised those issues, asking useful questions about what referendums would be for; how that would fit with other developments such as, as Mr Harvie suggested, a citizens assembly and direct, deliberative democracy; and how, as a Parliament and parliamentarians, we might properly consider those matters, reflect upon them and move them forward. I am very sympathetic to that and I am grateful to Patrick Harvie for lodging amendment 23 to at least raise the issue within the context of the bill and see how we could move forward.

I will say a word or two in a moment about some of the detail of amendment 23 to point out its difficulties. However, during the general election

that has just taken place, there was clearly documented activity of a leave activist encouraging online advertising, in support of parties, that was designed to split the anti-Tory vote. In other words, it was false-flag campaigning. That will be very hard to regulate, but it is there and it is happening now. Some of the issues that we have considered on digital imprints, which we will consider again shortly, reflect an aspect that we need to talk about.

Above it all, however, is the use of falsehood and false news. Above it all, is saying things that are demonstrably untrue and designed to undermine the democratic process and to make points that deflect people from considering real and serious issues. We must consider how that will affect our democracy. The Scottish Law Commission has been undertaking a review of electoral law, including assessing whether electoral law is modern, simple and fit for purpose. That is not the entire remit for this area, but it is a start. That report is due in early 2020. It would seem to me inevitable and immensely desirable that committees of this Parliament should look at that report. It will be for the Parliamentary committees, but they might want to look at it in a wider context and consult on that report as the start of a process in which they ask how we can tackle some of these issues.

The present electoral law that deals with false statements about candidates is used, but it is no longer adequate or fit for purpose, because there are other issues that have arisen out of it. We understand where that came from, but what we might do next on what we might call the frontier of electoral law, given the changes that we see taking place, is very important indeed. I am therefore very happy to encourage a process in this Parliament—and support it in any way that I can—that takes those issues on and begins to move them forward. That process would also ask, as amendment 23 suggests, about the role of referendums; the issues for citizens assemblies and how those interact with this Parliament and the use of referendums; the regulation of campaigning and using social media and online media; and criminal penalties and the effect of false campaigning on the validity of a referendum result. All those matters need to be looked at. If we can find a process to do that, it will be supported.

We must also be aware that we must not do anything to narrow or restrict democratic participation, or to make elections harder to run. For example, amendment 23 suggests that consultations should be started within three months of royal assent for the legislation, but that would probably be far too tight a timescale and we would need to have a longer period. On amendment 23's suggestion of laying a copy of any consultation before the Parliament, again, that



is perhaps too restrictive and a parliamentary committee might want to recommend legislation of some sort or another, so there would be consultation anyway.

I am keen to help and I support talking about amendment 23's proposals further and coming to conclusions after looking at the evidence and ensuring that we understand what we need to do. I hope that Mr Harvie recognises that, and I can see signs of assent coming from other parts of the chamber. Actively supporting such scrutiny is important. I understand that Mr Harvie does not intend to pursue amendment 23, but that will be not the end but the start of the process. I can give him that assurance.

**Patrick Harvie:** It is probably the case that at the start of devolution and the Scottish Parliament, just over 20 years ago, the general view might have been that the democratic process was generally a reserved matter. We had not yet legislated on local elections, we did not have the power to legislate in relation to Scottish Parliament elections and "referendum" was not yet the *mot du jour*, shall we say. Clearly, we are now at the point at which this Parliament has responsibility, which it has gained incrementally, for the democratic process and its robustness and fairness. It is also clear now that there are severe threats to that democratic process. We could be at the point at which we start to see our democratic process go even further down the rabbit hole of untruth and conspiracy theories, with not only the lack of transparency in online campaigning, but data harvesting and manipulation that is either illegal or unethical and which greatly enhances the power of those in our electoral process who have money and the will to hide where they get their money from.

We are all aware of threats of international manipulation and attacks against our democratic process. We could be at the point at which we see our democratic process continue the spiral downward, away from the transparent and accountable method of giving power to the public that it is supposed to be—or we could start to take responsibility for those challenges and recognise that we do not yet have answers to those fundamental questions.

I hope that every political party will recognise, not just during the implementation of the legislation that we are introducing, but in the period of time that we have to consider what should be in our 2021 manifestos, that a major overhaul is required in our democratic processes if they are going to be robust, resilient and fair in the future. I will seek leave to withdraw amendment 23, but I hope that all political parties will actively engage in those questions that have not yet been defined, let alone answered.

*Amendment 23, by agreement, withdrawn.*

### Schedule 3—Campaign rules

**The Presiding Officer:** Group 7 is on referendum expenses. Amendment 5, in the name of the cabinet secretary, is the only amendment in the group.

**Michael Russell:** During stage 2 on 27 November, when we discussed excluding the additional costs associated with an individual's disability from campaigners' expenditure limits—amendments which were agreed to—Patrick Harvie asked if I had considered dealing with the issue of translations into other languages in the same way as translations for the purpose of disability. In response, I undertook to look at the issue. I have now considered Patrick Harvie's suggestion and my officials have discussed it with the Electoral Commission, which is responsible for monitoring campaign expenditure. I am pleased to acknowledge that Patrick Harvie has raised a valid issue, which is now being attended to.

I have lodged amendment 5, which will exclude from campaigners' expenditure limits any reasonable expenditure associated with the translation of referendum materials into languages other than English. I emphasise that we are talking only about the costs reasonably attributable to the actual translation, not the entire cost of creating, printing and distributing such material in paper or electronic form, as those costs would apply to any materials.

My aim in lodging the amendment is to make referendum material more accessible to those whose main language is not English. An individual not using English, for whatever reason, should not be a limiting factor if they want to take part in a referendum debate. The amendment is intended to address any concern that campaigners might have that the cost of providing translated material may result in exceeding their expenditure limits. I hope that members will agree that we should make every effort to involve all members of our communities in any referendum debate and that they will therefore support amendment 5.

I move amendment 5.

**Patrick Harvie:** I appreciate the fact that the Government has taken forward that suggestion. All of us recognise that having accessible information from campaigners in the range of different languages that are spoken in our communities is an important part of enabling everyone to participate in the democratic process. Given that we are, I hope, about to pass other legislation expanding the franchise and ensuring that the right to vote is based on residency, not citizenship, a great many more people will be able to participate in the democratic process. Many of

them will not have English as their first language. It will be important that all political campaigns by parties and in referendums ensure that information is available that allows and empowers everyone to participate.

*Amendment 5 agreed to.*

**The Presiding Officer:** Group 8 is on restrictions on publications. Amendment 13, in the name of Adam Tomkins, is grouped with amendments 14 and 15.

**Adam Tomkins:** Group 8 is concerned with what are informally known as the rules on purdah. As the law stands, for the last 28 days—four weeks—of any referendum campaign, the Government is prohibited from publishing general information about the referendum, information that deals with any of the issues raised by the referendum question, or information that puts any arguments for or against any outcome in the referendum or that is designed to encourage voting in the referendum.

15:00

The idea of having such purdah rules is well established now in our electoral practices, but we took evidence in the Finance and Constitution Committee that the relevant period for which purdah applies—the last four weeks of the campaign—is too short and should be lengthened. We also took evidence that, in lengthening the purdah period from the last four weeks to the whole of the regulated referendum period, which is 10 weeks, we should narrow the scope of the purdah rules.

Therefore, the force of the amendments in the group is both to lengthen and to thin the rules of purdah so that the Government would be prevented in the last 28 days from providing general information about the referendum and information that is designed to encourage voting in the referendum, and it would be prevented for the whole 10 weeks from providing other information that deals with issues that are raised by the referendum question or from putting any arguments for or against any referendum outcome.

That modest redesign of the rules of purdah was supported by a range of witnesses who gave evidence on the bill to the Finance and Constitution Committee at stage 1, including Alan Renwick of the constitution unit at University College London, who said that given that, as we all know, campaigns begin well before the purdah period,

“the rules do not prevent potentially influential government interventions in the campaign.”

The Electoral Commission supported Dr Renwick’s view, pointing out that, whereas referendum campaigners must work within the statutory spending limits, Government and public authorities may spend

“potentially significant amounts of public money promoting their preferred outcome as close as four weeks before polling day.”

The Electoral Commission has recommended that purdah should apply during the whole of the referendum period—that is to say, for 10 weeks rather than merely four weeks.

In short, amendments 13, 14 and 15 extend the length of the purdah period from four weeks to 10 weeks but narrow its scope, excluding from that extended 10-week period information that simply provides general information about the referendum or is designed to encourage voting in the referendum.

I move amendment 13.

