

MEETING OF THE PARLIAMENT

Wednesday 11 March 2009

Session 3

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Scottish Parliament

Wednesday 11 March 2009

[THE PRESIDING OFFICER *opened the meeting at 14:30*]

Time for Reflection

The Presiding Officer (Alex Fergusson): Good afternoon. The first item of business is, as always on a Wednesday afternoon, time for reflection. Our time for reflection leader today is Ibrahim Issa, the director of the Hope Flowers school in Bethlehem.

Ibrahim Issa (Hope Flowers School, Bethlehem): Good afternoon, ladies and gentlemen. I would like first to express to you my deepest gratitude for giving me this chance to be with you today in this special place. I would also like to thank the Edinburgh festival of middle east spirituality and peace for hosting me and my colleague, Sheikh Ghassan Manasra.

I am director of the Hope Flowers school in Bethlehem. It is a unique Palestinian school, established in 1984 with a philosophy dedicated to peace and democratic education. The word “peace” is normally a charged word, and it may sound very political, but the school is providing a human-rights based education. Peace and the wellbeing of humans are the most basic human rights. Peace is an individual need; it starts from the inside out. Different faiths have called each human being to connect to him or herself and to find inner peace.

For many people, the Hope Flowers school has become a symbol, or unique example, of peaceful coexistence between Palestinians and Israelis, while others find it is the home for peace education in the middle east.

At the Hope Flowers school, Muslim and Christian students and teachers are studying together and working together, respectively. The school provides interfaith education instead of religious education. We do not split the students during religious lessons, but keep them together in the same classroom to learn about each other’s religion. In this programme, we invite imams, rabbis and Christian ministers to speak about their faith.

The educational premise of the interfaith programme is that tolerance and mutual respect among people of different faiths cannot be taught without creating an opportunity for interfaith dialogue. In view of the many sharply divergent and strongly held opinions concerning the issues facing our region, we feel it is only through

developing our tools of communication that we can peacefully confront our differences. Without dialogue, children as well as adults tend to understand “the other” in terms of stereotypes and generalisations. Fear is a natural outcome, and fear can easily lead to violence. The interfaith dialogue should reach not only students at schools, but the teachers and their parents. A successful interfaith programme should include not only the religious aspects, but the language and cultural aspects, in order to promote normative means of communication and understanding for the purpose of bringing together students from different faiths in direct dialogue and joint projects.

We teach our children about each other’s faiths in order that they can find similarities in their faiths and, where there are differences, to accept them and to respect each other and become tolerant. The word “respect” is the key to tolerance. The word “respect” comes from the Latin verb “respectare”, which means look again—and then have another look.

Again, many thanks to you for all your support for world peace. You are very welcome to come and visit us at the Hope Flowers school in Bethlehem. I appreciate this opportunity to be here with you. Thank you so much. [*Applause.*]

Business Motions

14:34

The Presiding Officer (Alex Fergusson): The next item of business is consideration of business motion S3M-3676, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a revised business programme for this afternoon.

Motion moved,

That the Parliament agrees the following revision to the programme of business for Wednesday 11 March 2009—

after

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

insert

followed by Ministerial Statement: Compensation Payments for Prisoners.—[Bruce Crawford.]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S3M-3651, in the name of Bruce Crawford, setting out a timetable for stage 3 consideration of the Damages (Asbestos-related Conditions) (Scotland) Bill.

Motion moved,

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

Groups 1 and 2: 40 minutes.—[Bruce Crawford.]

Motion agreed to.

Prisoners (Compensation Payments)

The Presiding Officer (Alex Fergusson): The next item of business is a statement by Kenny MacAskill on compensation payments for prisoners. The cabinet secretary will take questions at the end of his statement, so there should be no interventions or interruptions during it.

14:35

The Cabinet Secretary for Justice (Kenny MacAskill): In answers to previous parliamentary questions, I reported to Parliament on the House of Lords judgment in the Somerville case about a time bar for claims of alleged breaches of human rights. As Parliament will recall, those claims arose in relation to the period from the beginning of devolution to the ending of doubled-up slopping out in February 2005.

I have previously told Parliament that the Scottish Prison Service had to set aside £67 million—I apologise to colleagues to whom it was suggested that the figure was £50 million—of public money to pay to prisoners who were claiming that doubled-up slopping out breached their human rights. Today, I will provide a further update on our efforts to address the consequences of the judgment. We are working constructively with the United Kingdom Government, the UK Parliament and the Scottish Parliament to enable the release of up to £50 million of that £67 million to be put to better uses. As I will explain in more detail later, we believe that the issue can be resolved before the summer recess. However, time is of the essence and swift action is needed if that timescale is to be achieved.

The judgment, which was made in October 2007, means that unlike every other public authority in Scotland, and unlike the UK Government, the Scottish Government does not have the protection of a one-year time bar for human rights claims. Thus, for instance, human rights claims arising from conditions in English and Welsh prisons are subject to a one-year time bar, whereas claims from Scottish prisoners are not. We estimate that the Scottish Government could, as a result of the judgment, face more than 20,000 claims arising from doubled-up slopping-out conditions in prisons.

My answers to previous parliamentary questions in November 2007 and June 2008 described more fully the impact of the judgment, along with the practical measures that we have taken to address it. I also undertook to keep Parliament advised of developments in our attempts to persuade the UK

Government to remove the anomaly that has been created by the judgment. That is an issue of major importance.

Since I last reported to Parliament in June last year, the number of claims for doubled-up slopping out, and the claims' associated costs, has continued to rise. At 5 March this year, 3,737 cases had been settled at a total cost of more than £11.2 million in compensation payments and associated legal fees. A further 1,223 cases are being dealt with and, on average, around 200 new claims are being raised per month. We are thus faced with a continuing and substantial liability that shows no sign of abating.

The Scottish Prison Service has had to make provision in its annual accounts for £66.7 million in the current financial year to meet the costs of such claims. That is bad enough, but there is also the possibility of claims on other human rights grounds being raised in the future. The absence from the Scotland Act 1998 of any explicit statutory time bar greatly increases the potential liability on the Scottish ministers for such claims.

We therefore concluded that the Scottish Government should have the same protection that is afforded to public authorities south of the border. To achieve that, a change in the law is needed so that claims against the Scottish ministers under the Scotland Act 1998 are subject to the same one-year time bar that applies to claims against other public authorities under the Human Rights Act 1998. As the Somerville judgment related to a provision of the Scotland Act 1998, such action requires to be supported by the UK Government.

Therefore, on 25 October 2007—the day after the Somerville judgment was pronounced—I wrote to the Lord Chancellor, setting out the case for change and seeking urgent action. In his initial response, the Lord Chancellor agreed that this was an important issue and said that he and his colleagues would engage with us constructively on it. I and my officials subsequently had very extensive correspondence and discussions with the UK Government. Those discussions culminated in December last year when the Lord Chancellor told us that the UK Government was not persuaded of the case for action.

However, because of the overriding public-interest aspect, the First Minister took the matter up with the Lord Chancellor. Two weeks ago, the First Minister and the Lord Advocate went to London to meet the Lord Chancellor and the Advocate General for Scotland. Yesterday, following those discussions, the First Minister wrote again to the Lord Chancellor, and the Lord Chancellor has replied, saying that there might be scope for our two Administrations to come to an agreed view on this issue, and suggesting further

urgent discussions between senior officials. We welcome that response, as it seems to indicate a desire on the part of the UK Government to arrive at a solution. However, the time for action is short, for reasons that I will describe shortly.

The UK Government had suggested that we in Scotland might address the Somerville issue by changing the law on time bar more generally. However, that would reduce the rights of many deserving claimants, such as those who suffer from pleural plaques or who have been injured through the negligence of employers. We believe that there is no case for such sweeping change: indeed, the Scottish Law Commission has recently argued that the time limits for personal injury cases should be extended, so a reduction in all time limits to one year would be completely wrong.

Time bars are a common concept and exist in most jurisdictions. The European Court of Human Rights in Strasbourg applies a six-month time limit for bringing cases, so what we propose is not unique or even unusual.

It was always intended, from when the Human Rights Act 1988 was enacted, that a one-year time bar for bringing human rights claims should apply. It is completely wrong if claimants circumvent that by instead using the Scotland Act 1998.

The situation that has been created in Scotland by the judgment is untenable and unacceptable. The introduction of a one-year time bar would enable us to draw a line under our liability in relation to claims of the kind that are being made in respect of the Somerville judgment, and so could release up to £50 million for spending on more worthy purposes. It would also reduce our liability in relation to other human rights claims that might arise in the future. Fifty million pounds is a large amount of money. It could pay for the construction of eight new primary schools or 500 new affordable housing units, or it could be used to employ 1,250 teachers or 1,600 nurses for a year. This is, therefore, a real and important issue.

We have proposed a straightforward course of action involving minimal time at Westminster. It would involve an order under the Scotland Act 1988 that would allow the Scottish Parliament to introduce the time bar, followed by urgent legislation in the Scottish Parliament. We have drafted the measures and, with support from both the Scottish and Westminster Parliaments, the legislation could be in place before the summer recess. However, the matter is now extremely urgent, as completion of the process that I have outlined by the summer recess would require that the necessary order be laid before the end of March. We will have to move quickly to achieve that, but I believe that it can be done.

I hope that there will be broad support for that course of action. I am arranging to meet the other parties and look forward to discussing the matter with them. I have also arranged for copies of our proposed draft legislation to be placed in the Scottish Parliament information centre.

In the light of the delay in progressing the necessary change, and because time is now very short if legislation is to be on the statute book by the beginning of the summer recess, the Scottish Government also raised the issue at the meeting of the joint ministerial committee in London today.

We have brought the matter to Parliament now, because we will all share responsibility for taking the issue forward on the lines that I have described, and because we believe that Parliament ought to be kept fully informed in case it needs to take a view.

The issue that has been created by the Somerville judgment is a matter of deep and justifiable public concern. Too much public money has already had to be paid out to prisoners, some of whom have committed extremely serious—indeed, appalling—crimes. We need to bring that situation to an end. The public rightly expects that we should do so as quickly as possible. I hope that that position will enjoy broad support in the chamber.

The Presiding Officer: The cabinet secretary will now take questions on the issues that were raised in his statement. We have about 20 minutes for such questions, after which I will move to the next item of business.

Richard Baker (North East Scotland) (Lab): I thank the cabinet secretary for the advance copy of his statement and for briefing me and other justice spokespeople on the issue earlier this afternoon.

The issue of compensation payments for prisoners—many, of course, for slopping out—has been a vexed one, because nobody wants offenders to receive such payments. That is why it was so important that the previous Executive invested so much in ending slopping out in all but one prison.

I ask the cabinet secretary to ensure that the issue is taken forward constructively and collaboratively with colleagues in the United Kingdom Government. This is a highly technical matter and there is scope for considerable debate on the details of the law: I understand that there was a split decision in the House of Lords on the Somerville case. I am sure that we can all agree that the issue must be resolved satisfactorily.

I spoke to the Secretary of State for Scotland yesterday evening and he made it clear that he wants a successful outcome, so I ask the cabinet

secretary to receive the latest communication from the UK Government in that spirit. Of course, the secretary of state is meeting the First Minister today.

Finally, the cabinet secretary has made suggestions about what £50 million could be spent on should the money be retained. Can he give further details of what consideration there has been of how such funds might be spent?

Kenny MacAskill: I assure Richard Baker that we are dealing with the letter from the Ministry of Justice in the spirit in which we believe it was sent. We have been attempting to negotiate and to seek a solution to the issue since 25 October 2007. It would be fair to say that we now want to concentrate on what can be achieved, especially given the urgency of the situation, as the clock ticks towards the end of March. I also assure him that we will work constructively in the chamber—as we have sought to do, so I am grateful for his opening comments—and with those south of the border. We must resolve the issue. That is what the public expects. They should expect no less, so that is what we will do.

The question of how the £50 million might be spent is broader, but what we have said—I have said it previously—is that it is about time we started looking after our pensioners rather than pandering to our prisoners.

Bill Aitken (Glasgow) (Con): I, too, thank the cabinet secretary for the pre-release of his statement and for the offer of a discussion on the matter, which was taken up on the Conservative group's behalf by my colleague John Lamont.

This is good news, and we are pleased that progress has been made. Clearly, input will be required from other parties, so we are committed to ensuring that the matter can be dealt with as expeditiously as possible. However, perhaps the cabinet secretary could clarify for me why there is such urgency. I know that there are some excellent illustrative examples of how the money might be used, but I am not clear why there is such urgency to deal with the issue before the end of the year, although if needs be, it will be done.

Is the cabinet secretary confident that there will not be an influx of claims as a result of former or current prisoners being notified of the situation by less-than-scrupulous legal advisors, thus reducing the potential savings?

Finally, I suggest that the clawback of the estimated outstanding liabilities might be used to improve the prison estate and thus reduce the prison overcrowding with which the cabinet secretary regales us almost daily.

Kenny MacAskill: I am grateful to Bill Aitken for the spirit in which he asked that question. I confirm

that we will work with him and his colleagues to achieve a settlement.

As I said in my statement, 200 claims a month are being received. However, we see no reason why there should be a late flurry of such claims if action is being taken. As we know, there is a small industry of firms that deal with such issues. Of course, that is their right and entitlement, although some might wonder about how such work benefits greater society.

The matter has taken on urgency since October 2007 because we do not have the necessary protection. If we are to bring in legislation before the summer recess, the order has to be laid by the end of this month. After all, we must also remember that at Westminster there is a 40-day laying period for instruments and that emergency legislation will then be required here. If we do not lay the necessary order by the end of the month, either there will have to be emergency meetings of the Parliaments north and south of the border, or the matter will not be resolved until the end of the year. Frankly, we think that any late rush—if I can put it that way—that might arise as a result of people trying to get under the wire before legislation comes in would be offset by the need to deal with all the other claims, 200 of which continue to come in every month and, indeed, keep arriving almost every day.

With regard to Mr Aitken's final suggestion, it is quite clear that we have invested substantial amounts in the prison estate. However, it is about time we invested in honest law-abiding citizens, instead of always shelling out to those who damage our communities.

Robert Brown (Glasgow) (LD): I, too, thank the cabinet secretary for the advance copy of his statement and for the informal briefing to which other colleagues have referred.

I assure the Government that it has the Parliament's general support and, certainly, the support of the Liberal Democrats in resolving the issue of the time bar—or the lack of it—in slopping-out cases, and the resulting release of the earmarked £50 million. However, does the cabinet secretary agree that the focus of his statement is the communication between his Government and the UK Government? Given that he has now raised this issue with Parliament, is he able to place in the public domain all the correspondence that has been sent and minutes of meetings that have taken place to allow us to judge the matter fully or—in the light of the discussions with the other parties to whom he referred—is he able at least to provide us confidentially with some indication of the background to the difficulties? I have to say that I am finding it difficult to understand the nub of the problem.

Will the cabinet secretary also assure Parliament that he and his officials have, since October 2007, responded speedily to all communications from Westminster on this matter? If he shares my view that Governments usually act responsibly on such matters, will he simply tell Parliament what the nub of the problem with Westminster is? Do UK Government ministers now agree that what Scottish Government officials have proposed is, in fact, the way forward in fixing the problem? If not, have any other proposals been made? Does the cabinet secretary understand my scepticism and my feeling that there is a bit more to this story than we have heard in his statement?

Kenny MacAskill: I assure the member that, in coming to the chamber, we are being as open and as frank as possible. With regard to putting the correspondence in the public domain, we have both sent and received correspondence and any move to put such material in the public domain will have to be discussed with the Ministry of Justice south of the border to find out its perspective on the matter. I do not think that we would stand on ceremony in that respect. In any case, the freedom of information procedure is available to anyone who wishes to act on the matter.

