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Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Thursday 27 February 2014

Session 4

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Scottish Parliament

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

General Question Time

Junior Doctors' Hours

1. Linda Fabiani (East Kilbride) (SNP): To ask the Scottish Government how junior doctors' hours are regulated. (S4O-02947)

The Cabinet Secretary for Health and Wellbeing (Alex Neil): Junior doctors' working hours are set and controlled by the new deal contract and the working-time regulations, both of which set limits on the number of hours that a doctor can work and ensure that minimum periods of rest and time off are adhered to. The working-time regulations limit hours of work to an average of 48 per week, and all junior doctor rotas in Scotland comply fully with the limits in the regulations.

Under the new deal contract, NHS boards are required to monitor junior doctors' hours of work twice a year. In that exercise, junior doctors self-monitor by recording the hours that they work and the rest breaks that they achieve over a minimum period of two weeks. That information is then analysed by NHS boards to assess their compliance with the new deal contract and the working-time regulations. The results from the monitoring are reported to the Scottish Government's medical workforce adviser and to the junior doctors involved.

Linda Fabiani: I thank the cabinet secretary for his answer, but the practice in workplaces is often very different from the theory. I know that there are concerns about the culture in which junior doctors work, and those are currently being discussed with the British Medical Association and others.

Does the cabinet secretary have a view on what can be done to ensure that what is documented is actually happening on the ground?

Alex Neil: I met last month—at my request—with the BMA's junior doctors committee in Scotland, and we have agreed to work together on the issue. I want to be completely assured that we are meeting not only the spirit of the working-time regulations and the new deal contract, but the letter of the law. I want us to look at ways in which we can ensure that junior doctors are not overburdened as a result of the total hours that they work or the rota system in which they work.

I will discuss the matter further when I meet the BMA next week, and we will look at any additional action that needs to be taken to ensure that we meet the requirements of the regulations and the contract.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): I thank the cabinet secretary for his fairly full answers and evident concern on the matter. I share the concerns of Ian Ritchie, the president of the Royal College of Surgeons of Edinburgh, who recently announced publicly that while the letter of the law on rotas is being fulfilled, the spirit is not.

In addition, the correspondence that I have received demonstrates that the diaries to which the cabinet secretary referred, which are part of the self-monitoring procedure, are often being filled in incorrectly, as junior doctors are being strongly urged not to include hours beyond the hours that they should serve.

Too many junior doctors are still having to work for 100 consecutive hours over a brief period before driving home very late at night, which resulted in the recent death of Dr Connelly, which was a distressing event for her family.

Has not the time come for an independent review of how the rotas are handled internally by health boards to ensure that, as the cabinet secretary said, the spirit as well as the letter of the law is followed?

Alex Neil: There has certainly been no demand for an internal review. It is important to act as quickly as possible on any issues that need to be addressed, and I am addressing jointly with the BMA junior doctors committee the issue of recording hours to which Dr Simpson referred. We will work out the way forward together, and I will take whatever appropriate action I need to take to ensure that we are not putting an unfair or undue burden on junior doctors, not only with regard to the regulations and the contract but in terms of ensuring that the rules are being followed in spirit and are not being bypassed in any way that could threaten the livelihoods or indeed the lives of junior doctors.

The Presiding Officer (Tricia Marwick): Before I call question 2, I remind members that I would appreciate succinct questions and answers. In that way, we will make progress through the list.

New Psychoactive Substances

2. John Scott (Ayr) (Con): To ask the Scottish Government what it is doing to tackle the supply and use of new psychoactive substances. (S4O-02948)

The Minister for Community Safety and Legal Affairs (Roseanna Cunningham): The member will be aware of course that our actions

are restricted by the fact that new psychoactive substances are not classified under the Misuse of Drugs Act 1971. We had our first Scottish Parliament debate on new psychoactive substances on 6 February 2014, during which I summarised the work that has been done to date and announced my plans to work with partners in Scotland and at the United Kingdom level to combat the supply and use of new psychoactive substances, including plans for a summit in the near future.

In 2013, I made new psychoactive substances a priority for Scotland's alcohol and drug partnerships. Mr Scott will be interested to hear about the proactive approach to addressing new psychoactive substances in his constituency that has been undertaken by NHS Ayrshire and Arran and associated ADPs. It includes the establishment of a pan-Ayrshire drug trend monitoring group; work to determine the prevalence of new psychoactive substance use locally; and training to raise awareness for staff, service users and people at risk.

John Scott: The minister will know that a recent freedom of information request revealed that NHS Ayrshire and Arran had the highest number of accident and emergency admissions due to new psychoactive substances, although only six out of the 14 health boards were able to provide figures. What is the Scottish Government doing to address the issue, specifically in light of the particular health risks from new psychoactive substances? Will the Government take steps to ensure that all health boards are recording information on hospital admissions and treatment due to new psychoactive substance use in order to better inform efforts to reduce the use of those harmful substances?

Roseanna Cunningham: Hospitals in Scotland record information using the international classification of disease codes, but unlike for other substances there is no specific international code for new psychoactive substances. That means that there is no agreed central recording system, so figures produced by NHS boards locally are not sufficiently robust to be comparable by year and by NHS board. The codes are used internationally, so there is a similar difficulty worldwide of hospital recording of new psychoactive substance use. The World Health Organization is consulting on a revised version of the coding system, but that is not due until 2017. However, we will continue to work with partners locally and nationally, including in the national health service, to look at how data can be better collected in drug services and in hospitals to help us understand the full extent of new psychoactive substance use and the health impacts, and how, collectively, services in Scotland can best respond.

Graeme Dey (Angus South) (SNP): Is the minister aware of a recent case involving new psychoactive substances in Belfast in which a judge ruled that under the General Product Safety Regulations 2005 so-called legal-high products seized from a shop could be destroyed on the ground of inadequate labelling and safety information? Will the Scottish Government consider whether similar use of those regulations might be made here in Scotland to help reduce ready access to new psychoactive substances?

Roseanna Cunningham: I am aware of the recent case in Belfast. I can advise the member that I have already asked my officials to look at it very closely indeed. I would be astonished if Police Scotland was not looking at the case and considering whether it pointed to a potential way forward in Scotland. I hope that we can discuss the issue at the summit to which I referred in my response to John Scott.

Care Home Inspections (Standards)

3. Claire Baker (Mid Scotland and Fife) (Lab):

To ask the Scottish Government what measures it is taking to ensure the highest standards of inspections in care homes. (S4O-02949)

The Cabinet Secretary for Health and Wellbeing (Alex Neil): The Government is absolutely committed to ensuring the highest possible standards of care and has strengthened the inspection regime to allow the Care Inspectorate to direct its resources where they are most needed. As part of that new regime we require the Care Inspectorate to inspect every care home in Scotland on an unannounced basis at least once a year. Additional inspections are carried out on services that are at the greatest risk, and that means that high-risk services are inspected several times during the year to ensure that improvements are being made. We have tasked the Care Inspectorate and Healthcare Improvement Scotland with developing a new inspection model that focuses on improving outcomes for people who receive care.

Claire Baker: The cabinet secretary may be aware of the case of Jimmy Gallacher, who died in hospital in Kirkcaldy in September a week after his care home was given a six-star rating. Hospital staff identified failings in his care, including severe bedsores, lack of nutrition and dehydration. It was an extremely distressing situation for his family, who believed that he was being well looked after in the care home because the inspection reports suggested that he was. However, the Care Inspectorate subsequently upheld nine complaints against the care home and downgraded its rating to "weak".

I acknowledge the proposed changes that the cabinet secretary has outlined, but does he agree

that there are serious failings in the system when a care home is given top marks by the inspectorate, only for an elderly resident to die days later in hospital, with dehydration and signs of neglect being contributory factors? Does he agree that we now need to move towards having an independent inspection regime in which residents, their families and staff in the sector can have confidence?