**Michael Russell:** It is a feature of debates about electoral regulation, particularly about referenda, that Oppositions will seek to restrict purdah and Governments will seek to maintain the present situation. I call in evidence on that David Lidington during the debate on the European Union Referendum Bill, who was defending the Government against an attempt by all the Opposition parties to restrict purdah. He described the provisions in the Political Parties, Elections and Referendums Act 2000, which is still current and which we observe, as

“a very wide-ranging statutory prohibition on Government activity.”—[*Official Report, House of Commons*, 16 June 2015; vol 597, c 232.]

That is what it is and I would resist further statutory prohibition on Government activity. The amendments would place tight restrictions on ministers for a period approaching three months in the run-up to a referendum. Pre-poll restrictions are accepted—they are effective and they are operating. As I said at stage 2, ministers, civil servants and public bodies expect those restrictions and understand them. However, extending them further, even if they are slightly slimmed down from Mr Tomkins’s original proposal at stage 2, would significantly inhibit the Government from conducting normal day-to-day business on behalf of citizens.

There was differing evidence on the matter at stage 1. The Finance and Constitution Committee acknowledged that uncertainty by deciding not to recommend an extended pre-poll period and it voted against the extension at stage 2. That indicates that, whatever the intention of the extension, there is not widespread support for it.

The 2016 EU referendum and the 2014 independence referendum had arguments cutting across a wide range of policy fields. Restricting all those areas for more than the accepted and legislated-for period would cause significant issues for the ordinary people of Scotland. Extending the restrictions in the way suggested by the amendments would still catch a wide range of materials. The word “publish” covers the spoken and written word, and all forms of communication including social media. That would constrain the publication of consultations and ministerial participation in public events that might in any way be seen as associated with the referendum topic.

I accept that it is hard to find the right balance. Everyone accepts that Governments should not use public funds or actively campaign at referendums. Politicians can campaign, but not Governments. Equally, as the “Fifth Report of the Committee on Standards in Public Life”, which led to the UK’s 2000 act on referendums, acknowledged, it is

“extraordinarily difficult, if not impossible, for the government of the day to offer purely objective and factual information in the course of a referendum campaign”.

The report recommended that

“the government of the day in future referendums should, as a government, remain neutral and should not distribute at public expense literature, even purportedly ‘factual’ literature, setting out or otherwise promoting its case.”

We could debate that matter, but it is not in the regulations. I understand the concerns. I acknowledge that the issue will always be a current subject, on which there will always be debate, but those amendments do not take us any further forward. They would be difficult to operate, and it is hard to see what might replace them.

At stage 1, Professor Justin Fisher said that this was

“an extraordinarily difficult area on which to legislate.”

I do not think that Mr Tomkins’s amendments solve it. I ask him not to press amendments 13 to 15. However, we will continue to acknowledge that there should be vigilance in the use of purdah—and Parliament will be as vigilant as everybody else.

**Patrick Harvie:** If Scotland is involved in a further constitutional referendum—as I very much hope we will be and as Adam Tomkins very much hopes we will not—it will be important that the two Governments, UK and Scottish, are on a level playing field in terms of any restrictions on their abilities. When he winds up on this group of amendments, can Adam Tomkins tell us whether he proposes a legal mechanism that will place the same restriction on the UK Government’s activity as he proposes for the Scottish Government, or

does his amendment risk creating an inequality of arms?

**The Presiding Officer:** I ask Adam Tomkins to wind up and press his amendment.

**Adam Tomkins:** I am not in the business of proposing amendments that are outwith the competence of this Parliament, which imposing legislative restrictions on Her Majesty’s people’s Government would be.

The Government’s response to the amendments is disappointing. This is the third set of amendments on which the Government is seeking to resist changes. Mr Russell painted a picture of this being the Government versus the Opposition, with the Opposition seeking to promote the amendments and the Government seeking to stop them. It has nothing to do with Opposition and Government. It has to do with respecting the views of those who understand national and international best practice on the running, holding and conduct of referendums in this country.

On the Electoral Commission’s statutory role of testing questions, the Government has resisted. On the Gould principle, which I thought all parties agreed to, the Government has resisted. Now it has done so on purdah. The Government is not resisting amendments that I dreamed up but amendments that seek to put into effect the evidence that the Finance and Constitution Committee heard from the best available experts and from the Electoral Commission, whose job it is to ensure that the interests of voters are put first and foremost in the design and delivery of all referendums and elections in this country.

It is regrettable that, for the third successive occasion this afternoon, the Government is seeking to resist not Opposition amendments but amendments that are designed to make the bill reflect international best practice. This is sub-par legislation, and it is disappointing that the cabinet secretary wants that for his legacy.

**The Presiding Officer:** The question is, that amendment 13 be agreed to. Are we agreed?

**Members:** No.

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

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)

Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD)

### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)

Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 56, Against 68, Abstentions 0.

*Amendment 13 disagreed to.*

*Amendments 14 and 15 not moved.*

**The Presiding Officer:** Group 9 is on details to appear on published referendum material. Amendment 16, in the name of the cabinet secretary, is grouped with amendments 17 and 17A.

**Michael Russell:** During the stage 2 debate on 27 November, when we were discussing the requirement to include imprints on referendum material and what exemptions for personal opinions are appropriate, Patrick Harvie asked

“how we can distinguish those who are active campaigners but also publish on social media in their capacity as individuals. Where is the line between the individual and

their identity as a campaigner?”—[*Official Report, Finance and Constitution Committee*, 27 November 2019; c 63.]

That was an important point, which mirrors concerns that many of us have. I offered to discuss the issue further with Mr Harvie, and following those helpful discussions I lodged amendments 16 and 17. They might not go as far as Patrick Harvie hoped that they would go—indeed, amendment 17A, which he has lodged, shows that that is the case—but I think that they provide a workable way forward.

The intention behind amendments 16 and 17 is to ensure that the personal opinion exemption from the requirement to include a name and address imprint on campaign materials does not extend to permitted participant campaigners, responsible persons for campaign bodies or those who would be liable for corporate offences under the bill, such as directors and similar officers of companies of registered permitted participant campaigners.

The amendments will remove the opportunity for such individuals to post referendum material without an imprint, under the guise of that being their personal opinion, unless the posting cannot reasonably be regarded as being done with a view to promoting or procuring a particular referendum outcome.

I have limited the restriction to officers who would be liable for corporate offences, because people who work for a campaign organisation might not necessarily identify with the views of that organisation; they might simply be doing their jobs. That is more likely to be the case with less senior members of staff than with senior officers, and I do not think that it would be appropriate to restrict them in the same way. It is likely that senior officers will hold views that are in line with the organisation’s campaigning stance.

As I said during the stage 2 debate, control of online campaigning is a difficult area that we are trying to get right. We have to balance the need to regulate referendum activity appropriately without inhibiting the ability of members of the general public to discuss the issues that are involved, which would stifle debate and not benefit anybody.

Patrick Harvie and I have discussed his amendment 17A. The Electoral Commission’s view—and we have, of course, leaned heavily on the Electoral Commission’s view in these matters—is that Mr Harvie’s proposal is, unfortunately, “unworkable”. Campaigners are not required to report details of donations below £7,500 to the commission, so it is unclear how the commission would be able to enforce the imprint rules for people who donated between £500 and £7,500, given that it would not be aware that those

individuals were required to include an imprint on their communications.

The practicalities aside, I am concerned that such restrictions around the use of social media might act as a disincentive for people to donate to campaigners, or, if they had donated, to take an active part in the referendum debate.

This is an evolving issue. It is very likely that a future Government will have to make further changes in the area, potentially using the power to amend the framework to respond to an Electoral Commission recommendation, for example.

Having said that, I commend to members my amendments 16 and 17, as a reasonable and proportionate response to the online campaign environment as it exists at this time. I ask Mr Harvie not to move amendment 17A, on the ground that, although I am certain that it is well intentioned and I agree with much of what Mr Harvie intends, his proposed approach would not work in practice.

I move amendment 16.

**Patrick Harvie:** The cabinet secretary is right to say that this is an evolving area. I am certain that the provisions that are agreed to in the bill, whatever they are, will not be the last word on the matter.

It is also a complicated area. The concepts that we use even to talk about how we regulate online campaigning are themselves inadequate. The idea of a digital imprint almost implies that we think that every piece of online campaigning is just the digital equivalent of a piece of paper that is posted through a letterbox or stuck up on a lamppost.

Online campaigning involves a far more sophisticated set of tools and requires a far more sophisticated model of regulation and enforcement, which the bill will not achieve. Indeed, even if amendment 17A is agreed to, the bill will not get close to achieving that; there is a lot more work to do.