I can certainly assure Robert Brown that we have been trying to reach a solution since I first wrote to the Lord Chancellor, Jack Straw, on 25 October. To be fair, some of the responses that we have received from the Government south of the border have been technical; for example, it was suggested that we might be able to resolve the problem by changing the law of damages in Scotland. However, given the important step that we are likely to take this afternoon with regard to pleural plaques, it is rather retrograde to suggest that Parliament should make those who suffer from pleural plaques and other asbestos-related conditions, or who are knocked down in car accidents and so on, subject to a one-year time bar when, in fact, the Scottish Law Commission has recommended that the current three-year limitation be extended to a quinquennium.

We do not quite know what the UK Government's final position is. However, as Mr Baker pointed out, it has indicated that it is willing to continue discussions, so that is what we will do. However, we have ruled out making matters worse for citizens who suffer industrial injuries, vehicle accidents or whatever else. All that the Government seeks for our people and our Government is the rights and protections that exist south of the border. We do not seek something better; we just seek parity. [*Interruption.*]

The Presiding Officer: Will the person whose phone is on kindly turn it off, please?

Nigel Don (North East Scotland) (SNP): Can the cabinet secretary—[*Interruption.*]

The Presiding Officer: Order. Somebody has a telephone turned on. Will you please turn it off?

Nigel Don: Can the cabinet secretary confirm the process that he is asking us to go through? My understanding is that the second step would be emergency legislation in the Scottish Parliament. We know all about that process, as we have just been through it with the budget. My understanding from what the cabinet secretary said is that all the UK Government would have to do is to lay an order. Would that simply be a statutory instrument that would be typed up and formally laid before Parliament, and some time later the job would be done?

Kenny MacAskill: The matters in question are extremely technical, but Nigel Don is right. An order in council in Westminster would require 40 laying days. My understanding is that 40 laying days in Westminster are not 40 consecutive days, but 40 parliamentary sitting days. I also understand that matters there are complicated by the Whitsun recess, which we do not have. Once matters are dealt with in Westminster, we can deal with emergency legislation, which we have done in the Parliament recently with the Budget (Scotland) Act 2008, and at other times since 1999.

As I have said, because of the complexities that are involved, unless the instrument is laid by the end of this month we will not be able to deal with the problem before the summer recess. If we do not do so by then, we will have to reconvene both Parliaments during the summer or, as is probable, not resolve matters until the end of the year. Mr Aitken raised that matter earlier. There is a ticking clock.

Equally, we must recognise that 200 claims are coming in to us every month, each and every one of which can mean our paying out compensation to a prisoner, and paying out even more on the legal costs. We must restrict the damage to the public purse. It has been mentioned that it is not simply that there is indignity in our having to pay out, as that £50 million could be released for the Scottish Government to spend. Whether Mr Aitken wishes to argue for investment in the prison estate, or whether other members or the Government wish it to be spent on other things that would make our communities better, it is better that we use that money than for it to languish in accounts.

Paul Martin (Glasgow Springburn) (Lab): I agree that the £50 million is a significant sum that can be put to better use. Can I take it from what the cabinet secretary has said that that £50 million will not be provided for the prison estate? I would like a yes or no answer, please.

Kenny MacAskill: The Cabinet will have to make a decision on that—I cannot take such decisions alone. However, I can say that the Government has always said that we want to ensure that we look after our pensioners, not pander to our prisoners. We are putting record investment into the prison estate because of the state of the estate that we inherited. The Government has, in the recession, genuine priorities in respect of getting our economy moving and making it better, building houses, providing schools and creating hospitals. Funding lawyers and their clients is not a priority.

Stewart Maxwell (West of Scotland) (SNP): I thank the cabinet secretary for his statement. The matter is extremely important, and I am sure that there is a great deal of public interest in it. Can the cabinet secretary outline any measures that could be taken, perhaps through the Criminal Justice and Licensing (Scotland) Bill, that would enable victims to secure increased compensation from people who have perpetrated crimes against them?

Kenny MacAskill: Mr Maxwell asks an excellent question. It is clear that individuals are aghast that prisoners are receiving substantial claims payments at a time when pensioners often go without. If the tabloids are to be believed, prisoners sometimes spend the money that they are given on making things worse for themselves and our communities.

Section 84 of the Criminal Justice and Licensing (Scotland) Bill, which was introduced on 5 March, will provide for courts that have made an order of compensation to be able to review that order. If a prisoner, an accused person or a convicted person receives such funds from the Government, wins the lottery or receives an inheritance from their granny, it should be possible to review the situation. We hope that members of all parties support that measure.

I assure Stewart Maxwell that we will also consider other measures that may be capable of ending the scandal of the Government's having to shell out money to prisoners when many people who have been their victims are in much worse conditions than they are.

Margo MacDonald (Lothians) (Ind): I thank the cabinet secretary for providing prior sight of his statement and for the briefing at lunch time. I agree with Bill Aitken that all parties must contribute.

Does the cabinet secretary agree that it would help if all parties spoke to their members in the Westminster Parliament and assured them that the proposed measure would not be a precedent and that they need not be afraid that it will be used to prise open the Scotland Act 1998? I strongly

suspect that that is what has been causing the logjam.

Kenny MacAskill: I give Margo MacDonald an absolute assurance that that is the position. As I mentioned in my statement, we have lodged in SPICe the draft proposals, which are clearly restricted solely to addressing the anomaly. This is about protecting our communities and ensuring that those who have committed crimes against them are not unjustly rewarded. As I said, we will happily restrict that. However, the Government reserves its right to argue on the constitution in future elections. In the interim, we urge everybody in this Parliament and elsewhere to work together to make our communities safer, to free up the £50 million and to end the manifest injustice whereby the victims of crime lose out while the perpetrators gain at our expense.

Damages (Asbestos-related Conditions) (Scotland) Bill: Stage 3

15:01

The Presiding Officer (Alex Fergusson): The next item of business is stage 3 proceedings on the Damages (Asbestos-related Conditions) (Scotland) Bill. In dealing with amendments, members should have the bill, which is SP bill 12; the marshalled list, which is SP bill 12-ML2; and the groupings, which I have agreed. The division bell will sound and proceedings will be suspended for five minutes for the first division this afternoon. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate and 30 seconds for all other divisions.

Section 1—Pleural plaques

The Presiding Officer: Amendment 1, in the name of the Minister for Community Safety, is grouped with amendments 2 to 8.

The Minister for Community Safety (Fergus Ewing): To set the context for the individual amendments that the Government has lodged, I will briefly recap what I said during the stage 2 proceedings. I made clear the Government's willingness to engage with stakeholders to ensure that the bill provides a clear and effective means of securing justice for people who have been negligently exposed to asbestos and internally scarred as a result, physically and often mentally and emotionally.

As will be recalled, after careful deliberation I reluctantly concluded at stage 2 that I could not support the amendments that Bill Butler had lodged, even though I wholly appreciated the intention behind them and admired the clarity with which they were explained. However, I reassured the committee that my intention ahead of stage 3 was for officials to seek further early discussion with stakeholders with a view to reaching a mutual understanding and agreement with those who share the Parliament's objectives. I am pleased to inform members that we have listened to stakeholders, in particular, the Law Society of Scotland and Thompsons Solicitors, which have worked with us on the further development of our thinking on the detail of the bill. We have now reached broad agreement.

Amendments 1 to 8 fulfil the undertaking that I gave the committee to introduce amendments at stage 3 that meet the Scottish Government's concerns and the concerns that Bill Butler and Robert Brown articulated at stage 2.

I now turn to specifics. Amendment 1 addresses two concerns that stakeholders had about section 1. They were unsure that section 1(2) would effectively ensure that pleural plaques would continue to be actionable in damages. There was criticism that the wording of section 1(2) could be read as creating a strict liability, which was not the policy intention. Amendment 1 introduces into the bill the concept of “actionable harm” to represent the existing legal test that must be satisfied for pleural plaques to be actionable under the law of delict. If we read sections 1(1) and 1(2) together, the bill, by providing that plaques are

“a personal injury which is not negligible”,

provides that plaques constitute “actionable harm” in law. By “actionable harm” in this context, I do not mean anything different from the phrase “material damage” as used by Lord Rodger of Earlsferry in the Johnston case.

Amendment 2 is consequential on amendment 1. It replaces the wording in section 1(3),

“are not a personal injury or are negligible”,

with wording that refers to “actionable harm”, on the basis that “actionable harm” covers both those concepts.

Amendment 3 changes the language of section 1(4) to remove any possible inference that the bill deals only with causation issues. As amended, subsection (4) makes it clear that all other rules of law, both common law and statutory law, regarding the circumstances in which someone can be held liable to pay damages in respect of personal injury continue to apply in pleural plaques cases.

Amendments 4 and 5 amend section 2(1) to make it clear, in line with policy intent, that section 2 deals only with asymptomatic pleural thickening and asymptomatic asbestosis. That represents a departure from the bill as introduced, in which section 2, although it primarily deals with asymptomatic asbestos-related conditions, also encompasses—it could be argued—symptomatic versions of those conditions. Symptomatic pleural thickening and symptomatic asbestosis clearly remain actionable under the law of damages, so it is neither necessary nor desirable to include them in the bill.

Amendments 6 and 7 make changes to section 2 so that the provisions in respect of asymptomatic asbestos-related conditions in that section are consistent with sections 1(2) to 1(4), as amended.

Amendment 8 is consequential on the amendments made to section 2(1). It revises section 3(1)(a)(ii) so that it refers simply to conditions to which section 2 applies—those being asymptomatic asbestosis and asymptomatic

pleural thickening. I hope that members have followed all that.

Having listened to all our stakeholders, I believe that the amendments that have been lodged both satisfy their concerns and continue to achieve the policy intention of ensuring that the House of Lords judgment on pleural plaques does not have effect in Scotland, so that people who have been negligently exposed to asbestos who go on to develop an asbestos-related condition may pursue an action for damages.

I move amendment 1.

Bill Butler (Glasgow Anniesland) (Lab):

Justice Committee members and the minister will recall that I lodged stage 2 amendments that were intended not to change the effect of the bill but to ensure that it was clearly achieved. I withdrew those amendments in view of the undertaking that the minister gave to consider them further and to have discussions with the people on whose behalf the amendments were lodged. They were lodged on behalf of Clydeside Action on Asbestos, with the support of the Clydebank Asbestos Group, Unite and others acting for people suffering from pleural plaques.

I am happy to say that, since then, those discussions have taken place and agreement has broadly been reached on what amendments are required for the purpose. Those are the amendments that have been lodged by the minister.

The minister has explained the amendments in detail, but it might be helpful if I add a few words on how they are perceived by those who represent victims of pleural plaques. On amendment 1, the main difficulty that I previously had with section 1 was the considerable doubt as to whether subsection (1), which provides that

“pleural plaques are a personal injury which is not negligible”,

had the effect of providing that pleural plaques constituted actionable damage for the purposes of the law of delict. That was primarily because the subsection seemed to be making a statement of fact, rather than serving as a legal statement. I believe that that doubt is now removed by the amendment that is made to subsection (2) by amendment 1, which spells out the legal consequences of subsection (1). The bill will now provide that,

“Accordingly,”

pleural plaques

“constitute actionable harm for the purposes of an action of damages for personal injuries”.

I consider that that achieves the same effect as the equivalent amendment that I lodged at stage

2. In particular, I do not consider that a difference exists between “actionable damage” and “actionable harm” or between

“for the purposes of the law of delict”

and

“for the purposes of an action of damages for personal injuries”.

As the minister said, amendments 2 and 3 make consequential amendments to sections 1(3) and 1(4). My view continues to be that those subsections are unnecessary, because their effect is adequately achieved by other provisions in the bill. However, they appear to do no harm, in view of the proposed amendments to them.

Amendments 6 and 7 bring section 2 into line with section 1, as amended by amendments 1 to 3.

Those are the reasons why I am content with the group of amendments, as are those on whose behalf I lodged the original stage 2 amendments in the committee. I record my sincere appreciation for the Scottish Government’s willingness to listen to the concerns and to co-operate with a view to reaching an agreed solution to them. Such rational co-operation has been a hallmark of the bill’s process. Accordingly, Labour will support the amendments.

Robert Brown (Glasgow) (LD): I will comment briefly, primarily to thank the minister for his attitude, on which Bill Butler touched. Underlying the amendments and our discussion at stage 2 was concern from the committee about the coherence of the law, how the law was expressed and the use of words that have common acceptance in different situations.

A number of words have been used in this context to describe damages, damages for personal injury and some of the concepts that accompany that in the traditional textbooks, in the House of Lords judgment in the Johnston case and in several other cases. The words tend to vary a little. One concern was that some of the phraseology that the Scottish Government’s draftspeople used had to be linked in and that other words had to be introduced.

The discussion that has taken place has improved the situation. The amendments bear a distinct resemblance to those that were withdrawn at stage 2. It is appropriate to agree to the amendments, now that they have been sorted out by parliamentary draftsmen and individuals with an interest.

It is important to state the law as clearly and precisely as possible. Sometimes, that can look like fiddling about with matters—the stage 3 amendments involve an element of that. However,

it is important to have precise meanings that courts can judge on and practitioners can apply and which have a common meaning to everybody who must deal with them. With these amendments, we will achieve that elegantly and coherently.

Fergus Ewing: I thank Bill Butler, Robert Brown and the other Justice Committee members for the way in which these somewhat technical matters were dealt with. We all wanted to pursue a shared objective. With the assistance of the Law Society and Thompsons, we will do that when the amendments have been agreed to. For that, I thank everyone who was involved.

Amendment 1 agreed to.

Amendments 2 and 3 moved—[Fergus Ewing]—and agreed to.

Section 2—Pleural thickening and asbestosis

Amendments 4 to 7 moved—[Fergus Ewing]—and agreed to.

Section 3—Limitation of actions

Amendment 8 moved—[Fergus Ewing]—and agreed to.

After section 3

The Presiding Officer: Amendment 9, in the name of Derek Brownlee, is in a group on its own.

Derek Brownlee (South of Scotland) (Con): The amendment in my name is rather tortuous to read, as things in my name often are, but it is relatively simple at heart. It would ensure that the projected costs under the bill are monitored after royal assent and that explanations are provided for any significant variance. Similar amendments have been lodged to other bills that are in progress, as the issue is of general application rather than specific to this bill.

Some might consider that the amendment is too prescriptive or that it represents overkill. However, I argue that the reporting mechanism is relatively simple. The first subsection would simply require a report to be laid before Parliament each year on the costs that have arisen under the bill, no later than six months after the end of the financial year. Given that the Scottish Government published its consolidated accounts, which cover everything that it does, within the allotted timeframe last year, there can be no suggestion that the timescale in subsection (1) of the new section that amendment 9 would insert in the bill is too onerous.

15:15

Subsection (2) sets out what the report should contain: in essence, the annual and accumulated

costs incurred under the act, and their equivalents in the financial memorandum, together with the difference between the two sets of figures. The only real effort that the report would require is the identification of the actual costs that are incurred, which we might legitimately expect the Government to want to know in any case to assess the cost effectiveness of its policy interventions.

Subsections (3) to (5) set out de minimis provisions to trigger a further duty on ministers to report its explanation of why costs are higher or lower than expected and what, if anything, they propose to do in response. That duty would be triggered only if the variance met one of the thresholds in subsection (4). However, given that subsection (5) does not set out the level of detail that ministers would have to provide in explaining the reasons behind cost variances, the requirement would not be particularly onerous, even if it were to be applied in every case.

Subsection (6) would place a general duty on ministers to consult bodies in preparing information for the report in the same way that they consult in preparing for a financial memorandum. However, as most relevant bodies would have been identified in the process of preparing the financial memorandum, the duty would be less onerous on external bodies and Government than the preparation of the estimates in the financial memorandum.