Alex Neil: Obviously, I cannot comment on individual cases.

I point out that the Care Inspectorate is entirely independent of Government. The Care Inspectorate reviews cases in which something appears to have gone wrong, but I would be cautious and careful about saying that something going wrong in one particular case is a prima facie indication of systemic failure across the entire care inspection regime. I do not think that that is necessarily the case.

The Care Inspectorate is looking at that case and at a number of other cases to ensure that its inspection regime is as robust as it needs to be—and should be—and is in line with the overall policy that I outlined in my first reply.

The Presiding Officer: Question 4 in the name of Duncan McNeil has been withdrawn. The member has provided an explanation.

NHS Ayrshire and Arran (Meetings)

5. Willie Coffey (Kilmarnock and Irvine Valley) (SNP): To ask the Scottish Government when it last met NHS Ayrshire and Arran and what matters were discussed. (S4O-02951)

The Cabinet Secretary for Health and Wellbeing (Alex Neil): Ministers and officials regularly meet representatives of NHS Ayrshire and Arran to discuss matters of importance to local people.

Willie Coffey: In relation to delayed discharges in Ayrshire and Arran, which are significantly under the Scottish average, can the cabinet secretary assure me that everything is being done to improve the position, particularly in assessing whether admissions are necessary and, of course, ensuring that discharge plans are put in place as early as possible and that such arrangements coincide with planned discharge dates?

Alex Neil: Health boards and local authorities must work together to ensure that the discharge planning process is started as early as possible in the patient's journey. That will ensure that any carer support that is needed on discharge is put in place for the discharge date.

Partnerships across Scotland are making good progress in developing intermediate care services, and such step-up, step-down services are helping

to reduce unnecessary admissions to hospital as well as ensuring timely discharges. Although many of those services are at the early development stage, positive results are already being seen, including—as I am sure you will be glad to learn, Presiding Officer—in Fife.

Slipper Farming (Abolition)

6. Rob Gibson (Caithness, Sutherland and Ross) (SNP): To ask the Scottish Government what progress it has made on abolishing so-called slipper farming. (S4O-02952)

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): Tackling what is called slipper farming was one of our top priorities in negotiating the new common agricultural policy. I was pleased to meet Commissioner Ciolos̄ recently to discuss the issue further, and he indicated that one of our proposed options for implementing the rules would comply with the European regulation and World Trade Organization rules. We are now proceeding on that basis.

What that means is that in order to meet the minimum activity requirement farmers will have to either graze domestic livestock or carry out annual management activities on land. That is in contrast to the current CAP rules, which do not include any active management requirements. I hope that the measure will go a long way towards tackling a very unacceptable practice.

Rob Gibson: Slipper farmers often buy subsidy entitlement through brokers from estates with naked acres. Is the cabinet secretary able to reveal how many millions of pounds of public money are made by all parties in a legal but despicable trade that has caused a loss in active farm support for new entrants, crofters and family farms across Scotland?

Richard Lochhead: Given the current regulatory quagmire of the common agricultural policy with regard to the matter, it is always difficult to work out exact figures. However, in his report of a few years ago, Brian Pack estimated that up to €30 million of farm payments was going to slipper farmers each and every year. That equates to around 4 per cent of the budget and roughly 4.4 per cent of the claimed area.

As I have already indicated, there will be more restrictions in place under the new CAP, including on the trading of entitlements across payment regions. That should cut down on the use of the practice and help us as a Government ensure that farming support is directed at genuine farming activity.

Bus Service Operators (Discussions)

7. Mark Griffin (Central Scotland) (Lab): To ask the Scottish Government what recent discussions it has had with bus service operators. (S4O-02953)

The Minister for Transport and Veterans (Keith Brown): My officials, ministerial colleagues and I frequently meet bus service operators and their representatives to discuss a range of issues.

Mark Griffin: In a recent letter to the local MP, Glasgow Citybus cites the continued erosion of reimbursement levels in the national concessionary fare scheme as being a major contributing factor to its decision to withdraw three services in West Dunbartonshire. Can the minister tell me how many bus services have been withdrawn across Scotland since the concessionary fare reimbursement rate was reduced?

Keith Brown: As the member will know, the removal of services is the responsibility of the traffic commissioner, but I can say that there were 423 million journeys by bus in 2012, which equates to around 80 per cent of all public transport journeys.

In relation to the reimbursement rate, the alternative was to keep it at the previous rate. We considered the evidence for that, and came to an agreement with the industry on the new reimbursement rate. From what the member has said, I assume that he wants to keep the old rate. If that is the case, perhaps we should have seen that in Labour's budget proposals, but we did not.

We have taken an evidence-based approach that gives operators a proper rate of return, based on evidence, and they have accepted that. That is the right way to do this.

River Dredging (Powers)

8. Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): To ask the Scottish Government what powers it has to ensure the dredging of rivers where it is appropriate. (S4O-02954)

The Minister for Environment and Climate Change (Paul Wheelhouse): The Scottish Government has empowered the Scottish Environment Protection Agency to regulate dredging under the Water Environment (Controlled Activities) (Scotland) Regulations 2011. Local authorities and other land managers can apply to SEPA for a licence to dredge where dredging is clearly the best way to solve a problem such as flood risk, in accordance with guidelines that were updated in July 2013.

However, dredging is not always effective in reducing flood water levels and can cause other problems such as increased erosion and higher

flood risk downstream. SEPA assesses licence applications for dredging on a case-by-case basis, and encourages applications to be part of sustainable, long-term catchment solutions to sediment management issues.

Low-risk activities, such as debris and vegetation removal, do not normally require an authorisation from SEPA.

Malcolm Chisholm: I realise that the issue is complex and controversial, but the build-up of silt at the Water of Leith basin has been a matter of concern to local residents for some time. Would it be possible for an official from SEPA to meet the friends of the Water of Leith basin, which is a Leith group with a large membership, in order to discuss the problem and advise on what action, if any, may be appropriate?

Paul Wheelhouse: I am happy to agree to arrange a meeting between SEPA officials and Mr Chisholm's constituents to discuss those matters.

Scottish Housing Regulator (Discussions)

9. James Kelly (Rutherglen) (Lab): To ask the Scottish Government what recent discussions it has had with the Scottish Housing Regulator. (S4O-02955)

The Minister for Housing and Welfare (Margaret Burgess): I last met Kay Blair, the chairperson of the board, on 3 December 2013. We discussed a number of topics related to the regulator's work.

James Kelly: Is the minister aware that the regulator is imposing a staff code of conduct over the heads of local housing associations? Does she share my concern that the regulator is operating outwith its remit? Will she agree to meet me and staff representatives to discuss their concerns?

Margaret Burgess: As the member knows, the regulator is independent of Government and is answerable to the Scottish Parliament. I suggest that any specific concerns that the member has should be taken up in the first instance with the chairperson of the regulator's board. If, after that, he is still unsatisfied, he should raise the matter with the Parliament's Infrastructure and Capital Investment Committee, because the regulator is independent of Government.

Maureen Watt (Aberdeen South and North Kincardine) (SNP): As the minister obviously knows, and as James Kelly should know, the Housing (Scotland) Bill, which the Infrastructure and Capital Investment Committee is scrutinising, contains proposals relating to the Scottish Housing Regulator. Does the minister agree that we should wait until all the evidence is taken before any judgment is made?

Margaret Burgess: I acknowledge that there are issues around the Housing (Scotland) Bill. However, I reiterate that, rightly, the regulator is independent of Government and is accountable to Parliament. That is the way that it should be, because we all know that good governance in housing associations is extremely important.

I say again that anyone who has concerns can raise them with the regulator or, through the Infrastructure and Capital Investment Committee, with the Parliament.