15:15

During the stage 2 discussions, I genuinely found it difficult to understand a reason in principle why an online publication should be subject to a lower level of regulation than applies to a physical publication. A single tweet or a Facebook post can have a dramatically bigger reach than an individual flyposting in their community or printing leaflets and putting them through letter boxes in their neighbourhood. Such campaigning requires people to say who they are, and I do not see a requirement for people to say who they are in online publications—and publications are what we are talking about—as an inhibitor of freedom of speech. People make the argument about

freedom of speech, but simply being willing to say who you are does not inhibit freedom of speech. I see my proposal as inhibiting covert campaigning, which can be, and has been, an aspect of the manipulation of our democratic system that we should all be concerned about. My amendment 17A simply adds in a requirement that applies to those who have donated to campaigns, as it is clear that those whose money is being used to influence our democracy ought to be held to a higher standard of accountability than individuals who simply chat about the issues with their friends, whether online or offline.

I do not see a reason in principle why donors should be excluded. The provision may well be difficult to enforce, and it may well be that the Electoral Commission will not have the information that it needs to enforce it, but we do not make lawful things that we think are wrong simply because enforcement would be difficult. We should be setting an expectation of transparency and honesty in our electoral process, and an expectation that donors—those who use their money, rather than just their votes, energy, creativity or activism, to influence the political system—ought to be held to a reasonable standard and must at least say who they are when they put publications online.

I will move amendment 17A. I have no idea whether it will get support from anybody else in the chamber, but it is an important principle that needs to be asserted.

**Michael Russell:** I respect Patrick Harvie's view on the matter and I entirely agree with him that the financial factors should not be excluded in any way. I simply say to him that the information that will be required to implement the proposal in his amendment does not and will not exist in the hands of the Electoral Commission. Therefore, if amendment 17A is agreed to, although the provision will sit on the statute book, it cannot be operated. I do not think that we make good law if we put things on to the statute book that we cannot actually operate because we do not have the information to do so.

If the Electoral Commission comes forward with recommendations on these matters, as it intends to do, we will look at the recommendations and try to implement them. Regrettably, I will have to vote against amendment 17A, because what it proposes cannot be done.

*Amendment 16 agreed to.*

*Amendment 17 moved—[Michael Russell].*

*Amendment 17A moved—[Patrick Harvie].*

**The Presiding Officer:** The question is, that amendment 17A be agreed to. Are we agreed?

**Members:** No.

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

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Wightman, Andy (Lothian) (Green)  
 Wishart, Beatrice (Shetland Islands) (LD)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Harper, Emma (South Scotland) (SNP)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)

MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

#### Abstentions

Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mason, Tom (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 32, Against 61, Abstentions 30.

*Amendment 17A disagreed to.*

*Amendment 17 agreed to.*

#### Schedule 4—Campaign rules: investigatory powers of the Electoral Commission

**The Presiding Officer:** Group 10 is on the investigatory powers of the Electoral Commission. Amendment 18, in the name of the cabinet secretary, is grouped with amendments 19 and 20.

**Michael Russell:** I hope we are in the last stages—the canter towards the end of the amendments.

At stage 2, I lodged a number of amendments aimed at strengthening the Electoral Commission's monitoring powers to gather information about campaign activity. The commission sought the strengthening of its power to obtain information so that it could deal with compliance issues in real time ahead of a referendum. Those amendments were agreed to by the Finance and Constitution Committee. The further amendments in this group refine those earlier amendments in response to comments from the commission.

Amendment 18 adds an additional category to the categories of individuals or bodies to which the Electoral Commission can give a disclosure notice. The new category covers individuals or organisations that have not registered as permitted participant campaigners but which the commission has reasonable grounds to believe have published referendum material without an imprint of name and address details. Taken together with the proposal in amendment 20, a disclosure notice can require such individuals or organisations to provide the commission with information or an explanation.

Amendment 19 provides a minor clarification that a disclosure notice can cover relevant donations and regulated loan or credit transactions received or entered into before an individual or body became a permitted participant. That will ensure that an individual or body that is not yet a permitted participant cannot avoid scrutiny by undertaking regulated referendum campaign activity before registering. The provision will enable the Electoral Commission to confirm both that donations and transactions are correctly reported and whether an individual or body has carried out inappropriate campaign activity before registering as a permitted participant.

The amendments add to those agreed to at stage 2 and make certain aspects of the policy clearer. Taken together, they represent a further strengthening of the Electoral Commission's monitoring powers over the campaign rules to gather information that could lead to a formal investigation.

I move amendment 18.

*Amendment 18 agreed to.*

*Amendments 19 and 20 moved—[Michael Russell]—and agreed to.*

### Long Title

**The Presiding Officer:** Group 11—the final group—is on the long title. Amendment 24, in the name of the cabinet secretary, is grouped with amendment 25.

**Michael Russell:** These technical amendments are a result of the changes to section 1 at stage 2. The removal of the option of providing for a future referendum by regulations meant that the long title of the bill no longer reflected its contents. The words about “other referendums” are no longer needed, so amendments 24 and 25 adjust the long title accordingly and reflect changes to the bill that have already been agreed to.

*Amendments 24 and 25 moved—[Michael Russell]—and agreed to.*

**The Presiding Officer:** That ends consideration of amendments.

At this stage, as members might be aware, I am required under standing orders to decide whether any provision of the bill relates to a protected subject matter—that is, a matter affecting the Scottish parliamentary elections or franchise. In my view, no provision of the Referendums (Scotland) Bill relates to a protected subject matter. That means it does not require a supermajority in order to be passed at stage 3. We will move shortly to the debate and decision time will be brought forward. Decision time will be in roughly one hour’s time—merry Christmas.

**The Deputy Presiding Officer (Linda Fabiani):** Parliament is suspended for five minutes. Members should be back in their seats for 3:30.

15:24

*Meeting suspended.*

15:30

*On resuming—*

## Referendums (Scotland) Bill

**The Deputy Presiding Officer (Linda Fabiani):** The next item of business is a debate on motion S5M-20237, in the name of Michael Russell, on the Referendums (Scotland) Bill at stage 3.

**The Cabinet Secretary for Government Business and Constitutional Relations (Michael Russell):** I thank all those who have been involved in shaping and developing the bill over the past few months. I am very grateful to the bill team, which has done a tremendous job, and to the two committees that have considered the bill: the Delegated Powers and Law Reform Committee and the Finance and Constitution Committee. We have had robust debates in both committees, but they have improved the bill substantially. Members who have worked with me on previous bills know that, when I as a minister set off with a bill, I think that it can be improved, developed, changed and shaped for its purpose—*[Interruption.]*

**The Deputy Presiding Officer:** Excuse me, cabinet secretary. I say to all members that Parliament has resumed, so no private conversations should be going on and no backs should be turned to the chair. Please continue, cabinet secretary.

**Michael Russell:** It is perfectly possible to shape and develop a bill in a way that makes it better. That has happened in the case of this bill, and I am grateful to each member who has done that.

As we come to the conclusion of this process, I hope that today’s debate will perhaps restore some harmony, which has been somewhat damaged by the proceedings that took place earlier. We have worked very hard to move towards the resolution of the one significant difficulty that existed, and I think that we are now there.

Ensuring that elections and referendums are run to the highest standards is central to any democracy. The rules by which electoral events are run should be clear and well understood and should promote open and inclusive debate. When we look at the damage that has been done to democracy in recent months and years by the European referendum, we sometimes wonder whether we can recover from that. Referendums do not need to be divisive; indeed, many people’s experiences of the 2014 referendum were positive. I hope that we can move forward in a positive spirit to any future referendums in Scotland.



If we do so, it is important that the rules for any referendums that are held on devolved matters are specifically suited to Scotland and are debated and agreed by this Parliament. The bill therefore addresses a specific gap in the devolved legislative landscape. The purpose of the bill is to put in place a standing framework of conduct and campaign rules that could be applied to any national referendum on a devolved subject matter. My intention at the outset was to ensure that those rules meet the highest standards of electoral administration and regulation and that they reflect international best practice. That will ensure that the debate on a future referendum concentrates on the merit of the question, not on the nature of the poll. I again give my thanks to those who have helped that to happen.

I also express my thanks to the electoral community in Scotland, which has provided expert advice on the policy and technical issues that are raised by the bill. I first showed a slightly unnatural interest in electoral matters when I was a member of the Arbuthnott commission on voting systems and boundaries, more than 15 years ago. I remain very interested in electoral law and regulation. We are well served, by and large, by the electoral community in Scotland, which engaged fully in the bill, and will continue to engage in the work that will be required to make it real.