Subsection (7) is permissive and not prescriptive. Subsection (8) deals with situations where the financial memorandum includes no figure for later years. Subsection (9) details the groups of bodies other than central Government on whom relevant costs might fall. I have used the same headings that rule 9.3 of the standing orders for financial memorandum uses. Subsection (10) would allow the Parliament to suspend reports without repealing the entire bill after a period of five years following royal assent. Subsection (11) is on the interpretation of subsection (10) and subsection (12) deals with terminology.

As I said, the general principle is a simple one. It is that routine examination of cost estimates should be made after, and not only before, a bill has been passed. The aim of doing that is not only to learn lessons on the effectiveness and cost effectiveness of the policy intention for a bill but to ensure improvement in the process of making future cost estimates. Such a process need be neither time consuming nor unwieldy. Indeed, it is easier and cheaper to collect such information from the outset and not to have to go back through records in response to parliamentary questions or freedom of information requests.

Routine examination of the accuracy of cost estimates and the questions that such examination

raises would offer a further level of financial scrutiny to legislation that would allow any emerging problem to be dealt with more speedily than would otherwise be the case. If agreed to, the section would mark a new approach for the Parliament. If it were adopted more generally, it would lead to a much more robust system of legislative scrutiny than exists at present either in the Scottish Parliament or at Westminster. That makes it a tempting proposal for the Government.

I move amendment 9.

Richard Baker (North East Scotland) (Lab):

The bill has enjoyed unanimous support so far and I hope that that continues to be the case today. However, I am afraid that I cannot support the amendment in the name of Derek Brownlee, even though he made his case in an unusually reasonable manner.

Amendment 9 looks to the wider issue of post-legislative scrutiny, particularly the impact of costs once a bill has been passed. The issue is one that parliamentary committees can take up at any point in time. There is no need to amend the bill to do that. This is not the most appropriate way for the Parliament to engage in this level of scrutiny.

There has been a lot of debate on the costs of the bill. In this case, we have to accept that we cannot come up with an exact figure for the resource that is required to implement the bill. Amendment 9 addresses not only the cost on Government and local authorities but the cost on individuals and businesses. In those cases, surely insurers will be responsible for meeting the majority of costs, as they have been in the past. I do not accept the predictions of future costs that the insurance industry has produced. In my view, they are significantly overinflated. Based on the information that was available to them, Scottish ministers have done their utmost to come up with the most realistic estimate of costs.

The amendment does not make it clear what would happen to the report or what its intention would be. If passed, the amendment would create further uncertainty for victims of pleural plaques, which is not a desirable outcome.

Given that the best indications that we have are that costs are not extraordinary and that the level of payments to victims of pleural plaques is not unreasonable, I believe that the best way forward is for us to pass the bill without the amendment, and I will vote accordingly. I am not saying that Mr Brownlee has not made reasonable general points about post-legislative scrutiny and the costs of legislation once it is in place, but those are matters for parliamentary committees, rather than for an amendment to legislation.

Robert Brown: I agree entirely with Richard Baker's remarks, especially his last comment.

Scrutiny of the costs of legislation is a matter for the Public Audit Committee and, before legislation is passed, for the Finance Committee.

Derek Brownlee said that the amendment was tortuous, and it is. I would go further—my eyes closed before he reached the end of his speech. The amendment could have been drafted only by a chartered accountant or someone in that general area of employment. The central point that the member made about the need for close scrutiny of the financial implications of parliamentary legislation is correct—no one would dispute it—but the mechanism that he proposes is complex. It would be an interesting exercise to have someone cost the cost of the amendment.

I agree that it is relatively easy to present in a suitable way the costs incurred by the Scottish Administration—the matter could also be addressed by the Public Audit Committee asking the appropriate questions at the right time. However, as Richard Baker indicated, subsection (9) of the new section that the amendment would insert in the bill includes

“other bodies, individuals and businesses.”

I am not entirely sure what the restrictions would be, but identifying which bodies, individuals and businesses would be affected is a complex task. Some of the information might be complex business information—I do not know—but it would certainly not be easy to get from the multitude of bodies that would be affected. That is the case even with this bill, but I am given to understand that from now on Derek Brownlee will seek to include such provisions in all bills, which is a worrying thought. The cost of doing that across the board would be very significant.

The Parliament has set up processes, which have been refined from time to time, to examine in advance the costs of and the financial memoranda to bills. Financial memoranda have their limitations; in the case of this bill, issues have arisen in relation to the costs of damages and the number of pleural plaques claims. However, as a result of that exchange, we have secured much more accurate and usable information about the cost of the bill than that with which we began. It is up to each committee, when examining bills, to identify the priorities that ought to be pursued.

In short, the device that is proposed in the amendment is extremely bureaucratic and the Liberal Democrat group does not support it. However, we support careful and proper scrutiny by the appropriate committees of the on-going costs of the public administration, in particular, of bills of this sort.

Patrick Harvie (Glasgow) (Green): Derek Brownlee might wish that I were not the person to back him up, but it is about time that someone did.

From time to time, parliamentary committees have questions about the information that is provided in the financial memorandum to a bill during committee scrutiny. On the face of it, what Derek Brownlee is seeking to achieve seems entirely rational. He is asking the Government to provide financial information in a regularised form at the post-legislative stage. I am interested in that general argument, although I am not convinced that amendment 9 is the right way of achieving what he seeks.

Before Derek Brownlee closes, I would like him to consider why we should focus purely on the financial aspects of legislation. During parliamentary scrutiny of a bill, we consider issues of human rights compliance, the bill's policy objectives and its impact on equalities issues and the environment. We have already asked the Government to subject its spending plans—its budget—to a carbon assessment. During pre-legislative and legislative scrutiny, we also look at the financial consequences of bills, as best we understand them. It is for committees to set their agendas, but if our intention is to formalise or regularise post-legislative scrutiny in some way and to have Government provide the information that will enable committees to carry out such scrutiny better, why should we focus only on the financial aspects of legislation, rather than on its wider impact on equalities, the environment and policy objectives? I would be interested to hear the comments of both Derek Brownlee and the minister on that issue.

Fergus Ewing: I thank Derek Brownlee for clearly outlining his thinking on the purpose that he sought to achieve by lodging amendment 9. He has raised an important issue about post-legislative scrutiny and the opportunity to compare the actual costs of bills with the costs that were provided in financial memorandums. Mr Brownlee will not be surprised to hear that I have a great deal of sympathy with the aims that he seeks to achieve, given that I was deputy convener of the Finance Committee during the previous parliamentary session.

Issues of post-legislative scrutiny of finance such as Derek Brownlee raises are, of course, familiar. His proposal would help all members to achieve a better understanding of the costs of legislation, which is an entirely reasonable and sensible aim. The Government accepts that there should be routine examination and reporting of the costs that arise as a result of legislation such as the bill that we are considering today, and we undertake to do that for this and other new legislation.

However, there are opportunities for a simpler and more flexible approach, which would achieve the same laudable objective as the approach that

is envisaged in amendment 9. Members of different parties—Mr Baker and Mr Brown—set out technical objections to the way in which Mr Brownlee seeks to achieve his objective. The Cabinet Secretary for Finance and Sustainable Growth has indicated that he wants to meet Mr Brownlee to discuss and agree the appropriate mechanism to handle the issue. He will report back to the Parliament on the steps that will be taken.

Derek Brownlee: I thank Patrick Harvie—the list of people to thank is not as long as it might have been. I will resist the temptation to rebut Robert Brown's comments about chartered accountants, although I note that he is perhaps the only lawyer in the country who is opposed to complex legislation.

The substantive point that Robert Brown raised, which Richard Baker also mentioned, is whether proposed new subsection (9) refers to too broad a group of bodies. I simply point out that amendment 9 uses the same wording as the rule in the Parliament's standing orders that sets out which groups must be considered in relation to financial memoranda. Therefore, to suggest that the approach in amendment 9 would be too broad for post-legislative scrutiny might also be to suggest that it is too broad for pre-legislative scrutiny. As far as I am aware, the approach in standing orders has operated since financial memoranda were first provided. Although Mr Brown's objection appears superficially accurate, closer examination reveals that there is less substance to it.

Patrick Harvie asked why we should scrutinise only financial matters. He made a valid point about the need to extend post-legislative scrutiny to other areas. I am a member of the Finance Committee, so perhaps it is inevitable that I have a bias towards financial aspects of post-legislative scrutiny. The member made a reasonable point.

Robert Brown suggested that the proposed reporting mechanism might be incredibly costly. I point out that, in relation to the Climate Change (Scotland) Bill, the Government estimates that to map all Scotland's carbon emissions and progress against targets in the bill would cost only £60,000. Given the volume of proposed legislation that the Parliament is considering, it would be surprising if significant additional costs were incurred as a result of the Parliament agreeing to amendment 9. Indeed, additional costs might be prevented by the provision of an early warning system that would alert us to costs that were going awry.

I acknowledge the minister's constructive tone and, in particular, his acceptance of the principle of routine post-legislative scrutiny, which is key. I am happy to explore the potential for a non-legislative solution to the problem so, on the basis

of what the minister said, I seek leave to withdraw amendment 9.

Amendment 9, by agreement, withdrawn.

The Deputy Presiding Officer (Alasdair Morgan): That ends consideration of amendments.

Damages (Asbestos-related Conditions) (Scotland) Bill

The Deputy Presiding Officer (Alasdair Morgan): The next item of business is a debate on motion S3M-3542, in the name of Fergus Ewing, on the Damages (Asbestos-related Conditions) (Scotland) Bill.

15:30

The Minister for Community Safety (Fergus Ewing): The Damages (Asbestos-related Conditions) (Scotland) Bill is short and its aim is simple—[*Interruption.*]

The Deputy Presiding Officer: Order. Will members leave the chamber quietly if they are not participating in the debate, and will ministers continue their discussions outside the chamber? Thank you, Mr Neil.

Fergus Ewing: The Damages (Asbestos-related Conditions) (Scotland) Bill is short and its aim is simple: to defend a right that has been understood to exist for some 20 years. However, the associated issues are profound and complex. That fact was underscored by the work of the Justice Committee, and I pay tribute to all its members for their careful scrutiny. The committee reached the important conclusions that the bill's financial implications should be reassessed and that, as a matter of principle, the law of Scotland should allow redress for individuals whose bodies are scarred, albeit internally, after negligent exposure to asbestos. The Scottish Government agrees.

As regards principles, we know that pleural plaques are a scarring of the membranes that surround the lungs. We are clear, too, that pleural plaques in themselves are generally not, and do not become, debilitating and that they do not give rise to physical pain. However, the Scottish Government's view is that pleural plaques cannot be dismissed as negligible; rather, they must be regarded as a material injury and actionable harm. That view is informed by the understanding that people with pleural plaques who have been heavily exposed to asbestos at work have a risk of developing a vicious and incurable cancer—mesothelioma—that is 1,000 times greater than the risk for the general population. I will repeat that: people with pleural plaques are 1,000 times more likely to develop mesothelioma, which leads to a quick and often painful death.

A diagnosis of pleural plaques does not mean that a person will necessarily develop mesothelioma, but it does mean that the person knows that his body has been invaded and changed by asbestos. Knowing that, and knowing that asbestos is lodged in his system, he and his

family might suffer permanent anxiety, particularly if they live in a community with first-hand experience of the pain and suffering that is inflicted by asbestos.

We must also remember that, as Lord Hope noted, a person with pleural plaques has already sustained an injury. It is both internal and painless, but it exists and is imprinted on the consciousness of those who are diagnosed. It might be rendered more vivid by the fact that it cannot be checked in the mirror every morning. Why is the injury there? In the cases to which the bill applies, it is there because, when the dangers of asbestos were well known and should have been guarded against, there was negligence. Some employers failed in their duty of care and put people in harm's way without proper protection. In effect, they played Russian roulette with their employees' health.

The bill's opponents say that people who are affected should not be able to take legal action until they develop a condition with debilitating physical symptoms, but the Scottish Government believes that conditions such as pleural plaques are serious enough to constitute actionable harm. The bill is both an effective and proportionate way in which to ensure that that is the case and to deliver justice.

We were assisted by a number of individuals and organisations in reassessing the bill's financial implications as thoroughly as possible. It was particularly helpful to have input from the actuarial profession, and I thank Bill Aitken for suggesting that. We reflected on all the information that was available to us, and two weeks ago I wrote to the convener of the Justice Committee to provide the outcome. I am grateful that the material was immediately published for all to see.

In the time available, I cannot go through every detail of what is a lengthy document, but I will pick out some key points. Taking on board new information, we conclude that, around the middle of the next decade, annual costs are likely to have risen to a peak of between £7 million and £19 million. While significant, that is hugely below the insurance industry's claim that annual costs will average between £76 million and £607 million over the next 20 years.

Our original estimates were towards the bottom end of what we now believe to be the most likely range, which reflects two key changes. First, taking account of data that insurers recently made available, we make allowance for the possibility that the volume of past claims, which was our starting point, may be higher than was previously believed. Secondly, taking account of doubts about the validity of estimating future trends in pleural plaques claims on the basis of projected trends in mesothelioma deaths, we identified an alternative approach based on published Health

and Safety Executive data in recent reports on benign pleural disease, which suggested a potentially higher rate of increase in the future. We are confident that our estimated range is more credible than that provided by the insurers, whose estimates may have been inflated by several factors, including insufficient attention to the differences between the legal systems north and south of the border.

I will say one more thing about the costs. I find it unacceptable that legal costs may account for nearly two thirds of the overall average total cost of £25,000 to settle a claim. That is a legacy of the way in which systems for contesting relatively low-value claims have developed. For the future, I hope that defenders' and pursuers' agents will consider whether a less adversarial approach might benefit. I hope that the reforms that flow from Lord Gill's review will improve matters. No decision has yet been communicated by the United Kingdom Government on the statement of funding policy, so I cannot provide any new information, but we are firm in our view that it would be inappropriate to invoke the statement of funding policy in relation to the bill.

We have listened to all arguments and relevant people and bodies on matters of principle, drafting and finance. Whether they are friend or foe, we have reflected on what they have had to say. We have no quarrel with the insurance industry: we recognise its importance, we want it to thrive, and we appreciate that its opposition to the bill has been conducted, for the most part, constructively. However, I hope that the opposition ends when the bill is passed and that the insurers respect the will of the legislature of the Scottish people and compensate those who have been injured because of their clients' negligence.

The bill restores access to justice for those who, through no fault of their own, were negligently exposed to asbestos and the risks that it brings and who have developed a scarring of the membrane around their lungs. The bill deserves the support of every member of Parliament.

I move,

That the Parliament agrees that the Damages (Asbestos-related Conditions) (Scotland) Bill be passed.

15:38

Richard Baker (North East Scotland) (Lab):

The Parliament has acted in unity before to protect and advance the rights of workers who have been recklessly exposed by their employers to asbestos, whose health has suffered dramatically as a result, and whose families have also borne scars of trauma and loss. Labour members are proud of the previous Scottish Executive's Rights of Relatives to Damages (Mesothelioma)

(Scotland) Act 2007 and of the work of Des McNulty, who initially pursued the issue as a member's bill, Bill Butler and Duncan McNeil. Of course, members on all sides have frequently made the case for sufferers of mesothelioma and their families. Stuart McMillan initially introduced a members' business debate to raise the Parliament's concerns about the impact of the House of Lords ruling.

Members have been moved to act by the experiences of the people whom they represent, and we are moved to act as a Parliament today. It is right that we look to pass the Damages (Asbestos-related Conditions) (Scotland) Bill, which we are pleased the Scottish Government has introduced and which we hope will unite the Parliament once more to protect the rights of those whose health is affected and who are at risk of serious illness because of employers' faults. We have previously had very good, non-partisan debates on those issues, which are of such great importance, and I am sure that that will be the spirit of this debate.