First Minister's Question Time

11:59

Engagements

1. Johann Lamont (Glasgow Pollok) (Lab): To ask the First Minister what engagements he has planned for the rest of the day. (S4F-01907)

The First Minister (Alex Salmond): Sadly, we had confirmation early this morning that a 62-year-old man fell from Taqa's Harding platform in the North Sea during maintenance activity. He was transferred to Gilbert Bain hospital but, unfortunately, has passed away. I know that the whole chamber will join me in expressing our sincere condolences to the family, friends and colleagues at this distressing time.

Johann Lamont: We on this side add our condolences and recognise the importance of ensuring that people who go to work are kept safe when they are there.

Standard Life has made plans to leave Scotland if Scotland leaves the United Kingdom. How many more companies need to leave Scotland before the First Minister admits that a yes vote would be a disaster for Scottish jobs?

The First Minister: Let me quote exactly from the question-and-answer session at the Standard Life annual general meeting today.

"How many people do you employ in Edinburgh/Scotland? What would be the impact on jobs of moving your HQ?"

We have made no decisions to move any part of our operations from Scotland at the current time as a consequence of the constitutional debate. We are proud of our Scottish heritage and believe that Scotland is a good place from which to run our business and compete around the world."

Standard Life then says that it has contingency plans

"if this does not continue to be the case".

Our submission would be that Standard Life will find Scotland a good place to do business, as it finds the 10 countries around the world in which it does business. That will happen first and foremost because of the excellence of the staff. Its prime asset is the 5,000 people who work for it in Scotland, who are the strength of the company and what has made it successful. Secondly—this matters to some of the points that Standard Life has made—the Scottish Government puts forward the concept of a shared currency and regulatory framework, which are exactly the sort of things that Standard Life has been calling for.

Given that statement about the importance of Scotland as

“a good place from which to run our business and compete around the world”,

can the chamber not unite in having confidence that an independent Scotland—indeed, Scotland under any constitutional framework—will be exactly that?

Johann Lamont: Only in Alex Salmond’s world is what Standard Life said today represented by what he has just said. A tried and tested path: denial, deception, delusion. [*Interruption.*]

The Presiding Officer (Tricia Marwick): Ms Lamont, “deception” is not acceptable in the chamber.

Johann Lamont: It certainly is not. It is not acceptable in real life, either. Standard Life— [*Interruption.*]

The Presiding Officer: Ms Lamont, it is not acceptable in the chamber. Continue.

Johann Lamont: Standard Life employs 5,000 people in Scotland. It is worth nearly £250 billion and 90 per cent of its customers are in the rest of the United Kingdom. Now, Standard Life is actively making plans to leave Scotland if the First Minister gets his way. No amount of bluff, bluster and bullying from Alex Salmond can change that fact. Will the First Minister admit that, if Scotland leaves the United Kingdom, people’s jobs will leave Scotland?

The First Minister: Let me get this right for Johann Lamont: the bluff, bluster and bullying apply to George Osborne, who is the Tory chancellor that she is in alliance with; what Standard Life is saying is what I have read out.

Johann Lamont says that she does not believe what I say, but I was reading out exactly from the question-and-answer session at today’s AGM. Standard Life is pointing to the fact that it wants Scotland to be

“a good place from which to run our business and compete around the world”,

as it competes in 10 countries at the moment. We are putting forward the view that Scotland is going to be a good place from which to run business. We can do that because of the propositions that we make, which are that we will have a currency union and a secure regulatory environment. Above all, Standard Life depends on the skills and assets of its staff—they are what make and have made Standard Life a successful company.

The Scottish Government has put forward a viewpoint of what we believe to be in the best interests of Scotland—that is a logical and rational argument. Is Johann Lamont really making the case that Scotland is not going to be a good place to do business? That is what this hangs on. The evidence tells us—and it is substantial evidence—

not only that it will be a good place to do business, but that an independent Scotland will be a more competitive place to do business.

Johann Lamont: It is precisely because Scotland is a good place to do business that we want it to stay strong in the United Kingdom and in the currency union that we have. The First Minister must explain why he wants to change something that works.

Of course, it is not just Standard Life that we are talking about. The Royal Bank of Scotland—the bank that the First Minister used to work for and the bank that he encouraged to do the deal that made it go bust— [*Interruption.*]

The Presiding Officer: Order.

Johann Lamont: We have all seen the letter that the First Minister wrote to Fred Goodwin telling him to go ahead with the deal.

The Royal Bank of Scotland has said that uncertainty is damaging its fragile business. Standard Life is planning to leave Scotland, and RBS is shedding Scottish jobs. When the First Minister said that he “didn’t mind” Thatcher’s economics, he really was not kidding. Is it not the case that Alex Salmond’s plans would do more damage to Scotland than even Margaret Thatcher?

The First Minister: Only somebody who believes that Scotland is not “genetically programmed” to make political decisions could possibly come up with that concoction of nonsense. Let us take it apart piece by piece.

First, we have been here before: Standard Life has expressed concerns in the past. In 1992, the managing director of Standard Life wrote to every employee saying that any constitutional change would be damaging for the business and would cost jobs. However, by 1997, it had changed its mind as experience had shown that constitutional change could offer a secure business environment. Johann Lamont should remember that other people have been convinced by experience and evidence that Scotland is genetically programmed to make political decisions.

Johann Lamont mentioned other things. I point out that there has been a range of statements across the financial sector. Ross McEwan stated that the Royal Bank operates in 38 countries and that an independent Scotland would make it 39. Just a few days ago, the Barclays chief executive described independence as a matter for the Scottish people to decide. He said:

“we think we can make it work either way as a bank.”

Martin Gilbert, of Aberdeen Asset Management, said:

“If it did happen, it would be neutral for Scotland’s financial services industry.”

Major figures recognise that the operations of their business in an independent Scotland could be highly successful.

When we were faced with businesses who had concerns and doubts, the answer of those supporting constitutional change was to demonstrate by evidence and experience that Scotland would be more successful. That is what was done in the past; that is what will be done with the independence debate.

The onus is on Johann Lamont to say that she believes that Scotland is capable of making political decisions. If she does not believe that—she seemed to deny that in a debate earlier this week—the whole basis on which we have come so far with this Parliament is being denied. As we have demonstrated our ability to run so many of Scotland’s affairs—better than they have ever been run from Westminster—so, too, will we demonstrate our ability to run our economy and the other great issues for which an independent Scotland would be responsible.

Johann Lamont: Yet more quotes from the First Minister—somebody must have been up all night googling “Alex Salmond is right.” I just hope that they were paid for that.

The issue is far too serious for the First Minister to debate by making cheap points, including on the significance of what Standard Life is saying. BP has warned that independence will damage Scotland; RBS is being damaged by the uncertainty that Alex Salmond is causing even now; Standard Life is planning to leave Scotland if there is a yes vote; and the workers on the Clyde are warning that there will be no shipbuilding after a yes vote.

The First Minister can selectively quote all that he likes. He can rewrite people’s words and try to mislead the people of Scotland all that he can. However, the reality is that more jobs would go than went at Ravenscraig, more jobs would go than at Bathgate, more jobs than at Linwood. If there is a yes vote, is it not the case that we will need to rewrite the song—[*Interruption.*] If there is a yes vote, is it not the case that we will need to rewrite the song: “Standard Life no more, RBS no more, shipbuilding no more, the Scotland we love and fight for no more”?

All that, for Alex Salmond, is a price worth paying. [*Applause.*]

The Presiding Officer: Order.

The First Minister: Does Johann Lamont not recall that what she has just quoted—Bathgate, Linwood, Lochaber no more—were put out by the no campaign in 1979, a campaign that she

supported because she was against devolution? Scotland did not get a Parliament, and guess what happened? Bathgate, Linwood and Lochaber all closed.