I am open to continuing to consider some issues. As elements of the bill move forward, I am sure that the electoral community and others will want to ensure that they build on the success of the bill in order to make it a reality when it is required. Changes to the framework can be triggered by a process that is set out in the bill. We have limited that process, but it is possible to have dynamic legislation on elections, and I believe that we have now achieved that.

We have further changes to make to the Scottish Elections (Franchise and Representation) Bill, which is going through Parliament. At the conclusion of that process, we will have a system that is very much fit for purpose and which is inclusive and allows all voters to participate. The technical adjustments that we have made to the Referendums (Scotland) Bill add greatly to achieving that system.

There are issues that we have not been able to resolve in the bill, and issues that have been only partially addressed.

**Neil Findlay (Lothian) (Lab):** I believe that the cabinet secretary has said that there are no plans to have any referendum other than one on Scotland's constitutional future. I accept the right to pursue that, but does he not think that, given that we do not know what will happen with Brexit, it would be irresponsible to press ahead with such a referendum?

**Michael Russell:** I will address that question in two ways. First, the bill does not create a Scottish independence referendum—no ifs, no buts. It puts in place a framework, which could be built on by a section 30 order or by legislation at Westminster. The bill creates the circumstances in which we could have referendums. It is certainly possible that people, including any successor Government to this one, will come to the chamber with other ideas. This framework will allow that to happen.

Secondly, to put it bluntly, no, I do not think that it would be irresponsible to press ahead with a referendum on Scotland's constitutional future. The nature of the Brexit that we face is clear. The European Union (Withdrawal Agreement) Bill, which has been introduced in the UK Parliament, indicates what type of Brexit it will be. There is no such thing as a good Brexit, just degrees of bad Brexits. Given what we now know will take place, it will be a very bad Brexit indeed.

I think that we are in a position to judge accurately what will happen in Scotland on matters such as migration. Therefore, the sooner that we are able to take a decision, move on and re-enter the European Union—because, regrettably, it looks as though we will leave—the better it will be for Scotland.

**Neil Findlay:** Will the cabinet secretary make it clear that the only reason he foresees using the legislation is for an independence referendum?

**Michael Russell:** I have never said that. In fact, I gave evidence to the Delegated Powers and Law Reform Committee, which Mr Simpson convenes, on other areas in which I thought the bill could be used. I am saying that, clearly, there is an electoral mandate for an independence referendum—Neil Findlay has accepted that. The bill does not deliver on that electoral mandate. The legislation was introduced before that renewed mandate was given. The bill puts in place a framework. It would be perfectly possible for someone to come to this chamber next week and propose a referendum on another subject. This bill could be used for that end. I see that Mr Rumbles is thinking about what topic he would have a referendum on. I look forward to hearing his ideas.

I do not accept Mr Findlay's point, so I will move on. The reality is that the bill provides the best practice for a referendum, but—Mr Harvie made this point this afternoon—it does not necessarily resolve all the outstanding issues that exist, including to do with digital imprints and how democracy is changing and being subject to malign influences. We need to continue to address those matters—and we do so with the Electoral Commission. We have been guided by the Electoral Commission and we have sought to work with it at every stage. We now have a bill that

conforms with its requirements, I am sure. That is a very useful thing to have.

I look forward to hearing what others have to say. I hope that this will be a constructive debate. I hope that it will persuade people who are not yet sure how they will vote later this afternoon to back this framework bill. I emphasise that it is a framework bill. The bill does not produce an independence referendum—there is no doubt about that at all. We need to have that framework in Scotland and we almost have it now.

I move,

That the Parliament agrees that the Referendums (Scotland) Bill be passed.

15:38

**Adam Tomkins (Glasgow) (Con):** We all know the reality, Presiding Officer. This was not intended, and never was intended, by the Scottish National Party to be a framework bill for all referendums on any subject. This is a paving bill for indyref2. The cabinet secretary has given the game away by his demeanour and, indeed, his overblown rhetoric when it comes to his insistence that it is his right to rig the rules of a second independence referendum by bypassing the Electoral Commission's views.

There is only one relevant question to which his validity period applies: the question that was put to the people of Scotland in 2014 about whether Scotland should become an independent country. The answer to that was, of course, no.

Sometimes the SNP wants to pretend that this is a framework bill for referendums in general, but at other times it knows that it is not that. We all know that it is not a framework bill, but a paving bill for a second independence referendum.

It is sensible to have framework legislation for referendums, if the Government has ideas on what policies it is likely to use referendums to decide things. I have asked Mr Russell many times during the process of the bill—indeed, I asked about it before the bill was introduced, when the First Minister made an announcement about her proposal for a bill in a statement on independence—what subjects other than independence this Government proposes, at any point, to put to the people of Scotland in a future referendum. Answer came there none.

The only question that Mr Russell is interested in putting to the people of Scotland in a referendum is the independence question. This is the framework bill for a second independence referendum, which is in breach of promise. In the independence referendum in 2014, the First Minister repeatedly said that it was a once-in-a-lifetime opportunity.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** Does Adam Tomkins not agree that people can change their mind, as Jackson Carlaw did on his position regarding Brexit?

**Adam Tomkins:** I take the First Minister at her word. I would have thought that, as a very loyal servant of the First Minister, the member would do the same. The First Minister said many times in the 2013-14 referendum campaign that it was a once-in-a-lifetime opportunity. That was not at my insistence—it was her concession. In order to get people to vote yes in that referendum, she pretended that she would respect the result of that referendum and that it would indeed be a once-in-a-lifetime opportunity. The bill has been promoted by the Scottish National Party in breach of faith, in breach of trust and in breach of promise. That is why the Scottish Conservatives will vote against it at decision time tonight.

At the same time, the bill is a missed opportunity. The issues that Patrick Harvie raised earlier today and that he and I sought to raise in committee at stage 2, are really important. If we are to have a future in Scotland in which referendums are used more, rather than less, we have to do the work of understanding the relationship between popular democracy in the form of a referendum and parliamentary democracy in the form of the Scottish Parliament. We do not understand the relationship between popular democracy and representative democracy in Scotland and the bill should have addressed that question. Its failure to address that question is a lost opportunity.

When should referendums be held? We do not know—the bill does not tell us. On what subjects should referendums be held and why should referendums be held on those subjects and not on others? How often should referendums be held on the same subject? What do referendums even do? What happens in a referendum? Do they decide things or are they mere expressions of opinion? If they decide things, on whom are those decisions binding? Are they binding on us as individual members of the Scottish Parliament, on the Parliament, on ministers or on the Government? In what sense are they binding? What is the nature of the bind? Are they legally, politically or morally binding?

**Patrick Harvie:** Will the member give way?

**Adam Tomkins:** I will happily give way to Mr Harvie in one minute.

If we are really to have a legislative framework for referendums, we surely need to have some grasp of what the answers to those questions are before we press the green button at decision time.

**Patrick Harvie:** Those are important questions, but would it not be regrettable if we were to pass

framework legislation that took a restrictive view? For example, the bill allows a referendum that is advisory or one that is part of legislation that triggers a power or action from Government to come into force in the event that the outcome goes a certain way. The bill allows both decisive and advisory referendums, so it is flexible, rather than something that cuts down the options that a future Parliament might take.

**Adam Tomkins:** That is right. There is a degree of flexibility about that. However, it does not address the critical question, which, as Michael Russell said in his opening remarks, is the one that has bedevilled British politics for the best part of three years: what is the relationship between something that is decided in a referendum and a Parliament that is tasked with the responsibility of delivering on that result?

The bill is less bad than it was when it was introduced. There is no longer a power in the bill for Mr Russell merely to click his fingers and for there to be, as if by magic, a referendum by ministerial order—as there was when he introduced the bill. The Electoral Commission's role in the testing of referendum questions, while significantly reduced, in a manner that cannot be forgiven—and certainly will not be forgotten—has not been quite as obliterated as Mr Russell might have wanted.

However, this afternoon we have missed opportunities to improve the bill by revising the purdah rules and by implementing the Gould principle in statute in Scotland for the first time.

It does not matter what the bill says, because the Scottish National Party knows, as we all know, that the bill would be used by the SNP only for a second independence referendum, and—thanks to the SNP—there is not going to be a second independence referendum. We had a general election last week, and the result was that we have the first Conservative majority Government in the United Kingdom since 1992. So, thank you to the SNP for ensuring that we had that election, and thank you to the SNP for ensuring that we have a Conservative majority Government. We will note that the Queen's speech—

**The Deputy Presiding Officer:** Come to a close, please.

**Adam Tomkins:** —which was delivered by Her Majesty from the throne in the House of Lords this afternoon, made it perfectly clear that this people's Government will not allow a second independence referendum. It does not really matter what this legislation says, because it is redundant already.