We welcome the introduction of the bill, and I very much welcome the minister's opening speech and, indeed, the sensible amendments that we passed earlier, which strengthen the bill's effectiveness—Bill Butler pursued that issue at stage 2. It would be good to receive further information from the minister later about his discussions with Mr Brownlee on what action will be taken on the costs. That issue has been debated by members, but there might still be matters that require further discussion.

Once again, the Justice Committee has diligently and effectively scrutinised legislation to ensure that the bill that we pass has been improved by the committee process. Today, we must pay tribute in particular to the tireless campaigning work of Clydeside Action on Asbestos, which has represented the victims of asbestos exposure so passionately and persuasively and has received wide recognition for its work. We must also acknowledge the work of the trade unions—my union, Unite, in particular, I am pleased to say—which have provided excellent representation for their members. We also acknowledge Thompsons Solicitors for all its work, which has helped to ensure that the bill is as effective as possible in reversing the House of Lords judgment.

As the Parliament has heard many times throughout the years, mesothelioma leads to a speedy and painful death. The insurance industry has argued that pleural plaques are not harmful in themselves and do not necessarily lead to mesothelioma, but the opposite case has been put irrefutably by members of all parties during the debates on the bill. Pleural plaques cause not just

anxiety but ill health. As I mentioned in the stage 1 debate, a Unite member from Stonehaven said:

“Pleural Plaques is a time-bomb. The Doctors could call me tomorrow to tell me I have mesothelioma and sufferers have to live with that prospect every minute of every day. It’s undoubtedly deteriorated my quality of life ... I’m more worried, anxious, lethargic my health is poorer.”

I do not believe that employers or the insurance industry should be able to walk away from that.

The approach of Labour members is clear: the crucial issue is that the bill be passed. We hope that it will be passed unanimously, given that it has received the support of all parties so far. Our job is to make the right provision in Scotland to enable people with pleural plaques to regain the right to claim compensation.

Gil Paterson (West of Scotland) (SNP): Do the member and the greater number of colleagues agree that the impact of passing the bill will be felt furth of Scotland? I firmly believe that passing the bill will benefit sufferers not just in Glasgow but in Gateshead, for instance, because the legislation will put some pressure on the UK Government to deliver a similar bill in Westminster.

Richard Baker: First, let me pay tribute to Gil Paterson for his efforts on the issue. Having attended a number of members’ business debates on the sufferers of asbestosis and pleural plaques, I know that he has been involved in the issue over the years and has taken it seriously.

I have been in dialogue with my Westminster colleagues and I know that they, too, want to make progress on the issue. UK ministers have undertaken a full consultation about what measures should be taken in light of the House of Lords ruling, and it is right that they give the issue full consideration. UK ministers have engaged in the kind of consideration and consultation that our Justice Committee has said is important in dealing with such matters, so I do not think that they should be criticised for that.

It is right that Westminster looks to make progress; the bill that we are considering is right for us, but it is right that we look to progress across the country. On that basis, I hope and am confident that Scottish Government ministers will continue to have constructive dialogue with their counterparts in Westminster, which is the right way to take the issue forward.

The key issue for members is to ensure that we make the right provision in Scotland. We must do the right thing by the victims of pleural plaques and by those who have so effectively taken their case to this Parliament in arguing that their rights to justice and compensation were, unfortunately, removed by the House of Lords judgment. That is a wrong that needs to be righted.

I maintain that passing the bill will not in any event result in unbearable costs for the Parliament or others, and the minister rightly said that this is an issue of justice. I hope that today is a day on which the parties come together in a spirit of unity—as has so often been the case in Parliament in the past—to take action to defend the rights of those who have been recklessly exposed to asbestos in the workplace. That is why the bill has Labour’s whole-hearted support.

15:45

Bill Aitken (Glasgow) (Con): As has already been canvassed this afternoon, the Parliament cannot, in any legislative activity now and in the future, fail to take into consideration the financial consequences. That is particularly apposite at the present time.

When the Government started on its legislative path, members—particularly those on the Justice Committee—will have been aware of my concerns about the adequacy of the financial memorandum. It appeared from the start to be inadequate, and it gives me absolutely no pleasure to note that even in the best-case scenario I appear to have been proved right.

Although some of the evidence that came before the Justice Committee seemed to verge on hyperbole, there was a general and genuine recognition of a potential problem and, accordingly, the minister undertook to clarify the actual figures. I acknowledge that he has made genuine and sincere efforts to do so; unfortunately, that has simply not been possible and we are left with considerable uncertainty.

In his letter to the Justice Committee dated 25 February, Mr Ewing correctly made the point that the further inquiries had made some of the more extreme projections look very unlikely. According to the minister, the projections are dependent on a wide range of unknowns, with potentially significant implications for what eventually transpires.

The estimate of the number of new cases varies from 2,826 to 5,928, and the estimate of the potential costs varies from £60 million to £131 million, exclusive of the costs to the national health service when people seek diagnostic checks. Those variations give rise to concerns that do not appear to have been anticipated by the proponents of the bill, although I freely acknowledge that they may have anticipated those costs and decided that, in social terms, there is a justification for proceeding.

Although much of the cost will be met in the private sector by insurance companies, there is also a public sector involvement. Insurance companies have made few friends in Parliament,

bearing in mind the way in which they dealt with mesothelioma claims, and they can fix pricing to overcome any increase in liabilities, but they are being asked to fund a retrospective liability, which is never satisfactory.

Bearing in mind the nationalised shipyards and Ministry of Defence work, there is a public sector involvement that has not been fully or accurately reflected in the papers helpfully provided by Mr Ewing. There must be a lot of potential liability lurking around the activities of local authorities, development corporations and their statutory successors, and health boards, and the costs could be considerable. I endorse the minister's view on the way in which the legal component of those potential liabilities has soared.

The matter has been compounded by the fact that, despite correspondence from the minister to Westminster ministers and from me as convener of the Justice Committee to the Secretary of State for Business, Enterprise and Regulatory Reform Lord Mandelson, the Westminster Government has failed to answer a basic and material fact. Under the statement of funding policy, when Scotland increases liability, the Scottish Government must pay for it. As a considerable amount of the potential liabilities relates to work carried out in the public sector, a potential cost has clearly not been quantified that could impinge on our ability to provide public services in health, education and other areas.

It is extremely regrettable that the Westminster Government has not indicated its intentions with regard to the funding implications under the Scotland Act 1998. It is clear that the level of co-operation on the production of statistics that the Scottish Government could have expected has not been forthcoming, and members may think it significant that the Westminster Government has not indicated any legislative line. Despite what Mr Baker said in all sincerity, it is clear that the Westminster Government has problems with the issue.

In a letter to the Justice Committee, the Law Society of Scotland stated that we were correct to raise concerns about the financial implications and underlined the importance of Parliament being satisfied with the financial aspects of the bill. I say, with regret, that the Parliament cannot be satisfied. We are being asked to sign a cheque that cannot be quantified and, although we could all think of many less deserving recipients—Mr MacAskill referred to a few earlier—we have to consider the wider picture.

I am conscious of the emotive nature of asbestos-related conditions in west central Scotland, and I appreciate and respect the views of members of other parties, but we have to understand the financial realities. I therefore regret

to advise the Parliament that the Conservatives are unable to support the legislation.

15:51

Robert Brown (Glasgow) (LD): On behalf of the Liberal Democrats, I am glad to agree with the proposition that Parliament should agree to pass at stage 3 the Damages (Asbestos-related conditions) (Scotland) Bill.

Like others, I pay tribute to the work of Phyllis Craig and her team at Clydeside Action on Asbestos and to the other campaign groups. I thank Government ministers and their officials for their support and supportive attitude since the House of Lords judgment in the case of Johnston, which started everything off. It might have been helpful in our consideration of costs and the bill's technicalities if a full consultation had been held in the usual way, but the work of the Justice Committee, which scrutinised the bill, has helped to overcome those difficulties. I entirely accept that, on this non-partisan issue, ministers were seeking to make progress in the most effective way.

Bill Aitken is usually reasonable on such matters, but his comments on funding and on the effect on the public purse somewhat gilded the lily. I agree with his concerns about the failure of the UK Government to respond on the statement of funding policy because it does not have to wait for a decision on what will happen in England—the statement of funding policy relates only to the implications of the decision in Scotland.

I share the Government's view that the proper approach for us is to say that we have compensated for pleural plaques for 20 years, that everything was known about and taken into account, that we should continue to operate as before and, therefore, that there will be no implications for the UK Government beyond those that were known about before. It would be helpful if the UK Government could speedily arrive at that position.

The Scottish Parliament information centre briefing for the stage 3 debate contains an illustrative chart that shows the distinction between the cost of existing cases and the annual costs for different public bodies and for private business. The graph shows clearly that the costs for the public sector are small—under £3 million in total to date and under £750,000 for the estimated annual costs thereafter. I am prepared to accept that the figures may be wrong by a fraction, because there will always be a high degree of speculation in any such situation, but by anyone's account we are talking about relatively small figures for the public sector.

The insurance industry has made its concerns about private sector costs known to us, but the figures that the Government has eventually emerged with bear a reasonable relationship to the figures that it began with in the financial memorandum. We are talking about an average cost of £25,000, and I feel that it should be possible for the legal costs to be reduced once a mechanism is in place.

We have knocked on the head the suggestion that 30 per cent of the claims might have come from Scotland—that is manifestly not the case. The figure of 9 per cent, which is used for benefits claims and things of that kind, is much more likely to be correct. We also have solid figures for past claims, which give us both information about the history of the issue over some years and confidence in postulating the figures for what is said will be the peak year of 2014. We have reasonably robust figures that will enable the Parliament to support the bill in broad knowledge of the general direction of travel and accepting that there is an element of speculation about any future figures.

In the light of some previous comments, I must say that I do not accept the wider criticisms that have been made of the House of Lords judgment or of the judges involved. A bench that includes Lord Hope and Lord Rodger could be expected to produce a legally impeccable judgment, which is what it did. Moreover, it upheld the majority judgment of the appeal court—perhaps because, for the first time, the courts had the benefit of detailed expert medical opinion, which was agreed by both sides at that time, on the nature of pleural plaques and their precise relationship to the original exposure to asbestos and to any subsequent development of mesothelioma. The judges themselves were not unsympathetic; indeed, several of them raised the possibility that such cases might be raised more satisfactorily as a breach of contract rather than as a delictual wrong based on negligence.

Nevertheless, the fact that the case was legally correct does not necessarily mean that it satisfied our sense of justice and fair play. Also, technically, the judgment was won on an English appeal, so it fell to the Scottish Parliament to consider what the law should be in Scotland. Legislative action here is, of course, a matter for us.

I have spoken about the characteristics of asbestos cases in the chamber before. They include the incubation period, the fact that the cases frequently affect whole families and communities—brother following brother, son following father, and wives cleaning overalls contaminated with white dust—and the fact that they arose at a time when, although the risks were

long-known to employers, they were not fully appreciated by employees.

As the minister mentioned, compensation has been paid for 20 years on the basis that those people's asbestos exposure was, in the words of Dr Rudd, a consultant physician whose evidence was mentioned in committee, more than 1,000 times that of the general population. I remind members of the words of Unite, which said that pleural plaques are the calling card for the development of more serious and terminal asbestos-related illnesses.

I hope that, during the passage of the bill, we sorted out the issue of the coherence of the law, and in exchanges with the minister we dealt with the financial issues. My judgment—and, I hope, that of the Parliament—is that continuing the right to compensation as it was understood before the Johnston judgment is right: there should be compensation for people who, through no fault of their own but through the blameworthy fault of others, understandably feel that they have a death sentence hanging over them like the sword of Damocles.

Against that background, this is a good bill that brings succour and equity to a lot of people who have suffered because of their exposure to asbestos through their employers' negligence. It is right that they should continue to be compensated when they contract pleural plaques, and it is eminently right that we pass the bill today.

15:58

Stuart McMillan (West of Scotland) (SNP): I expect an element of justice to be reinstated for the people of Scotland shortly after 5 pm this evening. I expect the Damages (Asbestos-related Conditions) (Scotland) (Bill) to be passed by the Parliament, which will once again send a message to Scotland and elsewhere that the Scottish Parliament is prepared to act in the interests of the people of this country.

I will take particular pleasure in casting my vote this evening because I have been involved in moving the campaign and the bill forward since before the bill was introduced to Parliament. Shortly after I was elected, Councillor Kenny MacLaren of Renfrewshire Council arranged for me to meet Phyllis Craig of Clydeside Action on Asbestos. The impending House of Lords decision and its ramifications for sufferers of pleural plaques was explained to me and I was asked to assist. With the help of Councillor MacLaren, we started to put the wheels in motion.

I offered to introduce the draft bill as a member's bill, but we agreed to try first to convince the Scottish Government to introduce the bill, as that would guarantee it speedier progress through the

Parliament. Thankfully, the meetings between Clydeside Action on Asbestos, Frank Maguire of Thompsons Solicitors and the Scottish Government were successful. Gil Paterson, Bill Kidd and I invited Phyllis Craig and Frank Maguire to the Scottish National Party conference in 2007 to lobby all and sundry. I do not think that many SNP MSPs left the conference without meeting them and realising what pleural plaques were and what the implications of the House of Lords decision would be. When I was informed that the Scottish Government was to introduce the bill, I was delighted, but I realised that there was still a lot more to do.

During the early stages of the bill, when I was a member of the Justice Committee, it was obvious that there was unanimous cross-party support for the bill. It was also obvious that there was a sense of injustice, and that the committee could do something about it. I am proud of the scrutiny that we gave the bill and of the report that we published.

At this point, I pay tribute to the members of the Justice Committee for their work in scrutinising the bill. I was, of course, disappointed to hear Bill Aitken's comments. I respect the fact that he queried the financial aspects of the bill throughout the committee process, but I take this opportunity to urge the Conservatives to change their decision. I advise them not to paint themselves as they were in the 1980s, which is what they will do if they vote against the bill this evening.

I was born in Barrow-in-Furness in England, but I grew up in Port Glasgow, as my parents decided to return to the town. My father was a coppersmith and worked in the shipyards, as did many other family members. Health and safety conditions in the yards were not as stringent as they are now, and some of the raw materials that were used then would not be used now—the main one, obviously, being asbestos.

If I were given a pound for every story that I have heard about the white mice—not only in the past but since I have been involved in campaigning with Clydeside Action on Asbestos—I would be a wealthy man. The stories shocked me, but I was shocked even more by those about women contracting asbestos-related conditions as a result of shaking their husbands' overalls before washing them. That brought home to me just how potent and dangerous asbestos is, and how indiscriminate it can be. It can affect the whole population.

I am pleased that the Scottish Government and the Scottish Parliament have listened to the arguments. I am sure that the vast majority of the people of Scotland will support the decision that we make on the bill. I know that they will support us in doing the right thing tonight, just as they

supported us when we did the right thing two weeks ago and voted for Jackie Baillie's Disabled Persons' Parking Places (Scotland) Bill.

During Bill Kidd's recent members' business debate on action mesothelioma day, I urged the insurance industry to work in tandem with organisations such as Clydeside Action on Asbestos and the Clydebank Asbestos Group, instead of fighting claims at every single turn. Today, I again ask the insurance industry to be proactive in moving this issue forward and not to challenge the will of the Parliament in the courts, as the media has reported might happen. If we pass the bill, there is no reason whatsoever for the insurance industry to mount a legal challenge to the will of the Parliament.

Before I close, I welcome to the public gallery representatives of Clydeside Action on Asbestos, particularly Phyllis Craig, who is a rock for the charity; Frank Maguire of Thompsons Solicitors; representatives of Clydebank Asbestos Group; and Councillor Kenny MacLaren. Their hard work will be rewarded. More important, I want to welcome all those in the public gallery who suffer from pleural plaques and other asbestos-related conditions. Today is about allowing them the opportunity to obtain an apology for their condition—a condition that was contracted because they went to work and someone else neglected health and safety regulations. Today is about them being able to move on with their lives. Most important, today is about them obtaining justice—justice that they deserve. Part of Scotland's industrial legacy will be put right today.