Of course, if Johann Lamont had not supported the no campaign in 1979, she could have said that that was all Tory scaremongering, but now we are saying that it was not just Tory scaremongering, because Johann Lamont was a no voter in 1979. She agrees with the tactics that Scotland has grown out of over the past 20 years. We have seen through the scaremongering. If we had not seen through it, we would not now have this Parliament.

I say to Johann Lamont that Scotland will go on to prosperity and more equality through independence. It will not be “our business no more”; it will be “Labour no more”. [*Applause.*]

The Presiding Officer: I call question 2—[*Interruption.*] Order.

Prime Minister (Meetings)

2. Ruth Davidson (Glasgow) (Con): I add our condolences to those from the whole Parliament to the family of the worker from the Taqa platform who was tragically killed.

To ask the First Minister when he will next meet the Prime Minister. (S4F-01905)

The First Minister (Alex Salmond): No plans in the near future.

Ruth Davidson: This morning, 5,000 people throughout Scotland woke up to hear that, in the event of a yes vote, their jobs might move south. The chief executive of Standard Life, David Nish, said that he had started to establish companies outside Scotland to operate in the event of independence. The firm stresses that it is not telling people how to vote; it is just making calm and rational preparations for what happens when a country in which it is operating is broken up. Standard Life has just told us its plan B. Why will the First Minister not do the same?

The First Minister: I will read Ruth Davidson something that was written in the past:

“The Scottish life insurance industry has emerged, in recent weeks, as the business sector most publicly tormented by even a hint of home rule. The biggest players, led by Standard Life and Scottish Widows, even resorted to ill-judged letters to staff warning of the grave consequences for jobs of any slippage from the status quo.”

That was written by the commentator Alf Young about the 1992 election campaign. What was the worst thing about that aspect of the campaign? It was the Conservative Party, which was exploiting the fears of business and trying to translate them into opposition to constitutional change in

Scotland. However, by 1997, people had seen through that tactic.

I have read what Standard Life actually said today. It said that it wants security in having a competitive business environment—I have read it out to the Parliament—and that Scotland would be

“a good place from which to run our business and compete around the world”

in the 10 countries and jurisdictions in which Standard Life currently operates.

From the position of the Scottish Conservatives, cannot Ruth Davidson express the confidence that we can create that good competitive place to do business, so that our highly successful companies can grow their staff in an independent Scotland?

Ruth Davidson: The First Minister does not understand that when David Nish tells people how independence would adversely affect his business, and when the Royal Bank of Scotland says that independence would hurt its credit rating, that is not a conspiracy. When BP says that independence would threaten its business and when Asda says that independence would put up prices, that is not a conspiracy. When the austerity-hating, Nobel prize winning left-wing economist Paul Krugman says that a currency union without shared Government would be “very dangerous”, that is not a conspiracy. When the Canadian central banker Mark Carney says that it is necessary to give up sovereignty to have a currency union, that is not a conspiracy.

However much the First Minister might like to protest, when the Chancellor of the Exchequer, his opposite numbers and the permanent secretary to the Treasury say that a currency union with a foreign country would not be in the interests of the rest of the UK, that is not a conspiracy, either.

Mark McDonald (Aberdeen Donside) (SNP): Yes it is.

The Presiding Officer: Order.

Ruth Davidson: People explaining how independence would affect them, the country, their business and their customers is vital to the debate, and the Scottish National Party should not dismiss those voices or shout them down.

Standard Life has said that jobs could go in an independent Scotland if it is not given clarity on five major issues. What can the First Minister tell the company’s employees today that he could not tell them yesterday?

The First Minister: I make it quite clear—so that there is no room for misunderstanding—that there is no conspiracy among the range of people and companies that Ruth Davidson mentioned; the conspiracy is the work of the Conservative Party and the other scaremongers who want deliberately

to misrepresent what is being said. The classic example is the comments of the poor governor of the Bank of England—who made a judicious speech in Edinburgh a few weeks ago—being incorporated with the Chancellor of the Exchequer’s political statements against monetary union.

I have already read out what the chief executive of the Royal Bank of Scotland said. I heard him on the radio this morning, and what he said is a million miles from Ruth Davidson’s attempted incorporation of his comments in her political argument. He did not say what she suggests. What else has been said is on the record.

Perhaps we should follow investment to tell us what is actually going on. I noticed from last week’s papers that

“Standard Life Investments is reported to have agreed a £75 million joint venture acquisition and development deal”

with Peveril Securities for a site in St Andrew Square in Edinburgh. Standard Life Investments described the deal as

“a first-class long-term investment for our partners.”

That is what is going on in the Scottish economy. The chancellor’s attempts to undermine confidence, which go back to 2011, have failed, as will Ruth Davidson’s.

Ruth Davidson asks who supports our proposition for a currency union. A huge range of people do, including Jim McColl, Tony Banks, Dan MacDonald, Sandy Adam, Martin McAdam and Ivan McKee—key businesspeople who signed a letter to *The Scotsman*. In “Future Scotland: Macroeconomic and Fiscal Sustainability”, the Scottish Council for Development and Industry said:

“The UK is an optimal currency zone and a sterling union would minimise economic disruption.”

Dr Jim Walker and the banking and business finance partner of Tods Murray, Rod MacLeod, support our proposal. A range of people do. Above all, the Scottish people do—by a significant majority, they think that our proposal is right.

Can I think of anyone else who supports our idea for a currency union? Jackson Carlaw does. Not only is he a supporter of it, but he will be “manning the barricades” in support of it. I love giving Ruth Davidson the benefit of the doubt; I am sure that, when Jackson is on the barricades, Ruth and I will be standing there right alongside him.

Alison McInnes (North East Scotland) (LD): The First Minister will be aware that, last week, in response to investigations by Education Scotland inspectors and the Care Inspectorate, it was announced that the independent Hamilton school and nursery in Aberdeen would close immediately.

This week, primary pupils started attending classes at Braeside, but following the Hamilton school and nursery's closure, future provision for pre-school children remains in doubt. Will the First Minister update us on progress? Will he undertake to ensure that everything possible is done to find a place for the nursery children and to minimise disruption to families at this difficult time?

The First Minister: I thank Alison McInnes for her question. She knows that Aberdeen City Council and the Scottish Government are working together closely on the issue. As of last night, more than 50 places had already been secured for the nursery children. I know that because—as Alison McInnes understands—Government ministers were faced with the reports that they were faced with, there was no reasonable alternative to the action that was taken with Hamilton school.

Alison McInnes has my assurance that we will continue to work closely with Aberdeen City Council to ensure minimum disruption. A rapid and effective response was made for the primary school children; we will seek minimum disruption for the nursery children, too. The closure of Hamilton school has affected the children, their families and the staff. Everyone is doing their utmost to ensure minimum disruption and—as with all decisions that have been made on the issue—to ensure that the children's welfare is uppermost in everyone's minds.

Welfare Reform (Food Banks)

3. Jim Eadie (Edinburgh Southern) (SNP): To ask the First Minister what support the Scottish Government is providing to food banks in order to help tackle the impact of United Kingdom welfare reforms. (S4F-01908)

The First Minister (Alex Salmond): In total, we have put in place more than £258 million of funding over the three years from 2013-14 to 2015-16 to mitigate some of the cost and the impact of the UK Government's welfare changes. That help is aimed at some of the most vulnerable in society and at tackling the worst impact of the cuts. Let us remember that research in December found that food banks believe that the cuts are the root cause of the massive increase in the numbers who are using their services.

We will continue to work with local authorities, third sector partners and others on how best to ensure that those who use food banks have access to appropriate advice and support. I have asked the Poverty Alliance to carry out more research into food poverty in Scotland.

Jim Eadie: In the week when Scotland's largest food bank ran out of food, does the First Minister agree with the Moderator of the General Assembly

of the Church of Scotland, the Rev Lorna Hood, who said, "This is not right"? Is it not an affront to the dignity of tens of thousands of our fellow human beings that they are forced to rely on such services? Is it not shameful that the only thing that prevents children from going to bed hungry is the charity and good will of others? Is it not the measure of a just society that we resolve to tackle and eradicate the poverty that exists in Scotland?