15:45

**Alex Rowley (Mid Scotland and Fife) (Lab):** In opening the debate for Scottish Labour at stage 1, I said that

“If we, as a country, were to want to move to a more direct democracy in which referendums are used more and more in decision making, the objectives that the bill sets out would be sound.”—[*Official Report*, 7 November 2019, c 63.]

As a result of its scrutiny of the bill, the Finance and Constitution Committee made a number of key recommendations on how to improve some of the bill's fundamental flaws. Many of those recommendations have been accepted by the Government. Crucially, however, the recommendation on question testing has not. Today, we will hear from many members that the bill is an administrative procedure to facilitate future referendums, so that the current ad hoc approach to them need not be retained.

In my lifetime, there have been six referendums. Three were UK-wide, and three have been specific to Scotland and the constitution. The reason why there have been so few is that we live in a parliamentary democracy and abide by the principle of parliamentary sovereignty. I am not aware of any great shift in public opinion, or of demand that we move away from that principle.

The bill that we are debating paves the way for an independence referendum to take place next year. Indeed, when Michael Russell gave evidence to the Finance and Constitution Committee, he stated:

“We have never hidden the fact that I see this bill being used by the Parliament and the Government to create the referendum for independence”.—[*Official Report, Finance and Constitution Committee*, 25 September 2019; c 4.]

He went on to say that the SNP has no plans for any other referendums. I say again, today: on that basis, Labour cannot support the bill. We believe that it is not in Scotland's interests to create, in the midst of the Tory Brexit chaos, even more uncertainty and chaos. Indeed, I suggest that it would, during this period, be impossible to put a clear proposition to the Scottish people.

What I cannot understand is that the SNP says that the 2014 referendum was a gold-standard referendum, but is now, in 2019, trying to pursue a referendum in which it would be impossible to know exactly what we would be voting for. Perhaps that is why the SNP is so determined to rig the question. It says that the question has been tested time and again, but I say that the proposition in 2014 and the proposition today are very different.

What the SNP is proposing for next year is independence in Europe. We know that the deficit reduction that would be required for membership

of the European Union would lead to years of massive austerity in Scotland—that is before we even start counting the cost of the divorce bill from the rest of the UK, or the cost of a hard border with England.

The other point is that we do not know whether we would get entry to the European Union. Mr Russell tells us that Herman Van Rompuy, the former President of the European Commission, says that the path is open for Scotland to join the European Union. I ask what terms and conditions we would have to sign up to—never mind the fact that all 27 EU countries would have to agree.

I also draw Mr Russell's attention to the comments of the European Policy Centre think tank, of which Mr Van Rompuy is president, which has

“said Scotland could not expect ‘special treatment’ and that the Scottish Government would have to accept all the obligations of membership, including agreeing in principle to join the euro.”

So, before the SNP starts rushing ahead for a new independence referendum to seek an independence in Europe mandate, I suggest that it must be able to explain exactly what that would mean for hard-working people in Scotland.

All our efforts over the next year must, surely, be focused on minimising the damage that Brexit will do to our country. That is what the majority of people expect from this Parliament and from the Government. That is what they want, and that is why Labour will not support the bill.

15:50

**Patrick Harvie (Glasgow) (Green):** I am pleased to have the opportunity to speak in favour of the bill, which I do confidant in the knowledge that pretty much no serious evidence was submitted during the process that disagreed with the principle of having framework legislation on referendums. Rather, there was broad agreement that it is a good idea.

There was, however, also broad agreement that the bill as introduced was not adequate; it has been substantially changed since then. Adam Tomkins said that the bill is “less bad” than it was when it was introduced, which might be the closest that we get to high praise from him. Nonetheless, it is true that it is a less bad bill. There have been significant improvements, which are adequate for me to be able to support the bill.

Referendums can be done well or they can be done badly. That is true in relation to the practice, the process, the conduct, and the legislation under which they operate. It is also true in relation to the political judgments and the nature of political campaigning around referendums. The bill will

improve the former: the practice, the process, the conduct and the legislation under which referendums will operate in the future.

However, improving the politics of how and why we use referendums—of their purpose and meaning in our democracy—is something that we all, as political actors, need to take responsibility for. I do not mean just we, in the chamber; I mean we, in our society and our democracy.

There can be very little doubt that the argument that Alex Rowley referred to, about the sovereignty of Parliament, holds great importance for many people at UK political level. However, it does not always sit easily with the principle of the sovereignty of the people that we speak of in Scottish constitutional history. That conflict is one of the things that has played out in chaotic and damaging ways at UK level in recent years. In fact, the people in the UK Government who are today proudly and patriotically asserting the sovereignty of Parliament are the very same people who have been demanding that a wafer-thin majority in an advisory referendum that was conducted with—at best—dubious tactics represents the unshakeable and unchallengeable will of the people, and that it has to be implemented, even to the point of illegally proroguing the UK Parliament. Those who assert one principle but live by another do not necessarily speak from the high ground in relation to those issues.

I have argued since—I think—before the bill was introduced that we should look to Ireland if we want to learn how to improve the politics of how we do referendums and why we use them. In what could have been deeply divisive and polarising issues, Ireland did not frame referendums simply by giving the job either to politicians or to an electoral commission. Rather, it actively brought in deliberative processes, with citizen-led discussion about what questions should be put to referendum and how to frame them. In that way, what might otherwise have been divisive and polarising referendums were much more unifying experiences.

I do not pretend that we can solve every aspect of the challenges that we will face as we approach the next independence referendum; it is coming and it is necessary. We can improve the legislation today, but we cannot with a single bill improve the politics of how we do referendums. We will all need to take responsibility for that, and learn lessons from what, in the past, we have done well and what we have done badly.

15:55

**Mike Rumbles (North East Scotland) (LD):** MSPs from all across the chamber should be here to speak in support of a non-controversial

technical bill to manage the detail of referendums that might take place in the future. Unfortunately, we are not in that position: the bill that is before us this afternoon is not just a technical bill, and nor has the Scottish Government designed it as a non-partisan bill.

No one here is under any illusion: the bill will pass this afternoon with the votes of the two nationalist parties in the chamber, and it will be portrayed, by the Scottish Government, to the rest of the UK and to the UK Government, as the will of the Scottish people. Of course, it is no such thing, because the two nationalist parties fixed the terms of the bill for their partisan advantage.

The independent Electoral Commission is being bypassed in respect of the question that the nationalists want to re-put to the Scottish people.

The Electoral Commission said:

"We continue to be of the view that should a future referendum on Scottish Independence be brought forward, the Commission should be required to reassess the question regardless of whether it will take place within the 'validity period'. This will ensure confidence in the legitimacy of the referendum result."

Mike Russell and Patrick Harvie tried to hoodwink us over the view of the Electoral Commission. However, Mike Russell also said that the "validity period" applies only to the current session of Parliament. He is wrong. Let me read from the relevant section, for him.

"In subsection (7), the "validity period" means ... the period composed of the session of the Scottish Parliament in which the proposed date of the referendum falls and the preceding session."

Is Mike Russell in charge of the content of his bill, or is he trying to hoodwink us again?

Mike Russell, for the Scottish Government, has been too clever by half—a charge that is often put to him. He has almost, but not quite—thanks to the nationalist Greens—single-handedly put what should have been a non-controversial bill before us and turned it into a nationalist charade. Today, the nationalists' mask has slipped.

**Patrick Harvie:** Will the member take an intervention?

**Mike Rumbles:** I am afraid that I have only four minutes.

Patrick Harvie complained earlier about my use of the phrase "mask of nationalism", but it is an apt phrase. Mr Harvie pretends to be holier than thou, but the Greens have put their nationalism before fairness. How often have we heard that?

**Patrick Harvie:** Will the member give way?

**Mike Rumbles:** Because I have more time, I will give way.

**Patrick Harvie:** I say, with the best will in the world, that I would not call Mike Rumbles a British nationalist, and he would not thank me if I did. Would he please pay the rest of us the same courtesy?

**Mike Rumbles:** No, because that is exactly what the Green Party is—a nationalist party. It is amazing that it pretends that it is not a nationalist party.

The Scottish Government is not a nationalist Government that seeks to legislate for the good of everyone in Scotland—the bill proves that beyond doubt. On the day when the First Minister asks the UK Government for a section 30 order, the bill will ensure that no sane UK Government of any colour would accede to the request for a referendum under the rules in the bill, when the nationalist parties have fixed the terms of the question.