I urge the Parliament to vote with one voice and unanimously back this bill.

16:04

Bill Butler (Glasgow Anniesland) (Lab): I support the motion in the name of the minister. As a Justice Committee member, I put on record my gratitude to the clerking team and to SPICe for their sterling work and invaluable assistance as the bill progressed through its various stages.

I express my admiration for the commitment and dedication of those who have campaigned tirelessly to have this vital reform enacted: Clydeside Action on Asbestos; the Clydebank Asbestos Group; the GMB; Unite—both the Amicus and T&G sections; the Union of Construction, Allied Trades and Technicians; Thompsons Solicitors; and, above all, those with asbestos-related conditions and their families.

As members will know, the need for the bill arose from the House of Lords judgment on 17 October 2007, which ruled that asymptomatic pleural plaques do not give rise to a cause of action under the law of damages.

The judgment reversed more than 20 years of precedent and practice. In effect, the ruling meant that those who suffered anxiety as a result of the presence of pleural plaques could no longer pursue damages against the industries that had, in a clear breach of their common-law duty of care and of various statutory duties under health and safety at work legislation, left them exposed to asbestos dust. That was the direct consequence of the part of the Law Lords' ruling that said that the mere presence of pleural plaques in the claimants' lungs was not a material injury capable of giving rise to a claim for damages in tort or, in Scotland, delict.

Unsurprisingly, there was a public outcry about the judgment, which was variously described as disturbing, scandalous and bizarre. It was certainly seen, correctly in my opinion, as manifestly unjust. I congratulate unreservedly the current Scottish Government on introducing the bill in response to the widespread public demand to correct a gross error.

Members will recall that the Justice Committee's stage 1 report made it plain that their lordships were fundamentally mistaken in their view, and we should not pretend otherwise. We should be plain about it: they were wrong and we are here today to right that wrong.

As the Justice Committee said in its report, the bill

"represents a proportionate response to the House of Lords judgment."

Members agreed that

"pleural plaques, as an internal physiological change, could be considered an injury under Scots common law",

and noted

"that the effect of the resultant anxiety on a pleural plaques sufferer could be deemed injurious to their wellbeing."

The bill will restore the right of our fellow citizens to compensation in respect of pleural plaques and, importantly, reserve their right to make a further claim for compensation if, tragically, they go on to develop other, fatal, asbestos-related conditions.

It is a good bill and it is a necessary reform. Their lordships, as from time to time they do, made a profoundly wrong decision—a ruling that, in effect, found in favour of employers who had negligently or recklessly caused their workforce to be exposed to asbestos in the pursuit of profit, and was against the innocent victims of those same employers' recklessness and neglect. That is manifestly wrong.

Who are those victims? They are our fellow citizens who spent their working lives in shipbuilding, in the construction industry and in the fishing industry. They are our friends and

neighbours and we, as parliamentarians, must never forget their suffering or that of their families.

Our task at Holyrood is to pass legislation that attempts to redress injustice—this is such a law. As has been said, this Parliament has a good record in passing such legislation. Today, we can all prevent further injustice from being visited upon the innocent victims and their families—people who have already had to endure so much. When the bill is passed—I am sure that it will be—it will rescue from a judicial no-man's-land the hundreds of people whose cases are in court or are still to be heard.

I was hopeful that today we would act as a united legislature in remedying an injustice. I was shocked—and I am not using hyperbole—to hear Bill Aitken say that the Tories would not be able to support the bill. I make a plea to Bill Aitken and his party to reconsider their decision, because not supporting the bill would be shameful. If the Tories wish to rehabilitate themselves for past offences, they should support the bill at 5 o'clock; otherwise, they will be left in a position that the public will not understand and for which they will be rightly criticised. I tell Bill Aitken and his party that the people of Scotland demand that right be done; they are correct to do so and I hope that the Tories will reconsider.

It is for such causes that I—and, I suspect, all of us—came into politics. This kind of legislation demonstrates that the Scottish Parliament has a purpose and can deliver for working men and women, and I and the Labour Party support the Damages (Asbestos-related Conditions) (Scotland) Bill.

16:11

Bill Kidd (Glasgow) (SNP): It seems like such a long time since we set out on the road of reversing the ill-considered judgment of the House of Lords on the right of asbestos victims with pleural plaques to challenge the big insurance companies for compensation. I say that it seems like a long time, but in political terms we have reached the bill's third and final stage—with due awareness of its importance to those affected by this condition—with as much alacrity as the parliamentary process allows. The fact that that has come about as a result of the co-operation of members of parties right across the chamber is a sign of a mature and decent Parliament that represents the people, not vested interests. Of course, the Justice Committee is also to be thanked for its efforts.

The Scottish Government and, in particular, Fergus Ewing, the minister responsible for overseeing the bill's progress, are due very considerable praise for expediting through Parliament this important legislation in the face of

pressure exerted by members of the Association of British Insurers. Moreover, Clydeside Action on Asbestos and Thompsons Solicitors have been tireless partners on the side of the angels in the process.

According to the ABI, in 2006, its member companies paid out more than £1.2 billion in employer liability claims—and quite right too, given that the employers were liable. After all, they had been deficient in protecting their workers against injury.

We have to remember that in such situations the insurers pick up the tab. However, they do so not out of their own pockets, but from the payments made to them by employers whose workers are insured against harm as they ensure that their bosses and company shareholders—and, by extension, the insurers themselves—earn the wealth that allows them to live in conditions in which their bodies, at least, do not have to be exposed to chrysolite or other noxious asbestos products.

Insurers play an important role in modern society and make a very good profit from running what is a regulated business. They have to be kept in line and in place, which is where Parliaments come into their own. Insurers should not expect—and certainly should not be allowed—to make excess profits by renegeing on their side of the deal to compensate workers made ill in carrying out their daily duties and on whose backs this country's wealth was built.

I said earlier that the House of Lords judgment was ill considered. Some might say that that is a matter of opinion; however, it is the opinion of the great majority of the members of the Scottish Parliament that their lordships were wrong. In a civilised and democratic society, there must be an unbreakable compact between the people and their Parliament that the politicians are there to defend the people from harm and to enhance society as a whole for the benefit of all.

I reiterate what I said in our debate on pleural plaques on 5 November last year:

“The Association of British Insurers says that there is a duty on its part, and on the part of its members, to pay out when there has been employer negligence. There has been employer negligence when exposure to asbestos has caused scarring to workers' lungs.”—[*Official Report*, 5 November 2008; c 12043-4.]

Therefore, according to their membership organisation, the insurers of employers whose workers have suffered scarring of the lung tissue—pleural plaques—as a result of negligent exposure to asbestos have a duty to make compensation payments. If they will not stay true to that duty, it is down to members of the Scottish Parliament to ensure that they do so.

The Parliament is delivering on its compact with the people, and I hope that all members will do so when it comes to decision time. We must reverse the misjudgement of the House of Lords. Perhaps Westminster will be shamed into doing the same. I certainly hope so.

16:16

Des McNulty (Clydebank and Milngavie)

(Lab): This morning, I spoke at a Clydebank Seniors Forum meeting. There were between 80 and 100 people—mainly women—in the room, many of whom had friends or relatives who had contracted asbestos-related conditions, such as pleural plaques, asbestosis and mesothelioma. Clydebank is the hottest spot in Scotland for asbestos-related diseases. Those diseases are not found solely in Clydebank—the west of Glasgow, parts of Tayside and West Lothian have high levels of asbestos-related diseases—but because of its unique industrial history, its shipbuilding yards, engineering factories, the concentration of the construction industry there and particularly the asbestos plant that was there for many years, Clydebank is the epicentre of the epidemic of asbestos-related diseases.

Asbestos-related diseases have decimated cohorts of the population. People are no longer alive because asbestos got into their lungs and destroyed the life that they should otherwise have had. It has also affected the lives of members of their families. Over the past several years, the Parliament has had a proud record of dealing with those people and providing justice for them. We argued hard on a cross-party basis that people should not die before they got their mesothelioma cases into court. That was happening. We speeded up the process by which such cases are dealt with. That was done on a cross-party basis for the right reason: to provide justice for people.

When cases were coming to court and victims were getting justice before they died, we found that what was happening affected the compensation rights of their relatives, who had previously been entitled to compensation but whose claims were then disbarred because justice was being delivered. The Parliament changed the law in Scotland to ensure that relatives' rights were protected. That was the right thing to do.

What we are doing today is also right. The right of individuals to claim compensation for pleural plaques had been in existence for 20 or more years. People had been entitled to claim compensation. That compensation was withdrawn because the insurance industry took forward cases to try to evade its responsibilities. It was not the first time that the insurance industry had tried to do that; it has repeatedly tried to evade its responsibilities. It tried to argue that it could pay

compensation only if it could be established absolutely that a particular company was responsible for the contamination of the individuals.

At Westminster and Holyrood, we have sent the insurance companies homewards every time that they have come to evade their responsibilities. I am delighted that we are going to do that again. We are here to stand up for the rights of not insurance companies, but our fellow citizens, as Bill Butler pointed out. We should do that on behalf of Scotland and the communities that we represent.

The issue is not party political and I have never treated it as such in all the years in which I have campaigned on it. People from all political parties have stood up for what is right. I remember when I first started campaigning on asbestos in the Parliament, the late Margaret Ewing was among the first members to support me. She did so because she had been a member for East Dunbartonshire and so understood fully the situation of her constituents at that time and of people throughout Scotland. I am delighted that Fergus Ewing is continuing that work in progressing the bill. Members from all parties have put their shoulders to the wheel. As Bill Butler pointed out, campaigners have done so too, including the Clydebank Asbestos Group in my constituency, Clydeside Action on Asbestos and people from Tayside and West Lothian. The Scottish Trades Union Congress has played an important role, as have Unite, the Union of Construction, Allied Trades and Technicians, the GMB and other trade unions. All those organisations have campaigned for, and done, what is right.

In the end, the Parliament will not be judged by the boxing games in which we occasionally engage or the party-political squabbling, which comes one day and goes the next and is forgotten about; what will be remembered is whether we did the right thing. On asbestos, the Parliament has consistently done the right thing and I am absolutely delighted that it will do the right thing again today.

16:22

Nigel Don (North East Scotland) (SNP): I echo everything that has been said. This late in the debate, there is not much to say, and I do not want to repeat everything for the sake of it.

I take members back to the House of Lords judgment in the Johnston case. The judgment gets a bad press, but we should recognise that the law was not satisfactory and that their lordships knew that the whole basis on which people had been proceeding had been wrong for a long time. As I

did in the stage 1 debate on 5 November last year, I will refer to the judgment, in which Lord Rodger stated at paragraph 84:

“The asbestos fibres cannot be removed from the claimants’ lungs. In theory, the law might have held that the claimants had suffered personal injury when there were sufficient irremovable fibres in their lungs to cause the heightened risk of asbestosis or mesothelioma.”

The implication is that that is what the law should have held, which would have been good English law. However, as Lord Rodger went on to say,

“the courts have not taken that line.”

I wonder whether their lordships might take from this debate a cautionary tale about the way in which they have developed the law. That will be history in a few minutes’ time, because I am sure that we will pass the bill. It is easy to blame their lordships, but they could have got it right earlier if they had thought about how the law should develop. However, one way or another, they did not do so.

I want to address the uncertainty about costs, by pointing out that costs are always uncertain. The numbers that we have heard about today are a salutary reminder of the uncertainty of costs in the real world. I do not think that that is particularly unusual. We sometimes flatter ourselves by thinking that our estimates are more accurate than they are. Bill Aitken is no longer in the chamber—although I am sure that he will be back to vote on the bill—but I remind the Tories that the estimates that we have are estimates of a cost that would have been borne had the law not been changed by the House of Lords in the Johnston judgment. I accept that we do not know what the numbers are, but we did not know what the numbers were before the judgment and they are still the same numbers that they would have been. By putting the law back to where it would have been, we are not changing the numbers—and we still do not know what they are.

Comment has already been made about the legal costs and about the fact that, once the bill is passed, the insurance company will have nowhere to hide. The next step for the insurance company—whose rights I am perfectly prepared to defend, although it does not have any rights because of things being put back to the way that they were—should be to find ways forward that reduce the legal costs in what should be, by and large, incontestable cases. I appreciate that some cases are contestable on the facts, but where they are incontestable, there is absolutely no sense in the company continuing to pay large sums of money to lawyers—although I love lawyers dearly when they have a good case to argue. In that way, the costs to the insurance company can be reduced and the process will be speeded up, which will be good for the victims who need to be

compensated. I hope that the ABI will take that on board.

I come to a more substantive point about the European convention on human rights. This might seem a slightly tangential point, but members will find out where I am going. We generally accept that, although the ECHR has some interesting and, occasionally, unfortunate side effects, it basically gives us a good way forward when we are considering people's rights and how we set up, interpret and use the law.

This very afternoon, the Cabinet Secretary for Justice commented on the costs to the Government of paying for stopping-out cases, on the basis that stopping out is—apparently—in breach of the ECHR. That money flows from the public purse and goes directly to convicted criminals. As far as I can see, the Conservative party supports that—although I am sure that it acknowledges that it is an unfortunate result of the ECHR.

I note that Government policy, which is endorsed across the Parliament, is to try to support drug addicts out of their addiction. As I understand it, the Tories support the expenditure of public funds to help those who have chosen to become addicted—or who have chosen to risk becoming addicted, at least. They are prepared to support the expenditure of public funds to help those who, in principle, could themselves choose to stop. Is it not strange to hear the Tories say that they do not support the recovery by those who have been the victims of negligent employers of compensation, either from the employers directly or from those who stand behind them, be they Government or insurer? I have to join the growing list of members who feel that the Tories have quite simply got it wrong. The argument is wrong, and I suggest to Bill Aitken and his colleagues in all seriousness that they should change their position in a little over half an hour's time, because it is faulty and it will not be defensible in the long term.

16:28

Duncan McNeil (Greenock and Inverclyde) (Lab): I welcome the bill. More important, it will be welcomed by my constituents in Greenock and Inverclyde who have been diagnosed with pleural plaques and who have had their rights to compensation temporarily denied. Those rights will correctly be restored today. The disease, with all its aspects, will be properly acknowledged. Once again, the Parliament, with cross-party support, has come down on the side of the victims of asbestos-related disease.

More than most, the campaigners I met today, who are in the public gallery, will well understand that this country has an adversarial system of

justice, in which the ill and the dying have been victimised time and again. We have heard from Des McNulty how that has happened. There have been delays and blanket denials at the terminal point in many people's lives. Their very existence—and where they worked, who they worked for and what ship they worked on—was denied. They were nothing in the system. Today, we hear that some of that injustice is being addressed.

As Nigel Don said, in a stage 3 debate, we often repeat what others have said, and, as members have said, I am pleased that the Scottish Parliament has a proud record in this area. Back in 2000, I hosted one of the Parliament's first members' business debates on mesothelioma, with the support of 45 back benchers. We have hung together on the issue for a long time.

I have been aware of the blight of asbestos throughout my time as an MSP and in my life before entering the Scottish Parliament. As many do only too well, I understand the difficulties and the humiliations that victims have sometimes had to endure at the hands of the courts in trying to obtain the justice that they were well due.

Over the years, several members have distinguished themselves on the issue. I am happy to recognise the contribution of politicians from all parties. As has been said, the late Margaret Ewing campaigned on the issue here and in Westminster. I also recognise the contributions of Robert Brown, Stewart Stevenson, Pauline McNeill, as the Justice 1 Committee's convener, Hugh Henry, in his ministerial role and—of course—Des McNulty, whose record I contend is second to none.