The First Minister: I agree. Any politician who visits and supports a food bank is caught in the horns of a dilemma of two minds. There is admiration for the solidarity that is shown by those who work in food banks and volunteer to help their fellow citizens in a time of extremity. However, there is also the clear understanding, which is shared by food bank volunteers, that it is disgraceful that we are seeing in 21st century Scotland the spread of the necessity to help our fellow citizens who are in distress. Both those aspects should be taken forward in policy—the solidarity, which helps people, and the determination to eliminate the necessity for people to rely on food banks in 21st century Scotland.

Jackie Baillie (Dumbarton) (Lab): I could not agree more with the First Minister. He will be aware that referrals have been made to food banks instead of grants being made available from the Scottish welfare fund, over which he has control. That is happening when the welfare fund is substantially underspent—only a third of it was spent in its first six months of operation. Last week, the minister projected an underspend of millions. Will the First Minister consider an urgent review to ensure that the welfare fund better supports those who are in crisis, which would negate some of the need for food banks?

The First Minister: It is under review. When I visited an Edinburgh food bank a few weeks ago, people said exactly that the review and the co-operation with local authorities are enabling better provision under the welfare fund.

Jackie Baillie has often said that the welfare fund is undersubscribed, but it is clear that the series of mitigation measures that the Scottish Government and local authorities have put in place will not be undersubscribed. New mitigation schemes have been set up and the reality is that more and more is being claimed from them as time goes on.

Another reality that Jackie Baillie will face at some stage is that, even with the best will in the world and with the £258 million of mitigation measures, we cannot cope with the full extent of the welfare cuts that are being borne down on many sections of Scottish society. Given that reality, she will at some stage have to reconsider her incredible position not that Scotland could not run welfare provision, but that it should not run

welfare provision. The reality is that it must run welfare provision.

Rape (Increase in Reported Incidents)

4. Roderick Campbell (North East Fife) (SNP): To ask the First Minister what the Scottish Government's position is on the recent increase in reported incidents of rape. (S4F-01916)

The First Minister (Alex Salmond): There are many troubling aspects. We know that a high proportion of rapes are never reported to the police. The increase in reported incidents may in part be because victims have more confidence in the police and are therefore more willing to come forward and report crime.

What is more, Police Scotland has made tackling rape a key priority for the new service. The Crown Office has improved the way in which it handles rape, with the creation of the national sexual crimes unit—a team of specialist prosecutors to ensure that these cases are given the best available consideration and preparation.

Roderick Campbell: Whatever the reasons for the increase in recorded incidents, given the current constraints on public finance, can the First Minister advise what funding is available from the Scottish Government to ensure that agencies that assist alleged rape victims are properly financed and resourced?

The First Minister: There are now 14 Scottish rape crisis network centres located throughout Scotland. They will receive funding from the Scottish Government of £700,000 each year during 2012 to 2015. Rape Crisis Scotland will receive £244,000 of Scottish Government funding a year, which will enable a strategic approach to tackling rape and sexual assault, and will also support the 14 rape crisis centres. We are also providing for a rape advocacy pilot. That grant will be for a rape crisis advocacy service, which supports victims through their contact with the criminal justice system. We are supporting the rape crisis helpline, which will receive £260,000 of Scottish Government funding a year from 2012 to 2015. That helpline offers free and confidential support and information for women and men who have experienced sexual violence.

National Health Service Settlement Agreements (Confidentiality Clauses)

5. Ken Macintosh (Eastwood) (Lab): To ask the First Minister, in light of the evidence given by the Cabinet Secretary for Health and Wellbeing at the Public Audit Committee on 19 February 2014, how long confidentiality clauses have been included automatically in NHS settlement agreements. (S4F-01917)

The First Minister (Alex Salmond): Compromise agreements were introduced in 1993 and, while confidentiality clauses have often been used in those agreements, there is no obligation to do so. However, there is understandable concern that the inclusion of a confidentiality clause within the standard template produced by NHS Scotland's central legal office in 2009 could be encouraging their use.

That is why Alex Neil announced this morning that confidentiality clauses are to be removed from the standard template and health boards told that the presumption must be against their use. Alex Neil has also made it abundantly clear that no clause whatever can ever prevent an NHS employee from raising any concerns that they have on patient safety.

Ken Macintosh: I thank the First Minister for his remarks and for the tenor of his remarks. Is he aware that, according to freedom of information requests that I have lodged, in 2007-08 there were four compromise or settlement arrangements in the NHS in Scotland at a cost of £130,000? That figure has risen every year since—to six, to eight, to 17 and, in 2012, to 110, at a cost of more than £2 million. Last year, the figure was 143, at a cost of £3.5 million. Now that we discover that every one of those, except one apparently, has a confidentiality clause, does the First Minister still maintain, as the health secretary tried to do at the Public Audit Committee, that this is an historical problem, or does he recognise that it is one of his own creation?

The First Minister: Given that Ken Macintosh thanked me for the way in which I responded to his first question, he should accept that the health secretary has consistently said that he is looking at the issue; he trying to find the reasons for the spread of confidentiality clauses, how that can be best sorted in the interests of patient care in Scotland and how we can ensure that all parts of agreements reconcile with the absolute right of an NHS employee to raise any concerns that they have on patient safety.

The Government introduced the Patient Rights (Scotland) Act 2011, which established the confidentiality helpline. Alex Neil announced this very morning at the Royal College of Nursing conference a further move to make it absolutely clear to health boards that confidentiality clauses should be removed from the standard template and that the presumption should be against their use. That seems to me to be a range of measures that demonstrate this Government's commitment to allowing people within the health service to report their concerns without fear or favour.

Public Access Defibrillators

6. Chic Brodie (South Scotland) (SNP): To ask the First Minister how the Scottish Government will ensure that all sectors of sport are equipped to handle cardiac arrests by participants and spectators. (S4F-01906)

The First Minister (Alex Salmond): Heart disease and the treatment of cardiac arrest remains a clinical priority for NHS Scotland, which wants not just people who participate in sport but everyone to have access to the best possible care as quickly as possible.

Substantial investment in heart disease services has reduced Scotland's premature death rate from coronary heart disease by 43.6 per cent in the past 10 years. On Monday, the Cabinet Secretary for Health and Wellbeing announced that we are investing £100,000 to increase the number of public-access defibrillators in Scotland. That will benefit sports participants as well as the wider community.

Chic Brodie: A campaign that is backed by Arrhythmia Alliance, the Professional Golfers Association and PGA European Tour aims to have one defibrillator at each of the 3,000 golf clubs in the United Kingdom and Ireland by the end of 2014. In this exciting year for golf in Scotland, will the Government work with the campaign to persuade every golf club in Scotland to install such a device?

The First Minister: As Chic Brodie knows, this afternoon the Minister for Commonwealth Games and Sport and I will meet Bernard Gallacher to hear more about the campaign to increase access to defibrillators throughout Scotland. Of course, Bernard's recent experience has highlighted the lifesaving potential of public access to defibrillation. I look forward to learning more about the campaign and I know that all members will welcome the fact that someone is using their adverse personal experience to promote a campaign that can bring great benefits to all the people of Scotland.

Unite's Back Home Safe Campaign

The Deputy Presiding Officer (John Scott): The next item of business is a members' business debate on motion S4M-08985, in the name of Richard Baker, on Unite's back home safe campaign. The debate will be concluded without any question being put.

Before we begin the debate, I say to members that a fatal accident inquiry is taking place in relation to the 2009 Super Puma crash, and the sheriff's determination has yet to be issued. Members should therefore make no reference to the substance of the on-going inquiry, as it is sub judice. Members should also avoid saying anything that could be seen as making a recommendation to the inquiry and therefore pre-empting its findings.