That convinces me that the nationalists are playing a game with the future of our country. I do not think that they expect another referendum to take place, but here we go on a long line of grievance, because no UK Government in its right mind would transfer such power to this Government, which is trying to fix the question.

The bill tries to fix the question as the Scottish Government wants to fix it, but the two nationalist parties do not have the courage to say that. Because of that, the bill stains our democracy. Therefore, the Liberal Democrats will vote against it this afternoon.

15:59

**Bruce Crawford (Stirling) (SNP):** I want to do two things in the time that we have available for today's important debate. Before I do that, I note that I am disappointed in the boorish and rude language that we have heard from some members this afternoon. It is unbecoming.

I want to look at the principled, entirely reasonable and well-supported case for having referendums framework legislation on the statute book. I also want to spend just a short time exploring the wider matter of Scotland's undeniable democratic right to choose her own future.

Although I do not speak today as the convener of the Finance and Constitution Committee, I put on record my grateful thanks for the fantastic support that I have received from the committee clerks throughout the passage of the bill.

I move on to why all parties in the chamber should support the bill at decision time. The policy objective of the bill is to put in place a generic framework for referendums and provide the technical arrangements for any specific future referendums. It is safe to say that the policy

objective found almost total support from electoral professionals and across academia.

For instance, the Electoral Commission's view was that the bill

"would help to provide clarity of the rules for anyone administering or campaigning at a particular referendum."

The Scottish Assessors Association welcomed the bill on the basis that

"there will be one set of legislation to govern all referendums in Scotland."—[*Official Report, Finance and Constitution Committee*, 18 September 2019; c 2.]

The view of the Electoral Management Board for Scotland was that

"Rationalising existing laws to create a single, consistent framework governing referendums offers many benefits to the voter, to campaigners, the regulator and electoral administrators".

It saw the bill proposals as a "wholly positive policy direction."

The Institute for Government said that the overall policy objective was a "good one" and that

"standing legislation is preferable for the purposes of consistency and to prevent manipulation of the rules".

Dr Alan Renwick of University College London's constitution unit "strongly welcomed" the proposals for a standing legislative framework. Among others who provided supportive comments were Dr Theresa Reidy and Professor Toby James.

Therefore, those of us in the chamber who are genuinely interested in following an evidence-led path when placing legislation on the statute book should support the bill when we come to decision time this evening.

I conclude with a short comment on the result of last week's general election, and the vital importance of recognising and implementing the outcome of the democratic process. In doing so, I recognise the achievement of the Conservatives in winning a majority. I may despair at the outcome, but respect and face that reality I must. However, so, too, must the Tory party in Scotland respect and face the reality of the outcome of the election in Scotland. Yes, the election was a victory for one-nation conservatism, but that one nation was England. Scotland chose a different path and her democratic wishes must be respected.

If, on a vote share of 43.6 per cent and seat share of 56.1 per cent, the Conservatives claim a democratic mandate for the UK to leave the EU, how can any argument stand against the democratic legitimacy of the outcome in Scotland, where the SNP share of the vote was 45 per cent and seat share was an emphatic 81 per cent?

I say in all seriousness to the Tories that the democratic voice of Scotland will be respected and

the people of Scotland will choose their own future.

16:03

**Alexander Burnett (Aberdeenshire West) (Con):** We could have been spending the last moments of this year in Parliament debating something that is important to the majority of people in Scotland. We could even have been spending this precious time passing legislation under the SNP's programme for government.

Education—that was what the First Minister announced as her number 1 priority for this Government. The national health service—that was what the First Minister proclaimed that she had a duty to protect. Climate change—that was what the SNP declared as a national emergency. However, here we are again, forced to debate a bill that no one supports, save those who look to divide the country. Not only is the bill unwanted, but it is being rushed through with undue haste. SNP members argue that the bill is their Government's most important bill, so why are they not giving it the scrutiny that it deserves?

According to figures from the Scottish Parliament, if the bill is passed today, it will have had only 205 days to be scrutinised, which is well below the average of 271 days. To give that some context, only three bills in this parliamentary session have received less time, and they were the budget bills.

**Bruce Crawford:** Can Alexander Burnett give us an example of where the committee failed in the parliamentary scrutiny process or, indeed, where extra time should have been built in and for what purpose?

**Alexander Burnett:** I think that we would all have wanted more time for the Electoral Commission to give its agreement to the bill. That is one example, and it is very sad that that has not occurred.

I would ask why record-breaking speed was used for a bill that no one wants and what devolved matter is so pressing that it requires a referendum. However, such questions would, of course, be rhetorical, because we all know the answer. The bill is yet another fig leaf for the SNP's eternal quest to break up the United Kingdom, and that will remain an eternal quest. Scotland said no in 2014 and nothing—I repeat, nothing—has changed since then to give cause for another such question. Only its interpretation of the numbers gives the SNP the belief that it has a mandate—an interpretation that is matched only by its education failings in maths.

I therefore have one question for the cabinet secretary, which concerns the method for

declaring the winner of any referendum. My understanding is that referendums are decided on the total number of votes cast across the whole of the electoral region. Last week, the SNP won the most seats in Scotland due to the vagaries of the first-past-the-post system. However, it claims majority support, despite 55 per cent of Scotland voting against the SNP and its wish for separation. Can the cabinet secretary confirm that the result of a future referendum in Scotland will be decided on the majority of voters and not the 32 counting areas?

In other parts of the bill, we have supported proposed changes, but they have not gone far enough. The role of the Electoral Commission remains insufficiently strong and the manner in which the cabinet secretary has tried to hijack so many parts of the process has more in common with third-world dictatorships than with the transparent democracy of the United Kingdom. Of course, the SNP is pushing the bill through today only because it told its nationalist extremists that it would get the bill through Parliament by the end of the year. That is simply not good enough, and Scotland deserves better. I am proud to say that I will not be supporting the bill today and I know that my constituents will thank me for it.

We must start prioritising what is important: education, the NHS, police, nurses, climate change, welfare, local government, our communities, jobs and the economy—take your pick. We are here today talking about the constitution only because the SNP is failing on everything else. We must hope that the new year brings the change that Scotland wants.

16:08

**Neil Findlay (Lothian) (Lab):** I regret deeply the election result last week. I believe that many of the working people who voted for Boris Johnson will soon become the victims of his divisive political agenda and philosophy. In Scotland, the SNP won the election convincingly—there is no doubt about that—but the SNP's election pledges to lock Boris Johnson out of Downing Street and stop Brexit were, of course, nonsense. The SNP alone could never deliver that, no matter how much it pretends that it can or could.

As a democrat, I accept that the people are sovereign, so I accept the election result. I also accept that when a party can carry a majority in Parliament, it has the right to introduce and pass any bill that gains the necessary support. From that starting point, I would have been inclined to support the bill before us, but I cannot vote yes to the bill at decision time for two key reasons. First, driving ahead with a call for a referendum in 2020 would be a huge mistake. Brexit will have major implications for our economy and society, and we

have no idea yet of its implications for jobs, trade, immigration, border arrangements, security, intergovernmental relationships, financial transactions and so much more.

On top of that, we can add the hundreds of issues that would need to be addressed in Scotland if it were to become an independent state, such as issues of currency and a central bank, pension levels, EU membership and its terms, how to adhere to a 3 per cent budget deficit and how to fund public services when Barnett goes. Those are huge and serious questions that need credible answers. We cannot have a repeat of the fantasy that was the 2014 white paper. It would be completely irresponsible for any independence prospectus to be put forward without knowing the real day-to-day implications of Brexit for our people. Such a prospectus cannot be put forward in 2020.

Secondly, I cannot support a bill that seeks to pauchle the referendum question. If a referendum is to happen, it must be completely fair and credible and, importantly, be seen by all to be so. It is just plain wrong to attempt to manipulate the role of the Electoral Commission or the question. I appeal to the cabinet secretary on that, because it is plain wrong. It leaves the Government wide open to the charge of trying to fix or manipulate the referendum from the outset. I see the cabinet secretary shaking his head. He can do that all he likes, but that is how it will be seen. It will erode confidence, trust and good will from the outset. If the cabinet secretary thinks that that is the way to bring on board people who were previously opposed to a referendum or even independence, I have to tell him that it is exactly the wrong way to go about it.