I regret that, unless the Conservatives change their minds, we have lost Bill Aitken along the way. He is another member whom I would like to have commended today. I consider the costs and the price that is paid to be much more than a line on a balance sheet; they include the cost to health, the impact on communities and on families, the ultimate price that too many have paid and the indignity that people have suffered. Like others, I ask the Conservatives to ask themselves again about costs and price and to move beyond the balance sheet.

The Justice Committee's work should—rightly—be praised. We might have lost Bill Aitken along the way, but I am pleased that the parliamentary campaign has new recruits, such as Bill Kidd and Stuart McMillan, who have continued the Parliament's tradition. Bill Butler's work is also to be recognised.

The progress that has been achieved could not have been accomplished without the efforts of victims—I was reminded of that today when I met

campaigners. Despite terminal illness, victims have fought the good fight literally until their last breath. In the debate in 2000, I paid tribute to Owen Lilly—a Clydebank man who showed true Clydeside spirit. He participated in a film that shocked many by showing the horrors of mesothelioma and brought home the plight of victims to a wider audience. Joe Baird, my old friend and the chairman of the shop stewards in Scott Lithgow, fell victim to asbestos. Despite his problems, he retained his dignity, his humanity and his campaigning spirit throughout that difficult time. Despite their illness, people such as Jim McAleese have provided support for the Inverclyde support group for many years.

Of course, for those who have lost relatives to this awful disease, the fight continues. The families refuse to give up the fight for what is rightly theirs—the right and just campaign. They have been ably supported by campaign groups such as Clydeside Action on Asbestos and Clydebank Asbestos Group, by friends in the trade union movement—in the GMB and Unite—and by lawyers such as Frank Maguire of Thompsons Solicitors, who have all played a major part in bringing about the bill.

All parties can—rightly—be proud of the Parliament's record on the issue. We have consistently highlighted the insurance industry's dirty tactics and its attempts to spin out cases to avoid or reduce its liability. The bill marks another milestone for the Parliament, which, as Bill Kidd said, is connected to its communities and knows where they stand. However, it is the external influences—the unions, lawyers, pressure groups and victims—that have given the Parliament another opportunity to do what is right. I urge all parliamentarians to pass the bill, to ensure victory today, which will belong to all the campaigners for this just cause.

16:35

Mike Pringle (Edinburgh South) (LD): I am sure that this is the final chapter—at least, I hope that it is—in legislation on the asbestos-related condition mesothelioma. I congratulate Clydeside Action on Asbestos and the other campaigning groups. I hope that their members can now look to the future and spend their time on more pleasant issues than those that they have had to address over the past few years.

I was on the Justice 1 Committee in the previous session of the Parliament when the Rights of Relatives to Damages (Mesothelioma) (Scotland) Act 2007 was passed. Although it was a relatively short bill, it not only addressed a serious social issue but was quite complicated. As the minister said, the aim of the Damages (Asbestos-related Conditions) (Scotland) Bill is to tackle a serious

social issue, and it will do that when—as I am sure it will be—it is passed later today. Although I am not a member of the Justice Committee, I am pleased to speak in this stage 3 debate. I apologise in advance to Justice Committee members if my knowledge is not quite as keen as theirs.

In a number of court cases from the early 1980s until 2005-06, damages were awarded to claimants who had developed the asbestos-related condition pleural plaques. As Bill Butler, Bill Kidd—both of whom, I am sorry to say, are no longer in the chamber—and other members said, the decision of the House of Lords in the *Johnston v NEI International Combustion Ltd* case prevented claimants from going to court and claiming damages for injury caused by exposure to asbestos many years previously.

I am not qualified to say whether the House of Lords decision was right or wrong. On 29 November 2007, the Scottish Government announced that it intended to introduce a bill to overrule in Scotland the House of Lords judgment. The Government said that the provisions of the bill would take effect from the date of the judgment. The Liberal Democrats were, and are, delighted to support the Scottish National Party in legislating to overturn the House of Lords judgment on pleural plaques.

Given that people with pleural plaques were exposed negligently to asbestos over many years and that, for the 20 years prior to the ruling, damages were awarded, it is of course appropriate to continue to make such awards. The case for that was well made by Richard Baker in his speech. I agree entirely with my colleague Robert Brown: the bill will restore claimants to the position that they were in before the decision was delivered in October 2007. It will enable them to negotiate settlements and to raise actions in the courts, if they want to do that.

A considerable amount of the Justice Committee's time was taken up with questions on how much all of this will cost and what the number of claimants is. One key principle in the statement of funding policy is that, when a devolved Administration takes a decision that has financial implications for departments or agencies of the UK Government, the body whose decision leads to the additional cost will meet that cost. If UK departments and agencies were to invoke that provision, the result would be a considerable impact on the Scottish consolidated fund.

Based on the figures in the financial memorandum, the annual cost will be around £6 million. I thank the minister for giving the chamber an update on those figures today. I understand Bill Aitken's considerable concerns on how much all of this will cost, but I bow to Nigel Don's greater

knowledge of the issue. If Bill Aitken was listening to what Nigel Don said, I hope that he will have changed his mind on the matter.

I agree with Nigel Don that the cost of compensation will not be as much as some have suggested. As my colleague Robert Brown said, the question of finance could have been cleared up if the consultation on the bill had gone on for a little longer and had been carried out in slightly more depth.

The financial memorandum indicated that calculations of how much the bill will cost are based on the assumption that perhaps 200 cases a year will settle, with an average cost of £25,000 each. Several members have referred to the cost of lawyers, but I hope that not every case will cost £25,000. Not everyone agrees with the costs that are given in the financial memorandum; the insurance industry, in particular, thinks that they may be substantially higher. It estimates that the Scottish Government has significantly underestimated the level of unjustified costs that the bill will impose on defendant businesses, local authorities and insurers. Only time will tell who is right. It was only to be expected that the insurance companies would say that costs will be much greater than they may eventually turn out to be. For a long time, those companies have been getting insurance premiums, which should now help to compensate them.

Given that people with pleural plaques have been negligently exposed to asbestos, and given that for the past 20 years they have been awarded damages, the Liberal Democrats' view is that appropriate damages should continue to be awarded. That is why we will support the bill.

16:41

John Lamont (Roxburgh and Berwickshire) (Con): Today's debate has again brought to the Parliament's attention the possibly horrific consequences of an asbestos-related condition. None of us would dispute the distressing and disturbing effects of an asbestos-related illness. However, as I said during the stage 1 debate on the bill, I have a lot of sympathy for the view that has been expressed by some that to make compensation available for pleural plaques when plaques themselves have no negative impact on health runs contrary to the Scots law of delict.

As Bill Aitken indicated, we have serious concerns about the cost implications of passing the bill. Now more than ever, we must behave responsibly when using the public purse. We must focus on what the financial memorandum says and on the bill's possible implications for the Scottish public sector—councils, health boards and other public bodies throughout Scotland. A

local hospital or school could be closed to allow a health board or council to pay for possibly unknown claims to be settled.

Despite the best efforts of the Scottish Government, which complied with the Justice Committee's request for further research, there remains considerable doubt about potential liabilities and costs to both the private and the public purse.

Fergus Ewing: Will the member clarify whether the Conservatives have decided that they cannot support the bill because they think that the ultimate liability may be substantially in excess of the existing amount? If liability remains at the current levels—essentially, that is what we are assuming—would the Conservatives be willing to support the bill?

John Lamont: The key point is that estimates vary—the number of claims that may be made in the future is unquantifiable. There is no reliable way of estimating how many individuals have pleural plaques as a result of exposure to asbestos and will ultimately make a claim. There is uncertainty about how many people have been exposed to asbestos, how many of those who have been exposed will develop pleural plaques, how many of those who develop pleural plaques will be identified as having an asbestos-related condition, and how many of those who are identified will make compensation claims.

There is also uncertainty about the exact value of a claim, with claims inflation being a particular issue for the insurance sector. Furthermore, with pleural plaques having a long latency period of 20 to 30 years, it is difficult to predict when the claims peak will occur. It is worth bearing in mind that there is currently a build-up of about 630 pleural plaques cases as a result of the House of Lords judgment and earlier judgments in the English courts.

The best information that is available to the Scottish Government suggests that settlement costs are made up of about £8,000 for compensation, £8,000 for pursuer's costs and £6,000 for defender's costs. Those figures are based on the known 2003-04 settlement figures, which come from the period prior to the legal challenges that culminated in the House of Lords ruling.

Stuart McMillan: I fully appreciate the cost issues that the member has highlighted, but does he think that pleural plaques are a good thing?

John Lamont: I am not arguing that pleural plaques are or are not a good thing; the point is what they lead to. Having pleural plaques is not a medical condition; the illness that they lead to is the condition, and the law provides that compensation is payable in the case of illness.

We are concerned about the unknown and unquantifiable costs that the public sector might face. In the financial memorandum, the Scottish Government said:

“a reasonable working assumption for the purposes of this memorandum is an average cost per case of £25,000.”

As Bill Aitken said, more than just the insurance sector could be affected by the bill. The Scottish Government is the named defender in a number of on-going cases in the Scottish courts.

We should not forget about the possible costs on the NHS, as patients seek X-rays on the off-chance that they might have pleural plaques. The Cabinet Secretary for Health and Wellbeing has said that it costs £115 for a computed tomography X-ray to be done to determine whether pleural plaques are present.

The Scottish Government should routinely monitor how much it is costing to implement new laws—the bill will be a good example. If amendment 9, which Derek Brownlee lodged, had been agreed to, and there was a significant cost overrun, ministers would have been forced to explain why the overrun had happened. The Government has accepted the principle of post-legislative scrutiny, so there will be no hiding place for cost increases.

The Conservatives voted for the bill at stage 1 after amending the motion to call on the Government

“to provide the Parliament with a more detailed analysis of the likely cost implications”.

We have considered the analysis. Despite our sympathy with victims, we will vote against the bill, because we cannot be sure of its implications for the public purse.

16:46

Paul Martin (Glasgow Springburn) (Lab): We have heard powerful speeches, particularly from members who support the bill.

The Justice Committee, of which I am a member, carefully considered a wide range of issues during the passage of the bill. During the process I learned a great deal about asbestos and its history. For example, I learned that asbestos has been known to be a poisonous substance since 1892. I heard from people who had worked with asbestos about employers' unacceptable practices. The negligence of employers is an important aspect of the debate, as the minister made clear.

During the committee's consideration I listened carefully to the case that the insurance industry made. First, the industry said that it was concerned that premiums could increase; then it

said that they would increase; then it was not quite sure. The industry provided the committee with little evidence to back up its views.

I listened with interest to Derek Brownlee's comments on amendment 9. Derek Brownlee says that he is concerned about post-legislative scrutiny, but he has not remained in the chamber for the debate. He wants the Scottish Government to make a commitment to seeing things through, but he has shown little commitment to doing that himself. I am pleased that the Parliament rejected amendment 9, which was ill thought out. I am disappointed that Mr Brownlee's party singled out the Damages (Asbestos-related Conditions) (Scotland) Bill for special treatment.

John Lamont talked about uncertainty. I do not want to lecture members, but all members—especially those who have been in the Parliament since 1999—know that the Parliament faces challenges to do with uncertainty almost daily.

Bill Aitken: Does Mr Martin accept that it was entirely coincidental that Mr Brownlee lodged his amendment to the Damages (Asbestos-related Conditions) (Scotland) Bill? Similar amendments will be lodged in future debates; amendment 9 just happened to be the first of its type—it had nothing to do with the bill.

Paul Martin: Conservatives have proposed a template for scrutinising legislation in the future. I look forward to hearing more about their proposals.

The Parliament has faced challenges with regard to other bills. I remember a similar debate about the Smoking, Health and Social Care (Scotland) Bill, when businesses raised concerns about the potential impact that the ban would have on them. I also remember such a debate regarding the Licensing (Scotland) Bill in 2005. This is not the first time that the Parliament has faced challenges regarding the impact that legislation will have on businesses. Nigel Don eloquently crystallised many of the issues, which were worth raising.

Having listened to the debates on the matter, I am clear that the bill should be passed with no ifs, buts or maybes. The hard-working men and women who were negligently exposed to asbestos have had enough of the insurance industry's attempts to evade its responsibilities. It is time for the Parliament to put that wrong right. The Parliament should be proud of the stance that it has taken on behalf of the many hard-working men and women throughout Scotland who were negligently—I make that point again—exposed to asbestos.

As others who have spoken in the debate did, I pay tribute to the trade unions, such as Unite, that played a role alongside Clydeside Action on

Asbestos and the other groups that raised issues on behalf of those who have been affected by asbestos. I note the important role that Frank Maguire played on behalf of Thompsons Solicitors. It was evident to me during the committee's consideration of the bill that the insurance industry was well represented and spared no expense in legal matters. I am delighted that the hard-working men and women were given the same opportunity for legal representation by Thompsons Solicitors. The process highlighted the important role that the unions play in ensuring that our workers are fairly treated and given legal representation in the workplace.

The bill deals with an industrial legacy in Scotland that needs to be put right. It is important that we grasp the opportunity to put that shameful legacy behind us. I call on the Parliament to support the passing of the bill.

16:52

Fergus Ewing: I thank members for their contributions to today's proceedings. Like the entire passage of the bill, the debate has been conducted in a constructive and thoughtful tone, which does the institution of the Parliament some credit.

The purpose of the bill is straightforward. In effect, it is to keep things as they have been for the past 20 years. It is not often that someone in the SNP argues passionately for the status quo, but in effect that is what we are doing this afternoon. The bill's purpose is to ensure that people who have been, as Paul Martin said, negligently exposed to asbestos have the right to compensation and access to justice.

Many members thanked specific individuals. I, too, thank the Justice Committee and acknowledge the huge and constructive role that was played by a number of groups and individuals, notably Clydeside Action on Asbestos and Thompsons Solicitors. As Duncan McNeil said, we should thank a great many individuals in trade unions and the unions themselves. Without their work, we would not have the legislation that has been passed during the Parliament's existence to tackle injustice in relation to asbestos. I also thank my officials for the work that they have done and their painstaking attention to detail, particularly as detail has not been in short supply in the bill.

In areas that are associated with Scotland's industrial history, notably shipbuilding and construction, people with pleural plaques are living alongside friends who worked with them and witnessing the terrible suffering of those who have contracted serious asbestos-related conditions including mesothelioma. That causes them terrible anxiety that they will suffer the same fate. The

Scottish Government believes that we have a clear moral obligation to address that. We should not turn our backs on those who contributed to our nation's wealth in the past.

I turn to the main issues that were raised in the debate. First, I will respond to the issue that was raised by the Conservatives. In a democracy, there is nothing wrong with having such a dissenting voice, even if I profoundly disagree with what it said this afternoon. There are costs associated with doing the right thing. Members have seen the revised financial implications, which show that, while the costs may be greater than we anticipated initially, they are unlikely to be anywhere near the range of costs that the insurance industry presented.

I will reply specifically to others' arguments about costs and say why I believe that they are wrong and why, in anticipating that there will be a huge surge in claims, the insurance industry's arguments are flawed. I echo the arguments of Mike Pringle, Robert Brown and many other members in other parties in that regard. First, our bill seeks simply to preserve the status quo. In the 20 years before the House of Lords ruling, when pleural plaques were deemed to be compensatable, there was no unmanageable flood of claims. Where is the flood? There has been no such flood. Why would one assume that there will suddenly be a huge flood of claims? Where is the rational basis for that proposition?

Secondly, before the House of Lords judgment, public awareness of pleural plaques in key communities was already high because people such as Des McNulty, Duncan McNeil, Stuart McMillan and many others had publicised the issue and kept it going. Awareness is high because we have had legislation in the Parliament in a number of respects to tackle previous flaws regarding the lack of access to justice for people who suffer from asbestosis. With all that information constantly being presented by elected parliamentarians—and rightly so—awareness is high. How can the insurance industry argue, therefore, that after the passing of the bill—and as a result of my making this speech and our having this debate—awareness should suddenly be exponentially higher than it was before? What on earth is the rationality in that claim?