Motion debated,

That the Parliament welcomes the launch by Unite the Union of the campaign, Back Home Safe, which calls for immediate improvements to the safety of offshore flight; understands that, following the tragic fatal North Sea helicopter crash in August 2013, the union carried out an extensive consultation with its members in Aberdeen and across Scotland, and with others in the offshore workforce, the outcome of which suggested that over half of the workers are not confident in offshore helicopter flight safety; believes that workers on North Sea installations are taking an active role in supporting the campaign, which calls for improvements to be made in a number of areas, including increased investment to create a larger offshore fleet, changes to the internal seat configuration of the helicopters and the compulsory fitting of internal emergency lighting, and notes both the calls for the industry and Scottish Government to engage fully with the union to help ensure that these measures are implemented and for an independent commission to be set up to examine the issue of helicopter safety.

12:33

Richard Baker (North East Scotland) (Lab): Thank you, Presiding Officer. I am confident that the substance of my speech and the matters to which I refer will comply with your guidance.

The Deputy Presiding Officer: I hope so. Thank you.

Richard Baker: I thank members of all parties who signed the motion in support of Unite's back home safe campaign. I also declare an interest: I am a member of Unite the union. I am pleased that a number of my fellow union members, who are offshore reps, have joined us from Aberdeen for the debate. Their commitment to the campaign is reflected in the fact that they bring to the Parliament a petition that has more than 3,000 signatures, which backs the measures that the union is promoting to restore the confidence of the workforce in helicopter safety.

Workforce confidence was shattered after the tragic crash off Sumburgh, in which four people lost their lives—the fifth ditching of a Super Puma helicopter in just four years. Of course, the first of those events was the tragedy that took place in 2009, which all of us remember all too well, when 16 people lost their lives.

In that context, it can be no surprise that in a Unite survey of its offshore members, more than 53 per cent of workers said that they did not have confidence in offshore helicopter safety and 77 per cent said that their confidence in helicopter safety had decreased in the past 12 months.

Helicopter transport is vital to our oil and gas industry, which we all know is of great importance to the Scottish economy. The key goal for all of us—ministers, parliamentarians, trade unions, regulators and of course the industry—must be to restore confidence in helicopter safety and ensure that the safety record is greatly improved.

That has driven the important and successful campaign by Unite, which has produced clear proposals for action to improve safety. Those include increased investment to create a larger offshore fleet, changes to the internal seat configuration on offshore helicopters, changes to the design of helicopters that are used for passenger transfer and improved survival equipment and training for workers.

Last week, the Civil Aviation Authority published the report of its review following the crash in August. Although it is far from a final word on the issue, it has been welcomed as a step forward, and it is a mark of the success that Unite has had in making its case for safety improvements. The review, in identifying the need for new prohibitions on flying conditions, changes to onboard seating configurations and the improvement of emergency breathing equipment for workers, proposes measures that Unite has called for as part of the back home safe campaign. The review points the way to a change of culture, from competition to collaboration, which is to be welcomed.

That is not to say that there has been no collaboration up to now. The helicopter safety steering group, which includes in its membership John Taylor of Unite and Jake Molloy of RMT, has been an important forum. It is also true that the industry's Step Change in Safety organisation, which is focused on improving safety, has done a huge amount of work. However, further measures and more joint working are clearly needed, and the review recommends that operators adopt a set of best practice standard procedures. It also found:

“All the helicopter operators reported that customer influence in operational matters was too extensive. The perception that contracts are offered at too short a timescale and awarded on lowest cost is also prevalent.”

The industry must respond to that finding, because the priority has to be safety, rather than getting the lowest-cost contract.

The review is therefore welcome, but it does not diminish the requirement for a full independent commission of inquiry into helicopter safety. The call for such an inquiry has been led at Westminster by my colleague Frank Doran MP. That call is backed by the unions and, in the members' business debate that I led on the issue last year, the case for such an inquiry was most persuasively made by Tavish Scott.

The CAA review does not answer all the fundamental questions that the series of accidents has posed. In particular, there is not enough scrutiny of the work of regulators, who over the years have been reactive rather than proactive. Indeed, to be fair to the CAA, chapter 7 of the report that it published last week identifies problems in the review process. I therefore hope that ministers will agree that there is a need for an independent inquiry and will support the proposal.

The final point that I want to raise is on an issue that is clearly the responsibility of the Scottish ministers. It relates not to the substance of any particular fatal accident inquiry but to the timing of inquiries. If our fatal accident inquiry process as a whole worked properly, we might be having a very different debate today, but it does not. It took five years for the inquiry into the 2009 crash to be held. I do not believe that anyone in the chamber wants those who lost loved ones last year to face such a long wait. That is why I again urge ministers to support Patricia Ferguson's proposal for a member's bill to speed up the FAI process.

The Unite Scottish secretary, Pat Rafferty, has said:

“Five ditchings and 20 deaths since 2009 is an unacceptable failing of health and safety and collectively we have an obligation to ensure we tackle this serious problem, taking every step possible to help offshore workers get back home safe in the future.”

Those words get to the heart of the debate. Today, the prosperity of our country is founded on the labours of our offshore workers, who have to carry out their jobs in harsh environments. We owe it to them and to their families to ensure that they get back home safe, which is why I hope that members will support this important campaign.

12:39

Mark McDonald (Aberdeen Donside) (SNP): I congratulate Richard Baker on securing this debate and I welcome the union representatives who have joined us.

As my constituency contains both the heliport and the helicopter operators, I have a keen interest in the issue. Beyond that, many of my

constituents and indeed many of my friends and family are either offshore workers or family and friends of such workers, so they obviously have an interest in the issue as well.

I have not been personally contacted in respect of the campaign before today's debate, but I have been aware of it both through the coverage that it has generated and in looking into the issue in advance of the debate. I take the Presiding Officer's guidance and I hope that the broader comments that I will make will fall within the ambit that he set out.

Nobody in the chamber or in the industry would want to see a system that was anything other than safe. At the end of the day, we all have an interest in ensuring the safety of those who work offshore. Where there have been issues, it is important that recommendations that have been arrived at are acted upon swiftly. In the past, the oil and gas industry has been able to learn its lessons and apply them quickly. I have spoken to a number of people who are involved in health and safety offshore and they say that the industry takes the health and safety requirements extremely seriously. However, nobody would detract from the need to look carefully at the situation given the accidents in recent times and the numbers over a fairly short period.

I am a member of the cross-party group on oil and gas, and at our last meeting there was a discussion on the matter that involved Malcolm Webb of Oil & Gas UK and union representatives. We were told that constructive dialogue continues between the industry and union representatives, and that was reflected in the contributions from both sides. It appears that the work that is being done through the helicopter safety steering group and the helicopter task group, which has been re-established to provide a smaller and more focused executive oversight given the large membership of the helicopter safety steering group, is being welcomed on all sides of the discussions.

As I have said before, I do not want to pre-judge any outcomes, so I am not going to take a fixed position on the issues that have been raised both in the campaign and by Richard Baker and some of his colleagues. As somebody who has outlined the personal impact that the accident had not just on me but on many of my friends and family, I want to wait and see the outcome of the inquiry. I accept Richard Baker's point that it would perhaps have been far better had we had that inquiry prior to now, but we are where we are on that, and we need to await the outcome of the FAI.

My primary focus will always be the safety of my constituents who work in the offshore sector, because we want to ensure that offshore workers come home safely. I will await the outcomes of the various inquiries that are continuing but, at the end

of the day, we should back whatever can be done to bring our offshore workers home safely.

12:43

Alex Johnstone (North East Scotland) (Con):

This is a welcome opportunity to raise a number of issues that have been raised previously in the Parliament. It is timely that we are having this debate on Richard Baker's motion, and I congratulate him on bringing the matter back to the chamber.