Finally, I say to my party that we have wasted eight years, from the 2011 election through the 2014 referendum to the present day, in which we have failed to come forward with a credible, workable and coherent alternative to independence. We have been reluctant and grudging when proposals for devolved power have come forward and we have seen those as a concession to nationalism. I am no nationalist and I never will be, but I see the devolution of power to the lowest possible level as the natural and desirable democratic order. Labour must now get its act together quickly. In my opinion, hard oppositionist unionism is the road to oblivion. The people want change, and that should be a devo max proposition, based on the principle that all powers should be devolved unless there is an overwhelming reason not to devolve them.

I do not like abstaining in the Parliament, but tonight I will do so. The Government has the right to proceed with a referendum, but doing so before we have clarity over Brexit is putting party interest

before the national interest. At this late stage, I appeal to the cabinet secretary not to do it.

16:12

**Angela Constance (Almond Valley) (SNP):** During the stage 1 debate, I made it clear that, as a lifelong supporter of independence, I want our journey to be inclusive and built on the best international standards and that the key decisions should rest with the Scottish Parliament rather than ministers. The bill now allows for the Parliament to scrutinise the merits of any proposed referendum, the question to be asked and the timing. Parliament is now in the driving seat.

I hope and believe that there will be a new independence referendum, but the real question at this point is whether the UK Government will give the Parliament the legal authority to respect the democratic right of the people of Scotland to choose their future, or whether Boris Johnson will continue to ignore and say no to the people of Scotland.

The Prime Minister's supporters will say that we do not have a mandate, and on one level they have a point, because we have mandates, plural. We have a cast-iron mandate from elections in 2016, 2017 and 2019. I would never want to reduce an argument to saying, "Ours is bigger than yours," but, at the end of the day, our mandate is bigger than theirs. It is galling to hear members of a party that has not won an election in Scotland for 60 years arrogantly assert that they have a veto. They would do well to remember that Scotland is a country in a voluntary union of nations.

I accept the results of elections and the results of the 2014 Scottish independence referendum and the 2016 UK-wide EU referendum—they are painful but indisputable facts—but I wonder whether some of those who oppose the bill accept the indisputable fact that 62 per cent of resident Scots voted to remain in the EU and now face the prospect of being dragged out of the EU against their democratic will. Do the members who oppose the bill accept that democracy can never be a one-off event? Do they accept that people and citizens always have the right to change their mind, particularly when there is such a change in circumstance? If Brexit has taught us anything, surely it is what not to do if you want to persuade and lead.

It is worth reflecting that it was not the SNP Scottish Government that ripped up the UK Tory Government's rhetoric on respect or the so-called partnership of equals. The Tories managed to do that all by themselves. I believe that history will show that ignoring the part of the UK with the

highest remain vote will indeed lead to the demise of the United Kingdom, and I think that the Tories know that.

I have never in my political life subscribed to any notion of Scottish exceptionalism. What we are faced with today is a tale of two Governments. It is a tale of two countries that continue to make very difficult political choices, and because of those difficult and different political choices I believe that, now more than ever, we need to escape Brexit and ensure that Scotland's future is in Scotland's hands.

I am Angela Constance and, Mike Rumbles, I am proud to say that I am a nationalist. However, I also say to people in the Labour ranks that times have changed since 2014. There will need to be a new case made for independence if there is to be a new referendum and it will be up to me, the SNP, the Scottish Government and the wider yes movement to make the case that independence and everyday bread-and-butter issues are indivisible.

I end by wishing everyone a merry Christmas—and here's to the new year.

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

16:17

**Pauline McNeill (Glasgow) (Lab):** As a nation, we have not looked to use the referendum process as much as other European countries—Ireland was given as an example—except, of course, on big questions such as Scotland's future and our relationship with Europe, which are vivid in our minds. The 2014 referendum followed the Edinburgh agreement in 2012 and the EU membership referendum took place in June 2016. Most of us have probably forgotten that we had another referendum, on the alternative voting system—I always forget that one.

Well before 2016, Nicola Sturgeon said that there should have been a requirement prior to the 2016 referendum to have a majority in Scotland, Wales and Northern Ireland. I was not in the Parliament when she said that, but I agreed with her. Perhaps more people have thought in hindsight that that would have been a good idea.

The bill that we are looking at is a framework bill that will provide the legislation for any referendums held in Scotland that are within the competence of the Scottish Parliament. It seems to be a change from previous practice when it comes to setting the question. In its current form, the bill is unacceptable to us and we believe that the Government has failed to take on board the strong and fair view that it should not set the question. Rather, the question should be



rigorously tested by a third party—namely, the Electoral Commission. I am not clear about why we are changing the practice that has previously been used. The central issue for us is that the question should be tested.

Section 1 of the bill as introduced allowed the Scottish ministers to make regulations to provide for holding a referendum and deciding the date, the form of the ballot paper, the wording of the question and the referendum period. Section 3(1) allows ministers to specify in subordinate legislation the wording of a referendum question without the necessity to consult the Electoral Commission. The Government is not taking a neutral position. It is an odd position for a Government that wants to take forward legislation in order to ask a question, whether that is on independence or any other matter. By not having the question tested by a neutral body, it seems to be opening itself to an accusation—at least—that the process does not have integrity.

The cabinet secretary has shifted his position—I see what he has done—but he has not shifted enough. It is not a small difference, as Michael Russell said earlier; it is a big difference. There is a big difference between allowing the Electoral Commission to give expert advice and requiring the question to be tested. It should be a matter of law. It should not simply be a matter of the Parliament asking for that advice if it so wishes. I do not regard asking for advice as a major concession, and I think that the Government is risking the integrity of the process. As Neil Findlay asked earlier, what is it scared of?

I want to address the question of a future Parliament that Patrick Harvie spoke about. It is not a comfort to me either that a future Parliament may decide to make the rules, particularly if there is a majority of independence-supporting parties in the Parliament. In that scenario, to give the process some integrity, there would still be an imperative for a neutral expert body to decide the rigour of the question. Even if the question has been asked before, the Electoral Commission said that it would like to take public opinion into account over the 12-week process to see whether there should be an adjustment to the question.

As Neil Findlay said, 2020 is the year in which the Scottish Government will need to focus on the damaging implications of a poor Brexit deal. We have supported the Government in its approach until now. We will continue to do that through the process of the return of powers from Europe to Scotland.

Last week was devastating for the Labour Party, and we need time to reflect on the results and how we will represent Scotland's best interests. However, it is clear that Scotland last week rejected the Tory Government, which remains the

biggest threat to the union. Next year will be a difficult year for the country, and I plead with ministers in this Government to focus on using this Parliament's voice as we tragically leave Europe, and to use that time to influence the process in the best interests of Scotland.

16:21

**Murdo Fraser (Mid Scotland and Fife) (Con):** I am not sure that the debate that we have had over the past hours added a great deal to our understanding of the bill; I am not sure that arguments have moved on much from the stage 1 debate just a few weeks ago.

However, we are clear on exactly what the bill is about. Despite what the cabinet secretary said at the outset, this is not a bill about referendums in general. We know that, because there are no referendums in prospect in this country except the one that the SNP is so keen on—a second independence referendum. Throughout the parliamentary progress of the bill, civil servants were unable to name any other topics that might be put to a referendum. Indeed, there is no popular tradition of holding referendums in this country, except on matters of the constitution.

The cabinet secretary has been quite explicit in stating that the bill is being used—and will be used—by Parliament and in due course the Government to create a referendum for independence. Therefore the bill is not about referendums in general or whether referendums should be a more significant part of our legislative arrangements. Adam Tomkins opened up an interesting debate on whether that should be the case and what rules might govern that process. The bill is about one thing, and that is the question of a referendum on independence.

If there were any doubt about that, what we have heard in speeches around the chamber makes it clear that those on the unionist side see this very much as a bill that is only about independence. In that respect, we have been clear. Adam Tomkins reminded us that we had a referendum in 2014. We were told that it was a once-in-a-generation vote. Indeed, the current First Minister said that it was a once-in-a-lifetime vote. In our view, there is no justification for rerunning that referendum now.

SNP speakers will claim—Bruce Crawford and Angela Constance both did—that the general election last week changed the territory, but we know that there were SNP candidates in that election who were denying that it was an election about independence. We know that there were SNP candidates who made it explicitly clear that a vote for them was not a vote in support of independence.

**Gillian Martin (Aberdeenshire East) (SNP):** I believe that the member is referring to the candidate for Gordon, whom I know very well. In fact, the candidate for Gordon was saying that people should vote for him for Scotland's right to have the choice. Would the member deny Scotland's right to choose its future?