Gil Paterson: As the minister is aware, just before the House of Lords rescinded the relevant legislation, there was a massive amount of publicity about the issue but no discernible increase in the number of claims. Will he comment on that?

Fergus Ewing: I agree entirely with the member's point, which is the third argument that I would adduce in support of my argument that the

costs are likely to continue as they were in the past and at a sustainable level.

The Conservatives' argument seemed to be that legislation should not proceed unless we can have certainty about what the financial cost will be. If that were the test for legislation, we would not have much legislation, because it is simply not possible to predict with precision what the costs will be. In fact, the actuarial profession said that

"it is not possible to derive a"

perfect

"estimate of the expected future cost".

If perfection in future estimated costs were a sine qua non of legislation, there would not be any negligence legislation, any compensation for personal injury or any right of recourse to the courts. It seems to me that, wittingly or otherwise, the Conservatives have set up an impossibly high hurdle—a kind of 30ft fence that the high-jump team now has to jump over in passing any legislation.

With respect, I point out to my Conservative colleagues that, two weeks ago—on the same day that Parliament debated action mesothelioma day—an insurance company announced that it had made £759 million in pre-tax profits in a single year. I have nothing against profits, but that is pretty high. Equally, an ABI statement declared that the UK insurance industry contributed £9.7 billion in taxes in a single year. In that context, I hope that Bill Aitken agrees that our estimates of the bill's financial implications may not seem too daunting.

This has been an excellent debate. The Parliament has shown what it is capable of doing. I am delighted and proud to have had the task, on behalf of the Scottish Government, to move that we pass the Damages (Asbestos-related Conditions) (Scotland) Bill and to defend and confirm the right of access to justice for those who have been negligently exposed to asbestos and have sustained injury as a result.

Business Motions

16:59

The Presiding Officer (Alex Fergusson): The next item of business is consideration of business motion S3M-3664, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees—

(a) the following programme of business—

Wednesday 18 March 2009

2.15 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Scottish Parliamentary Corporate Body Question Time

followed by Ministerial Statement: Broadcasting

followed by Stage 1 Debate: Offences (Aggravation by Prejudice) (Scotland) Bill

followed by Legislative Consent Motion: Welfare Reform Bill - UK Legislation

followed by Legislative Consent Motion: Marine and Coastal Access Bill - UK Legislation

followed by Business Motion

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 19 March 2009

9.15 am Parliamentary Bureau Motions

followed by Scottish Labour Party Business

11.40 am General Question Time

12 noon First Minister's Question Time

2.15 pm Themed Question Time Health and Wellbeing

2.55 pm Scottish Government Debate: Scotland's Science Framework

followed by Legislative Consent Motion: Borders, Citizenship and Immigration Bill - UK Legislation

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 25 March 2009

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Scottish Government Business

followed by Business Motion

followed by Parliamentary Bureau Motions
 5.00 pm Decision Time
followed by Members' Business
 Thursday 26 March 2009
 9.15 am Parliamentary Bureau Motions
followed by Scottish Government Business
 11.40 am General Question Time
 12 noon First Minister's Question Time
 2.15 pm Themed Question Time
 Rural Affairs and the Environment;
 Justice and Law Officers
 2.55 pm Scottish Government Business
followed by Parliamentary Bureau Motions
 5.00 pm Decision Time
followed by Members' Business

(b) that the period for members to submit their names for selection for Question Times on 23 April 2009 ends at 12 noon on Wednesday 1 April 2009;

(c) that the period for lodging First Minister's Questions for First Minister's Question Time on 7 May 2009 ends at 4.00 pm on Thursday 30 April 2009, and

(d) that the period for lodging First Minister's Questions for First Minister's Question Time on 28 May 2009 ends at 4.00 pm on Thursday 21 May 2009.—[*Bruce Crawford.*]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motions S3M-3665, S3M-3666 and S3M-3668, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out timetables for the consideration of bills.

Motions moved,

That the Parliament agrees that consideration of the Arbitration (Scotland) Bill at Stage 1 be completed by 26 June 2009.

That the Parliament agrees that consideration of the Schools (Consultation) (Scotland) Bill at Stage 1 be completed by 26 June 2009.

That the Parliament agrees that consideration of the Education (Additional Support for Learning) (Scotland) Bill at Stage 2 be completed by 3 April 2009.—[*Bruce Crawford.*]

Motions agreed to.

Parliamentary Bureau Motion

17:01

The Presiding Officer (Alex Fergusson): The next item of business is consideration of Parliamentary Bureau motion S3M-3669, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, on the designation of a lead committee.

Motion moved,

That the Parliament agrees that the Justice Committee be designated as the lead committee in consideration of the Criminal Justice and Licensing (Scotland) Bill at Stage 1—[*Bruce Crawford.*]

The Presiding Officer: The question on that motion will be put at decision time.

I am sure that members will join me in welcoming to the gallery the ambassador of the Republic of Moldova, the high commissioner of New Zealand, the high commissioner of Sri Lanka and the deputy high commissioner of Jamaica. They are all most welcome. [*Applause.*]

Decision Time

17:02

The Presiding Officer (Alex Fergusson):

There are two questions to be put as a result of today's business. The first question is, that motion S3M-3542, in the name of Fergus Ewing, on the Damages (Asbestos-related Conditions) (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Allan, Alasdair (Western Isles) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brown, Keith (Ochil) (SNP)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)

McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Mulligan, Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Robison, Shona (Dundee East) (SNP)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Salmond, Alex (Gordon) (SNP)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Iain (North East Fife) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Tolson, Jim (Dunfermline West) (LD)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Carlaw, Jackson (West of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)

The Presiding Officer: The result of the division is: For 98, Against 16, Abstentions 0.

Motion agreed to,

That the Parliament agrees that the Damages (Asbestos-related Conditions) (Scotland) Bill be passed.

The Presiding Officer: The second question is, that motion S3M-3669, in the name of Bruce Crawford, on the designation of a lead committee, be agreed to.

Motion agreed to,

That the Parliament agrees that the Justice Committee be designated as the lead committee in consideration of the Criminal Justice and Licensing (Scotland) Bill at Stage 1.

The Commonwealth

The Deputy Presiding Officer (Alasdair Morgan): The final item of business is a members' business debate on motion S3M-3449, in the name of Karen Gillon, on the Commonwealth at 60. The debate will be concluded without any question being put.

Motion debated,

That the Parliament commends the theme of Commonwealth Day 2009, the Commonwealth @ 60 serving a new generation, which highlights the importance to every nation of the understanding of and contribution to making improvements to lives, particularly those of young people, across the Commonwealth; notes that this also marks the 60th anniversary of the Commonwealth and recognises the valuable role of the Commonwealth in strengthening relationships between nations across the world; welcomes the continued contribution of Scotland and its people to those relationships; reaffirms its support for the work of the Commonwealth Parliamentary Association (CPA) and commends the CPA for its work to raise awareness on energy and climate change, human trafficking and all initiatives targeted at improving parliamentary democracy; also notes that, during the third session of the Parliament, the CPA Scotland branch continues to develop relationships with Malawi and other CPA branches; commends the Scottish Government for its continuing commitment to Malawi and other Commonwealth countries, and further notes Scotland's longstanding work throughout the Commonwealth.

17:04

Karen Gillon (Clydesdale) (Lab): It is my pleasure to open this evening's debate and, in doing so, to welcome the various visitors from many of our sister countries in the Commonwealth who are in the gallery. Particular mention should be made of the high commissioner of Sri Lanka, who I hope will convey the message that the thoughts and best wishes of all members of the Parliament are with the people of Sri Lanka and the members of its cricket team. We support them and their colleagues in Pakistan as they work together to catch those responsible for what can only be described as a terrible act of terrorism. Sport is something that brings people together, and I am confident that, in the long run, that will prevail.

There has been much debate this week about whether the Commonwealth is still relevant 60 years after its inception. I, for one, firmly believe that it is. In an increasingly interconnected world, the actions of one nation can have a profound effect for good or ill on another. Through the Commonwealth, we have an opportunity to share experiences, culture and values that enable us all to respond better to the issues that we face as parliamentarians.

When I visit countries in the Commonwealth, both officially and with my family, I am struck not

only by the diversity of culture, language, climate and food, but, importantly, by our shared values. On our mace are inscribed the words used by my late colleague Donald Dewar when we opened our Parliament in 1999: wisdom, compassion, justice and integrity. Those were the values that he wanted this place to be about—values that I hope we have lived up to, but also values that are common with countries throughout the Commonwealth. In our relationships with each other, those values shine through.

As members know, we have a special relationship with Malawi. As they also know, it is a country that is close to my heart. Those values of wisdom, compassion, justice and integrity are self-evident in that partnership. Through our joint working, we are working through issues such as poverty, health care, education—particularly for girls—and sustainable development.

The partnership does not just exist between our two Parliaments. Throughout Scotland, schools such as Glengowan primary and Carnwath primary in my constituency have forged links with schools in Malawi, allowing both sets of pupils to become better global citizens. Churches, too, are involved, and sometimes whole villages. Stonehouse is twinned with Mulanje, which encourages businesses and individuals to do their bit to support sustainable development in Malawi. Every year, my home town of Jedburgh raises more than £1,500 to support different projects in Malawi. The partnership has caught the imagination of Scots and Malawians. We have made progress, on which our Parliament, Governments and civic society should be congratulated.

Malawians are soon to go to the polls. Malawi is a relatively new democracy, and through the Commonwealth and our partnership, we are working together to strengthen the role of parliamentary democracy in Malawi and, indeed, here in Scotland.

My comments apply not just to our relationship with Malawi. Next week, colleagues from Canada will be our guests here in the Parliament. Canadians have a history of minority Government, which is something that we in Scotland are still getting to grips with. That visit will enable us to learn from our colleagues. I will certainly be looking for some tips on effective opposition.

We have had the pleasure of meeting many other parliamentarians from throughout the Commonwealth in our first 10 years, and we have gained a great deal from their knowledge and experience. It would be fair to say that many of our practices have been of benefit to them, too.

Scotland is not afraid to play its full part in the Commonwealth. We are looking forward with great

anticipation to the Commonwealth games in 2014. On Friday, I was at my local sports council's awards evening. I know from speaking to the many talented young people who were there that they, too, are excited by the prospect of the Commonwealth games coming to Scotland and of meeting others from countries throughout the Commonwealth. That is another element of the Commonwealth that we rightly celebrate tonight. We can assure all of our friends from throughout the globe of a very warm welcome when they come to our games.

One other issue that is relevant to the debate is climate change. The Parliament is deliberating on the Climate Change (Scotland) Bill. As we consider climate change and the Commonwealth, we realise that what we do here in Scotland can have a profound impact on our sister countries, such as Bangladesh and Malawi, which will be affected by a rise in sea levels and ground temperature. In learning from our colleagues in the Commonwealth, we, too, can make ourselves better as a country.

They say that 60 is the new 40, and we all know that life begins at 40. I am therefore confident that the Commonwealth at 60 will emerge stronger and more relevant to this Parliament, to the people of Scotland and to our brothers and sisters throughout the member nations. I have much pleasure in commending the motion in my name, as we move forward to the next 60 years of the Commonwealth. [*Applause.*]

The Deputy Presiding Officer: Although our visitors are welcome, I should say that we do not encourage applause from the public gallery.

17:10

Sandra White (Glasgow) (SNP): I congratulate Karen Gillon on her excellent speech and motion. I echo her sentiments in welcoming all who have joined us in the public gallery today.

As the modern Commonwealth moves towards its 60th anniversary, its continuing endurance and popularity is to be applauded. Almost 2 billion people all around the globe are now part of the Commonwealth. Half of them are under 25, so it is entirely fitting that the theme of this year's celebrations is "serving a new generation". I am sure that we all agree that the shared future of our societies lies in the hands of our young people. Through providing them with the opportunity to realise their aspirations, we will achieve a fair and more just society.

Earlier today, I had the pleasure of speaking to a number of young people who were representing their universities from throughout Scotland. Their questions were wide ranging and covered the workings of the Commonwealth, fair trade, health,

equality, education and how the Scottish Parliament can strengthen the Commonwealth through its international aid programme, particularly in Malawi. I was impressed by their great knowledge and interest. The themes that ran through all their questions and observations were collective responsibility, mutual respect and the democracy that underpins the Commonwealth's great ideals.

The guiding principles of the Commonwealth, such as the promotion of democracy, human rights, liberty and world peace, are as relevant today as they were when the Commonwealth came into being. It is a tribute to those noble aspirations that many countries that fought for many years for their independence from colonial rule have remained part of the organisation, which has come to symbolise freedom and the hopes that, many years ago, people could only have dreamed of.

As we move towards a future that holds much uncertainty, I hope that the experience and strength of the Commonwealth will continue to help those people who are most in need. I hope, too, that the numerous programmes and worthy initiatives of which we are all undoubtedly aware—and which we will have the opportunity to highlight during the reception after this debate—will serve as examples for others to replicate.

I represent Glasgow in this Parliament, and it was with great pride and honour that we received the news that Glasgow was to host the 2014 Commonwealth games. To my mind, the Commonwealth games are an enduring symbol of the friendship and unity of the Commonwealth. The games also offer the host country and city a unique opportunity to welcome members of the Commonwealth from around the globe with pride, to extend the hand of friendship. The games offer us the opportunity to gain a better understanding of each other's cultures. Glasgow will also be able to use the games as a springboard to a lasting legacy—one that benefits ordinary citizens and furthers the overarching values of the Commonwealth.

I extend my hand in friendship to all who are here today and to all who will come to my home town of Glasgow for the Commonwealth games. I assure everyone that they will receive the warmest of welcomes.

17:13

David Whitton (Strathkelvin and Bearsden) (Lab): Like other members, I welcome tonight's debate and congratulate my colleague Karen Gillon on bringing it to the chamber.

On being elected to Parliament, I was pleased to discover that I automatically became a member of

the Commonwealth Parliamentary Association, and it was as a member of the CPA that I travelled to Kuala Lumpur for the CPA annual general meeting in August last year, along with my colleague Tricia Marwick. There, we joined elected members from countries throughout the Commonwealth, including some from the other devolved Administrations in the United Kingdom—from Wales and Northern Ireland.

Like other members, I am delighted to welcome the friends from other Administrations who are here with us today. However, I hope that they do not get the wrong impression and think that members' business debates usually pack the galleries. I see a lot more faces in the public gallery tonight than I normally see.

It is interesting to compare notes with politicians from other countries. I met one from Canada who told me that he had an electorate of 6,000—our politicians are always comparing the size of our electorates—but his constituency was the size of the Highlands and he travelled to surgeries in his own light plane. I have not had cause to do that in Strathkelvin and Bearsden. I met another politician, from Pakistan, who had an electorate of 600,000—10 times the size of mine. The one thing that all three of us had in common was the type of constituent complaints that we had to deal with.

The annual meeting was interesting. We discussed issues of security and climate change, and we were able to share common experiences. It was interesting to compare notes on how different legislatures work. We worry about mobiles and BlackBerrys going off in the chamber, and in Australia one member was ejected from his Parliament for using his laptop. Imagine my surprise when I discovered that members are allowed to do that in Wales.

The motion mentions the long-standing links that Scotland has enjoyed with Malawi and the links between CPA Scotland and Malawi. While we were in Malaysia, Tricia Marwick and I met parliamentarians from Malawi, who expressed their gratitude for all that Scotland had done and is doing for their country.

Like Karen Gillon, I have primary and secondary schools in my constituency that have connections with Malawi—Lairdsland primary school in Kirkintilloch, which my children attended, and the primary school in Milton of Campsie, which played host to three headteachers from Malawi last summer. Those headteachers visited the Parliament and I was pleased to welcome them here.