There is perhaps not a great deal to say about the elements of the issue that has not been said before, and it has been made clear to us that there are areas into which we cannot go. However, on the back home safe campaign, I believe that it is vital that everyone who is involved in travelling to the North Sea installations by helicopter has the opportunity to input to the process, and in that respect I welcome the actions that the trade union Unite has taken to consult those who are regular travellers.

In the history of the industry in the North Sea, union activity has not always been welcome, but the constructive dialogue that has taken place between the trade unions and the industry in recent times is a good example of how positive relationships can be developed. Of course there is already a structure in place to ensure that there is consultation with trade unions. I commend that structure and I believe that it should continue. The back home safe campaign highlights grass-roots opinion and concern and we should all have significant respect for it. I am glad to hear that the industry and the trade unions are engaged in a constructive on-going dialogue.

Given the limitations on what we can say today, I simply take the opportunity to welcome the campaign and the views that have been expressed in conjunction with it. I also support Mark McDonald's view that we should await the outcome of the inquiries and ensure that, when they are published, swift action based on their recommendations is taken. We should maintain the on-going constructive engagement for as long as we possibly can.

12:45

Tavish Scott (Shetland Islands) (LD): I thank Richard Baker for his consistency in bringing this matter back to Parliament this afternoon. I also thank the minister, Fergus Ewing, who wound up the previous debate on this issue in the late part of last year, because, in fairness to him, he has shown consistency on the issue, too.

I assure Richard Baker that I have not changed my thoughts about the process that we are going through. When we last spoke about this, it seemed

to me that too many discrete inquiries were going on. My concern about the CAA inquiry was that the CAA, as the regulator, is advising on policy. In fairness to it, I think that the report that it produced earlier this week is authoritative and, as Richard Baker, Mark McDonald and Alex Johnstone have said, many of its recommendations are extremely important, although there are questions about how quickly they will be implemented. I noted the point that the CAA made about the Offshore Petroleum Industry Training Organisation improving survival training for offshore workers, which, along with the measures that Richard Baker mentioned, seems pretty important.

On Mark McDonald's contribution, I also noted Oil and Gas UK's remarks about moving these things forward as quickly as possible, particularly the proposed offshore operations safety forum, to achieve the shared goal of improving offshore safety.

I do not think that any of that takes away from the point that Richard Baker and Unite rightly make about the need for a public inquiry. Given the point that Alex Johnstone and Mark McDonald made about all the separate inquiries that are going on, there seems to be some sense in pulling them together to ensure that safety is absolutely the number 1 priority, as well as to illuminate the financial issues around the contracts to which men and women who fly offshore are party and on which they depend. That very reasonable observation has been made by many people who work in the industry—both those who work at more senior levels and those who simply get on helicopters day in, day out.

Three men and a woman died in the Super Puma helicopter crash last August at Garths Ness off Sumburgh. I cannot conceive of the circumstances for the families of those three men and a woman if they have to wait five years for a fatal accident inquiry to conclude, as was the case with the FAI that is taking place into the Peterhead crash of 2009. That cannot be right; we all share that view. I suspect that we would all support Mr Ewing very strongly if he were able to offer even a glimmer of hope that the process could be taken forward along the lines identified in Patricia Ferguson's member's bill or in another legislative way. I am open-minded about that, but I think that the minister and members of all parties would agree on the need to bring matters to a head much more quickly than has been the case in the past. As Mark McDonald rightly said, one cannot imagine how difficult it would be to go through all those years of not quite knowing what happened and to find out only after five years.

12:49

Lewis Macdonald (North East Scotland) (Lab): I, too, congratulate Richard Baker on bringing this important issue for debate once again. As a member of Unite the union, I am also delighted at the initiative that the union has taken in launching the back home safe campaign.

The death of an offshore worker today reminds us that oil rigs and platforms remain inherently dangerous places to work, despite the many improvements that have been made since Piper Alpha. However, deaths on the journey to work are the focus of concern now.

Every day in Aberdeen and the north-east, my constituents read, hear and talk about the risks of helicopter journeys. We cannot, of course, comment on the substance of the fatal accident inquiry into the catastrophic helicopter ditching in 2009, which has just finished taking evidence in Aberdeen. As the Presiding Officer said, a verdict is awaited. However, we can say that the relatives of those who died have had to wait far too long for that inquiry to be heard.

We have seen the conclusions of the Civil Aviation Authority's review of helicopter operations, which was published last week. Its recommendations are very welcome, although the implications for the future employment of some offshore workers will need to be carefully considered.

John Taylor of Unite, who is here today, has met MSPs at the cross-party group on oil and gas on a number of occasions to discuss these issues. He has pointed out that many of the recommendations in the report cannot be enforced by the CAA. It is clear that the changes will not happen unless they are agreed and can then be enforced across the sector. Other unions, such as the British Airline Pilots Association and the RMT, have also taken a close interest in the practical issues involved. The provision of safety equipment such as helicopter floats and rebreathing systems will take time as well as increased investment, and the training of North Sea workers in the use of new systems will take time and money.

As Richard Baker mentioned, my Westminster colleague Frank Doran is another long-standing campaigner for better safety in the North Sea. He has called for the United Kingdom transport minister to convene a full-scale public inquiry into offshore helicopter operations across the whole of the UK continental shelf and to take overall responsibility for helicopter safety offshore. That is the current approach in Norway. His and my view and the view of other members who have spoken is that offshore helicopter transport needs the same detailed inquiry and fundamental review now that offshore exploration and production had 25

years ago in the Cullen inquiry. That way, we can go beyond the scope of the CAA's review and look at all aspects of safe travel offshore, not least the regulatory role of the CAA itself, which Tavish Scott mentioned.

As Richard Baker said, it has taken far too long for the 2009 helicopter crash to be investigated in a fatal accident inquiry. If responsibility for a comprehensive, overall review of offshore transport for the UK as a whole lies with the Department for Transport, responsibility for the operation of fatal accident inquiries lies with the Scottish Parliament and the Scottish Government. I hope that the minister can give us some assurance that those bereaved or affected by more recent helicopter crashes will not have to wait so long for their cases to be heard.

I acknowledge the efforts that are made by many who are involved in the design, manufacture and operation of our offshore helicopter fleet to reduce the risks of future such disasters, and accept that the oil and gas industry in general is a much more safety-focused industry than it was a generation ago. However, we need a proactive approach to helicopter safety, not a reactive response to helicopter disasters. That is why we need not just urgent action on the CAA's recommendations and the findings of fatal accident inquiries but a wide-ranging public inquiry to ensure that all those who go to work offshore in future will indeed come back home safe.

12:53

The Minister for Energy, Enterprise and Tourism (Fergus Ewing): As the First Minister reflected, our thoughts go out to the family, friends and colleagues of the man who died earlier this morning in an incident at Taqa's Harding platform. Obviously, we do not yet know the full circumstances of the situation, which Police Scotland is working with Taqa and other partners to determine. However, the incident is a reminder—if one were needed—of the hostile conditions in which our oil and gas staff work.

I congratulate Richard Baker on securing this debate following his earlier members' business debate, which has been mentioned, and pay tribute to the men and women who work in difficult and inhospitable conditions to support our oil and gas industry. Flying over the North Sea—often at night and in low visibility—presents particular challenges that we should and must not underestimate.

There are currently 95 helicopters supporting our oil and gas industry that travel to 228 helidecks on fixed installations and to approximately 100 mobile installations. Annually, there are around 141,000 flights, 86,000 hours

flown and approximately 1 million passenger journeys.

I accept the Presiding Officer's admonition with regard to not mentioning matters of substance relating to the FAI—

The Deputy Presiding Officer: It was guidance rather than an admonition.

Fergus Ewing: Indeed, Presiding Officer, so I will not mention it. However, I will refer briefly to the incidents that have brought home the risks and challenges of operating in the North Sea.