**Murdo Fraser:** It was not just the candidate in Gordon. Other candidates made very similar claims. Even if we accept the argument that a vote for the SNP was a vote for another referendum—an argument that I reject—it won only 45 per cent of the popular vote, so there is no mandate and no popular support for another referendum. On that basis alone, Parliament should reject this bill.

There is another reason why the Parliament should reject the bill: the bill represents a power grab by the Scottish Government. In relation to the wording of a referendum question, the Scottish Government has been reluctant to move from its previous position, that reuse of an existing question means that the question does not have to be retested.

That is contrary to the view of the Electoral Commission. Despite the cabinet secretary's sophistry earlier this afternoon, the Electoral Commission made its position very clear to the Parliament in its briefing for stage 3. It said:

"we continue to be of the view that should a future referendum on Scottish independence be brought forward, the Commission should be required to reassess the question regardless of whether it will take place within the 'validity period'."

That is crystal clear, and the cabinet secretary has not accepted the Electoral Commission's view.

That is an important point in the context of a potential future independence referendum, because we know that, in any referendum in which a yes-or-no question is asked, people on the yes side start with an in-built advantage. That is because "yes" is a positive and affirming word and it is easier to get people to agree to a proposition than it is to get them to disagree with one. That is precisely why, in the 2016 referendum, the question was framed not to elicit a yes-or-no answer; rather, people were asked whether they wanted to leave or remain.

That is why the role of the Electoral Commission is so important. These are not matters that should be entirely determined by the Scottish Government.

As it stands, the bill represents an attempt by the SNP Government to gerrymander any future independence referendum and rig its terms, to give as favourable as possible an outcome to the SNP. That should not be acceptable to this Parliament.

Mr Rumbles said that, if the bill is passed today, the Scottish Government will trumpet it as the next step towards another independence referendum. He was right. There is no coincidence about the timing of the debate on the very day when the First Minister is demanding section 30 powers from Westminster—[*Interruption.*] If the Parliament passes the bill, it will be announced as the next step towards an independence referendum—

**The Deputy Presiding Officer:** Excuse me, Mr Fraser. Will members who are having conversations please quieten down?

**Murdo Fraser:** The bill is about just one issue: a future independence referendum. We do not want another referendum and the public do not want one. In last week's general election, the parties that support another referendum could not get even half the votes that were cast. The Parliament should reject the bill at decision time.

Whether members support or reject the bill, I wish them all a very happy Christmas.

16:27

**Michael Russell:** I wish all members a merry Christmas and a good new year: Nollaig chridheil agus bliadhna mhath ùr. I start with that, because I suspect that the tone of the debate might deteriorate from here on in, and I want to get my good wishes in before it does so.

I have to say that Mr Rumbles's speech was among the silliest that I have heard in the chamber—and I have heard some very silly speeches in the chamber. It was particularly silly because he said at one point that he is now not going to support the bill. Let me quote what he said in the stage 1 debate:

"We do not support the bill and will vote against it".— [Official Report, 7 November 2019; c 71.]

His change of mind is not a change of mind.

I also point out kindly to Mr Rumbles that his two contributions to the bill have been a speech in the stage 1 debate and a speech in the stage 3 debate. He has not attended any of the committee meetings and he has not heard the committee—

**Mike Rumbles:** I am not a member of the committee.

**Michael Russell:** MSPs who are not members of the committee moved amendments at the committee; Mr Rumbles chose not to do so. One can call him a spectator of, rather than a participant in, the bill process.

However, the prize for the most extraordinary comment today has to go, yet again, to Alexander Burnett—[*Laughter.*] I suspect that Conservative members will not laugh for long. He said that nothing has changed since 2014. If I may, at this

religious season of the year, quote a hymn, that might be true for the rich man in his castle but it is not true for the poor man at his gate.

In the 2015 general election, the SNP won. In the 2016 Scottish Parliament election, the SNP won. In the 2016 European Union referendum, 62 per cent voted to stay in the EU. In the 2017 election, the SNP won. In 2019, the Tories lost seven seats. Nothing has changed, of course; everything remains the same. It may remain the same for Alexander Burnett, but it does not remain the same for the poorest and the most vulnerable; it does not remain the same for the 200,000 European citizens; it does not remain the same for small businesses that will not have the labour that they need; and it will not remain the same for public services. Nothing has changed: that sums up the Tory position.

Angela Constance was right to say how galling it was to hear what the Tories had to say, because nothing has changed for them. They believe that they can continue to go on as they are, despite the fact that the people of Scotland have told them to stop. If they believe that they can ignore the people of Scotland, I am afraid that they have an even greater shock coming than the one that they saw last Thursday.

The insulting way in which the Tory party treated the debate was extraordinary. They thought that it was of no relevance to anybody. They want it over with because they do not believe that the people of Scotland should be listened to. The people of Scotland have spoken—[*Interruption.*] There we have Murdo Fraser: nothing has changed, apparently.

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

**Michael Russell:** There is Ruth Davidson pointing her finger at me, but nothing has changed. What has changed is that she is not even the leader of the party any more. [*Interruption.*]

**The Presiding Officer:** Colleagues!

**Michael Russell:** At least we have been spared the spectacle of her swim in Loch Ness—but only just.

The bill is a framework bill; it provides the opportunity to move forward. I was interested in what Neil Findlay said. I do not agree with him—that will not be a shock to anybody; not even seasonal goodwill will make me agree with Neil Findlay—but he made a key point. The reality of the situation is that the Labour Party needs to change where it is on these issues. I think that it is regrettable that it has not looked at the issue today and said, “In the circumstances, let us, as a party, abstain on these matters, because we are consulting on them and thinking about our

future”—[*Interruption.*] Well, let us see who abstains.

I think that the situation is to be regretted because the bill is the gold standard—[*Interruption.*] Sorry, but it is the gold standard. As we hear during every First Minister’s question time, it suits the Conservatives to run down the good things that are happening in Scotland. Their only selling point is to say that Scotland is so terrible that we must allow it to be run from Westminster. That is no longer a tenable position. The reality is that the bill is the gold standard, but I am always willing to enter into discussions, even with Neil Findlay—especially with Neil Findlay—to see whether we can do more and find a way to improve things and make sure—

**Neil Findlay:** Will the cabinet secretary take an intervention?

**Michael Russell:** Of course I will.

**Neil Findlay:** Will the cabinet secretary address the two points that I made about the attempt to manipulate the role of the Electoral Commission and the question, and the insanity of having a referendum when we do not know what is happening with Brexit?

**Michael Russell:** I have to ask: if not now, when? I ask members to look at the circumstances that we are in. We are about to be dragged out of the EU against our will but, according to Neil Findlay, that is not enough to allow us to vote on our own future. I am, however, willing to have a dialogue, because this is a framework bill. There is no proposal in the bill to hold an independence referendum on any date and with any question—that is important.

On the Electoral Commission, the Government has worked very hard and closely with the commission. If members look at what I have said today, they will see that we have worked with the Electoral Commission on every single part of the bill. The bill is the gold standard. The Tories do not want it to be, because the Tories do not want a referendum.

However, my final point is that the Tories have already agreed that there should be a referendum. I shall look forward to reading the *Official Report* of the debate, because when Adam Tomkins was getting very excited about the question, he seemed to make it clear that an independence referendum was about to happen. Do not rush us, Mr Tomkins; we have a campaign to have, but I am sure that the campaign will produce—[*Interruption.*] I am sure that it will produce the result that Scotland wants. If the Tories refuse to listen to Scotland, that will be their final wake-up call.

I support the motion in my name.

**The Presiding Officer:** That concludes the stage 3 debate. I am minded to accept a motion without notice to bring forward decision time to now.

*Motion moved,*

That, under Rule 11.2.4, Decision Time be brought forward to 4.34 pm.—[*Graeme Dey*]

*Motion agreed to.*

## Decision Time

16:34

**The Presiding Officer (Ken Macintosh):** There is one question to be put as a result of today's business. The question is, that motion S5M-20237, in the name of Michael Russell, on the Referendums (Scotland) Bill at stage 3, be agreed to. Are we agreed?

**Members:** No.

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

### For

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

McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

### Against

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fee, Mary (West Scotland) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Mason, Tom (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)

Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD)

### Abstentions

Findlay, Neil (Lothian) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)

**The Presiding Officer:** The result of the division is: For 68, Against 54, Abstentions 2.

The Referendums (Scotland) Bill is therefore passed. [*Applause.*]

### *Motion agreed to,*

That the Parliament agrees that the Referendums (Scotland) Bill be passed.

**The Presiding Officer:** I wish members a merry Christmas and look forward to seeing them in the new year.

*Meeting closed at 16:36.*



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

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