It was clear from talking to those politicians how much influence Scotland has had in Malawi, and it was clear at the CPA AGM how much influence Scotland has had in the Commonwealth. On a

number of occasions, I spoke to individuals who had attended university in Scotland. Those educational links were clearly strong and had led to increased trade links between our country and theirs. When I wore my kilt at social events, people instantly recognised my country of origin. The Presiding Officer is looking askance at me, but I assure him that I wore my kilt: Tricia Marwick can bear witness to that. It was a great way of starting conversation—and not on the perennial question of what a Scotsman does or does not wear underneath his kilt.

The Commonwealth and its organisations have been a worldwide force for good, and I congratulate it on reaching its 60th birthday. If 60 is the new 40, I have much to look forward to. I hope that I will be chosen again to represent the Scottish Parliament at a future annual meeting. I am pleased to welcome members of other legislatures from across the Commonwealth to Scotland and the Scottish Parliament.

17:17

Ted Brocklebank (Mid Scotland and Fife)

(Con): I, too, congratulate my friend and colleague, Karen Gillon, on securing tonight's debate, and I welcome our guests from other Commonwealth countries. On 26 April this year, we will celebrate the 60th anniversary of the London declaration, which signifies the founding of the modern Commonwealth. I have always believed that to know where you are going, it is important to know where you have come from.

Therefore, I will give members a brief history lesson on the origins of the Commonwealth. Those origins stretch back much further than 1949, but it was in that year that Britain's colonial legacy was consigned to the past and a partnership based on equality, choice and consensus began, which continues to this day. The declaration came at the behest of India, which wished to adopt a republican form of constitution while being able to retain its link to the Commonwealth and all the benefits that that provided. India still recognised King George VI as head of the Commonwealth but not as its head of state. The London declaration emphasised the freedom and equality of its members in their co-operative

"pursuit of peace, liberty and progress"—

qualities that are very much in evidence in all the valuable work that the Commonwealth continues to carry out today in strengthening relationships around the world.

The Commonwealth's success over the past 60 years is perhaps best measured in the growth in its membership from an initial association of eight states to a free association of independent states

that now has 53 members that continue to consult and co-operate with each other on common interests and in the promotion of international understanding. The Commonwealth is also hugely diverse. It comprises countries rich, poor, large and small from all the major continents. Its importance in facilitating co-operation between diverse member states on common interests cannot be underestimated.

The Scottish branch of the Commonwealth Parliamentary Association was formed in May 2000, only a year after the Scottish Parliament came into being. Since then, thousands of delegates from Commonwealth nations have visited our new Parliament, and MSPs have had the opportunity to study at first hand how other Commonwealth Governments work.

This year is Scotland's year of homecoming, and we look forward to welcoming many visitors from the Commonwealth countries. I expect that visitors from those countries—such as Canada, Australia and New Zealand—who have strongly Scottish antecedents will be particularly interested in witnessing the gathering in July: Scotland's largest ever Highland games, to which I cordially invite everyone who is listening this evening.

Over the past four years, Scotland has strengthened its strong relationship with Malawi, which dates back to the work of missionaries and Dr David Livingstone. For 150 years, Scots have worked with the people of Malawi, helping them to develop basic education and health systems. In late 2005, a co-operation agreement between Scotland and Malawi was signed with the aim of both Governments working together to build a civic coalition—a partnership of skills and expertise that is intended to help fight extreme poverty and assist Malawi in meeting its millennium development goals. I had the pleasure of visiting that beautiful but struggling country three years ago, as a member of a CPA delegation from this Parliament, so I am delighted that a recent independent review of projects that are run by Scottish organisations in Malawi shows that the Scottish Government's international development fund is having a direct and positive impact. I am particularly glad that an extra £1 million is to be made available to Scottish non-governmental organisations that are working in Malawi on projects that deal with the priority areas for action, as agreed between the Scottish and Malawian Governments.

As we have heard, the Commonwealth's theme for 2009 is that of serving a new generation. It could not be more appropriate. There are more than 2 billion people in the Commonwealth, half of whom are under 25 years of age. It is vital that we do our utmost to tackle the problems that will have the greatest bearing on the next generation—

climate change, sustainable development and poverty eradication. Already, those key issues are being addressed, and I am sure that we will be able to further strengthen relationships across member states, which will enable even greater co-operation and consultation in tackling the issues that bear most heavily on the new generation that the Commonwealth seeks to serve.

17:22

Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I congratulate Karen Gillon on securing this important debate. I extend a warm welcome to our honoured guests and to the students in the public gallery, whom I, Sandra White and Ted Brocklebank met immediately before this debate.

For a variety of reasons—some sad, some to do with electoral misfortune, some to do with people retiring—I am the member of the Scottish Parliament who has served for the longest time on the executive committee of the Scottish branch of the CPA. It is appropriate, as we are almost 10 years into the life of the Parliament, to refer to four individuals who contributed greatly to the workings of the CPA.

The first of those people is Keith Raffan—a member of my party, whose inimitable style brought to mind a cross between Ian Fleming, the author of the James Bond books, and Kenneth Williams. He had a huge amount of enthusiasm and barbed wit. When I became involved in the CPA, I learned that he was remembered fondly by parliamentarians across the Commonwealth.

I would also like to pay tribute to the late Margaret Ewing. Perhaps the greatest honour that any MSP can have is to be dearly loved by members of all parties in Parliament, as she was. She is much missed, far beyond the walls of this fine building.

Sylvia Jackson and Lord James Douglas-Hamilton are no longer members. Sylvia Jackson brought a remarkable degree of diligence to the job—there was nothing that she did not get into and swot up on. She, too, was very well liked.

What can I say about Lord James Douglas-Hamilton? He had a slightly unworldly air but, particularly in his relationship with Canada, he contributed a great deal. Although Lord James was possibly the grandest and most blue-blooded member of this place—he was, after all, a lord—he was also one of Jock Tamson's bairns and was, in the extremely effective way in which he worked with the Commonwealth, an example to us all.

It would be wrong of me not to congratulate the minister on what will be his maiden speech as a minister. Earlier, I noted that he had two whips in

attendance—one beside him and one behind him—so I wondered whether they thought he was in danger of saying something that he should not. However, I see that they have left us, so we look forward to his speech.

Before the debate, Stuart Ritchie of the University of Glasgow talked about what the point of the CPA is. As others have said, the point of the CPA is to provide a stable structure in a changing world. The CPA has a role to play in promoting parliamentary democracy, tackling human trafficking and working on issues such as HIV/AIDS. Its value is obvious.

Close to home, in the light of the unfortunate and tragic events in Northern Ireland, the fact that Northern Ireland has spread its wings and become part of the CPA helps the process there. Working together, we can achieve a great deal.

Ted Brocklebank said that almost 2 billion people live in the 53 states in the Commonwealth. The students asked us what the point of the CPA is. If almost 2 billion people, which is a significant proportion of the population of the globe, are working together, that must surely be for the betterment of mankind.

We see the Commonwealth at 60, and 60 is the new 40. Nothing has ever been truer than to say that it is “serving a new generation”, because, as Ted Brocklebank said, approximately a billion people in the Commonwealth are under 25 years of age.

The Commonwealth is an enormous success and I am proud of my colleagues' role in it. I thank Margaret Neal and her colleagues for their contribution over the years to making the CPA in Scotland work.

Believe it or not, states outwith the 53 are expressing an interest in joining us; they see this as an organisation of which they would like to be part. I might be so bold as to mention Eire—the Republic of Ireland—but who knows what might happen? There were some unfortunate events in Boston involving tea, and 1776 was a date that George III never forgot or, some might say, ever got over, so who knows which states may queue up to join us in the future? It is a happy birthday for the Commonwealth and the CPA and it has been my pleasure to take part in the debate.

17:26

Peter Peacock (Highlands and Islands) (Lab): Before I decided to speak in the debate, I reflected briefly earlier today on when I first became aware of the Commonwealth. I suspect, because of my interest in athletics as a youngster, that it was through watching or hearing about the Commonwealth games. Although I remember very

little about it, I also had the pleasure of living in Jamaica for some of my early years. The Queen visited Jamaica in 1953 when I was there—I know that members will find it hard to believe that I could have been there in 1953. I do not remember anything about the Queen's visit, but I vividly remember being shown photographs of it in a family album when I could appreciate such things and was told that the Queen was there as the head of state and the head of the Commonwealth.

I remember from my school days the legacy map of the world that hung on the wall. There were huge areas of pink on it, which represented what was then the British Empire. I am glad that it came to an end in the way that Ted Brocklebank described and that, for the reasons that Ted Brocklebank mentioned, a far better form of relationship between many nations developed through the Commonwealth.

Three or four years ago, that general awareness of the Commonwealth turned into my being fully awakened to it, when I had the great privilege of chairing in Edinburgh the Commonwealth conference of education ministers. It was only when all those delegates—education ministers from other nations—were there sharing common cause that the sheer scale of the Commonwealth became apparent to me, in respect not only of the geographic area to which it extends and the hundreds of millions of people who make up its population, but also of the diversity, from north to south and east to west, of the cultures that exist in the Commonwealth.

I also became aware of the different challenges. One moment from that conference will stick with me for ever. We were discussing the difficult issue of the damage that was being done by countries effectively poaching each other's teachers, particularly in the African continent, and also the rate of attrition among the teaching population as a result of AIDS, which was horrific.

We also discussed the access that young people had to education. Millions of young people in the African subcontinent still do not have access to basic education. During the debate, my pager was buzzing—my private secretary was telling me that I was running an hour late for a meeting in St Andrew's house and that I had to get there quick. For obvious reasons, I could not leave the Commonwealth meeting until it was concluded, but I got to the meeting in St Andrew's house to discuss one of my ministerial responsibilities—I had to decide whether to put 2Mbps or 8Mbps of broadband connection into every single school in Scotland. I was struck by the contrast between the debate that I had come from on the fundamentals of providing basic education to millions of people and the discussion of the further sophistication

that we were trying to add to an already sophisticated education system.

Despite those differences and contrasts, there were still common bonds between the countries and there was still a desire to learn from each other, to share experiences and to help develop those who need it, but there was still the opportunity for us to learn lessons about things that we have forgotten within our learning system.

In discussions that I had during the conference in Edinburgh, I was made very much aware of the great similarities in the government and administrative systems of Commonwealth countries.

Following that conference, I have had the pleasure to be welcomed in, and to build contacts with, a number of Commonwealth countries including Australia, New Zealand, Canada and Singapore. Last summer, during a trip to British Columbia, I was able through the CPA to visit the Parliament there and to meet people who are involved in education. One of the strengths of the association is that one can, almost at the drop of a hat, make connections in countries all over the world to everyone's mutual benefit. I commend it for that.

After 60 years, the Commonwealth is still relevant and should remain so. It is a force for good, but there is much more to be done over the coming years, so I certainly wish it well in its task.

17:30

The Minister for Schools and Skills (Keith Brown): After listening to members, I am heartened by the chamber's support for the Commonwealth's work and assure the representatives of other Commonwealth countries in the gallery that, even though they have not been able to attend the debate, colleagues from all parties share that position.

I, too, congratulate Karen Gillon not only on securing the debate but on her work in Malawi, which she mentioned at length. Like other members, I welcome representatives from the different parts of the Commonwealth to the Parliament.

Karen Gillon said that we might be able to learn something about minority Government from Canadians. All three of my children are Canadian citizens and although I have not learned much from them about minority Government I have certainly learned a lot about being a minority in my own family.

I, like other members, have visited a number of Commonwealth countries, particularly Canada, where I was involved in one of the university-level education exchanges mentioned earlier. Perhaps

unusually, I have also visited the Falkland Islands, which I would very much like to return to. I hear that it is much quieter now than it was when I was there. I believe that a former member of the Parliament, David Davidson, also visited the islands.

Scotland's historical links with Commonwealth countries are well known. I am pleased that, although the nature of the relationship with our partners has changed, the spirit of working together for peace, democracy, equality and good governance continues as a theme for the Commonwealth today. For her part, Scotland continues to look beyond her borders with a strong sense of social responsibility for those around us, regardless of their place in the world.

I believe that that is reflected in our international development policy, which was launched last May and which builds on the historical and contemporary relationships between Scotland and many Commonwealth countries, especially those in sub-Saharan Africa. As Karen Gillon and others pointed out, our long-standing engagement with Malawi continues to go from strength to strength. Through the sub-Saharan Africa development programme we are developing programmes in two other Commonwealth countries—Zambia and Tanzania—and the international development fund has enabled us to support work in developing countries with vulnerable children who are at risk of abuse and exploitation.

In looking beyond our borders, we must also keep an eye on what others can teach us. The Scottish Government is determined to increase opportunities for all young people to experience international education in schools and we are working in partnership with organisations to ensure that international education is embedded in the school curriculum. As Peter Peacock made clear, international education presents an exciting range of opportunities for teachers to deliver many of the outcomes and experiences set out in the curriculum for excellence, the programme of change that we are introducing in our schools. If our young people are to participate actively in a global society, they will require a range of knowledge and skills, which international education will develop, to ensure that they not only grow up with knowledge and understanding of the world and Scotland's place in it, but are tolerant, understanding and respectful individuals. Teacher exchanges, such as those organised by the League for the Exchange of Commonwealth Teachers, and study visits have a positive impact on learning and teaching in schools and provide an opportunity for teachers to reflect on their practice.

With regard to higher education, we want to continue to attract the brightest and best overseas

academic talent to help us build a smarter, wealthier and fairer Scotland. Our funding of both Commonwealth and Chevening scholarships will enable our universities to attract overseas students and therefore build on their links with developed countries such as Australia and Canada as well as to further relationships with developing countries, such as Malawi. I confirm from my own experience that the year in which I did an exchange course at university was by far the most fruitful year that I had there. It was certainly the most memorable year.

The Scottish Government is committed to building on the strong historic and modern relationship between Scotland and India, as outlined by Ted Brocklebank. We are developing a new programme for the Indian sub-continent that will not only recognise our historical links with it, but reflect modern patterns of migration and cultural diversity in Scotland. The Scottish Government is working to develop those links. Last week, two Scottish ministers—Jim Mather and Mike Russell—met stakeholders to discuss where the Government could add value to the ongoing activity and the forthcoming opportunities for strengthening our relationships with India.

The Glasgow Commonwealth games in 2014 have been mentioned. The Commonwealth has put its trust in Glasgow and Scotland to deliver those games, and we take that enormous vote of confidence from the international community very seriously. Scotland has been given a mandate to deliver the best games that it can, and I am confident that we will do just that. We are building a legacy plan with health as a unifying theme across a range of areas: health, sport, education, culture, volunteering, the environment, business, skills and employment, and tourism and international profile. The games can help to change people's attitudes by providing opportunities for young people to embody the Commonwealth Games Federation's values of humanity, equality and destiny.

The Scottish Government and the Scottish Parliament have cultural links across the Commonwealth that are too numerous to list in this speech. Many will have celebrated those links in Burns suppers in the past few weeks. Last month, a contribution of £200,000 from the Scottish Government enabled the Scottish Chamber Orchestra to become the first western orchestra to make a multirate tour of India. "Black Watch", which has recently received a number of honours, played across Australia to critical and popular acclaim.

Alongside culture, trade bonds the Commonwealth together. Scottish Development International has offices in India, Singapore, Canada and Australia. Next month, my colleague

Mike Russell, who is an enthusiastic member of the Commonwealth Parliamentary Association, will attend two Scotland week events in Toronto and Vancouver. We look forward to strengthening those particular links.

Meeting closed at 17:38.

In conclusion, the world has changed and the Commonwealth has changed with it. The Commonwealth is now more than ever a partnership of equals, as it must be. We live in a world in which we depend on one another for peace and prosperity. The peoples of the Commonwealth will continue to face their challenges. I commend the motion and Commonwealth day in general for recognising that those challenges are better met by independent states co-operating and consulting in the common interest.

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