On 18 February 2009, an EC225 Super Puma landed heavily on the sea while approaching a platform. Investigators concluded that the accident was caused by a combination of human factors, poor weather and technical problems. Eighteen people were on board and, fortunately, there were no fatalities. On 1 April 2009, an AS332 Super Puma crashed into the sea, and all 16 people on board died. In 2012, two EC225 helicopters made precautionary ditchings after indications that the main gearbox lubrication system had failed. Again, there were no fatalities. On 23 August last year, an AS332 crashed into the sea near Sumburgh and, of the 18 people on board, four sadly died.

The passengers and flight crew and their families must have confidence that everything possible is being done by regulators, aircraft operators and the oil and gas industry to minimise the risks that are associated with flying back and forth between platforms and heliports.

Neil Findlay: On a more general point, would the minister support changes in the law on corporate culpable homicide so that, if there is evidence of negligence at the highest level of the company, the individual executives or senior managers will be held to account for decisions that they may have taken that have contributed to the death of any employee?

Fergus Ewing: Mr Findlay raises an extremely serious issue, but I note with respect that it is outwith the specific remit of the debate. I will pass the *Official Report* of this debate to the Cabinet Secretary for Justice and the Lord Advocate, and ask that the cabinet secretary addresses that important issue. With respect, however, it is a separate issue and I do not have time today to do justice to the complex matters that are associated with it. I would like to make some progress.

It is because of the risks that are involved and the recent record, which I have briefly summarised, that I very much welcome the CAA's review of offshore helicopter operations that was published last week. I made it my business prior to the review's publication to receive a briefing on the findings from senior CAA officials, and it was abundantly clear to me that an enormous amount

of effort and expertise has gone into producing a set of recommendations that are designed with one objective, which is to save lives.

The work that was conducted by the CAA in partnership with the Norwegian Civil Aviation Authority and the European Aviation Safety Agency shows that between 1992 and 2012 there were 24 UK offshore accidents, which equates to one per year. The causes of accidents are evenly split between operational issues, which mainly involve pilot performance, and technical issues, which mainly involve rotor or transmission failure.

The CAA has made a number of recommendations that will, if they are taken as a package, lead to real improvements in safety and increase the likelihood of passengers surviving a ditching or a crash on water. Richard Baker rightly made that point in the motion that he lodged in bringing the previous debate on the subject to the chamber.

The recommendations include restricting the type of sea conditions in which helicopters can fly to increase the likelihood of rescue following a ditching, and requiring emergency breathing equipment for all passengers while, until such time as that is comprehensively available, limiting the number of passengers on board so that everyone is seated by an emergency exit window. There is also a recommendation on flotation aids to prevent helicopters capsizing and, as Tavish Scott alluded to, there are recommendations on better training for passengers. Better training is not a minor matter. I am advised that the training on evacuating in these circumstances is extremely exacting, and therefore enormously important.

The review also makes recommendations to EASA and aircraft manufacturers to address issues such as spurious warnings that require pilots to land immediately, which have led to unnecessary ditchings, and to promote improvements in helicopter vibration health monitoring systems that provide alerts of potential technical failures, which was a change that led to a significant reduction in crashes when it was first introduced in 1990.

The key point that we can take from the CAA's review is the need to implement the recommendations without delay. The CAA has made it clear that it will implement changes under its control and engage directly with other organisations and bodies such as EASA to ensure that changes happen. We are also sure that the positive safety culture in the oil and gas industry will mean that the recommendations will be actions. A new offshore helicopter safety forum will be established by the CAA to drive forward the recommendations and the actions identified, and we look forward to seeing how that work can improve confidence in North Sea operations. In

addition, I will shortly meet the helicopter safety steering group to reinforce the importance of industry progressing the actions as swiftly as possible.

I want to respond to a couple of points that were made in the debate about the timing of the FAI. I am aware that this matter was recently dealt with by my colleague the Cabinet Secretary for Justice. I am also aware of the extremely important nature of the matters being addressed. I am acutely aware, having met some of the bereaved families from the most recent tragedy in Sumburgh after attending a service in Aberdeen last year to remember those who died, that these are very sensitive and important issues. I will therefore convey to Kenny MacAskill, the Cabinet Secretary for Justice, the *Official Report* of this debate and ask that he communicate with each of the members taking part in the debate how he is taking these matters forward.

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): Will the minister take an intervention?

Fergus Ewing: I am coming to a close and might be over my time.

The Deputy Presiding Officer: You can take an intervention should you wish to. It is a matter for you.

Fergus Ewing: In that case, I will.

Patricia Ferguson: I am grateful to both the Presiding Officer and the minister for allowing me the intervention.

We have alluded to the fact that FAIs can take what seems to be an unconscionable amount of time to be held. However, the other problem with FAIs is of course that their findings are not binding. Is that something else that the minister might like to relate to Mr MacAskill?

Fergus Ewing: I am aware of the member's close and sustained interest in that important matter. It is not one for which I have the responsibility to deal, but I absolutely agree that such matters must be considered extremely carefully, and they shall be so considered.

I conclude by indicating my support for the Unite campaign, my endorsement of many of the sentiments expressed in the debate and my continued willingness to meet, plainly, with members of Unite, BAPA, the RMT and other trade unions involved, as I have done over my period as a minister, in order to continue the vital discussion about how we improve safety in the North Sea. Without that safety, there can be no effective industry. The industry does have a positive attitude to safety. The report from the CAA lays a foundation on which we can act. I will be discussing how its recommendations can be

implemented when I meet the helicopter safety steering group very shortly.

14:30

On resuming—

13:04

Meeting suspended.

Criminal Justice (Scotland) Bill: Stage 1

The Presiding Officer (Tricia Marwick): The first item of business this afternoon is a debate on motion S4M-09160, in the name of Kenny MacAskill, on the Criminal Justice (Scotland) Bill.

The Cabinet Secretary for Justice (Kenny MacAskill): I am delighted to open this stage 1 debate on the Criminal Justice (Scotland) Bill. The bill contains a significant package of wide-ranging reforms to our criminal justice system, so I record my appreciation of the time and consideration that the Justice Committee gave it. I also formally record my thanks to the many stakeholders and individuals who gave evidence to the committee.

Today's debate is of course about seeking agreement to the general principles of the bill. There are three general principles that underpin all the progressive reforms that are contained in the proposed legislation. First, the bill will modernise and enhance our justice system and update our procedures from the point of arrest onwards. Human rights are at the heart of the bill. It will ensure that people who are suspected or accused of criminal offences have improved and enhanced rights and protections.

Secondly, the bill makes necessary efficiency changes to our justice system. For example, there are changes to our system of appeals and changes to enable greater use of technology by our courts.

The third but equally fundamental principle is about bringing fairness for those who fall victim to criminal acts and the wider duty to protect our society. That includes providing for greater access to justice for victims by ensuring that cases can go forward based on the overall quality of evidence, and creating a statutory aggravation for offences that are linked to the appalling activity of people trafficking.

I will highlight some of the positive effects that I believe the reforms in the bill will have in meeting those principles. Part 1 sets out a new and modernised power of arrest for the police. It creates a single power of arrest on suspicion of having committed an offence. The current two-tier system of detention and arrest is complex and covers a myriad of powers that are spread across common law and statute. The bill provides for a more streamlined and effective process. The provisions will improve the law and will make it easier for the police to apply and the public to understand. The single power of arrest will also

bring the Scottish system more into line with the European convention on human rights.

The bill enhances provisions on a suspect's right of access to a solicitor, whether or not they are going to be questioned, and it puts the letter of rights on a statutory footing. It also protects the rights of children and vulnerable people. Scotland's Commissioner for Children and Young People has welcomed the fact that the bill defines a child as someone under 18. Additionally, the bill allows a protected level of self-determination for 16 to 17-year-olds, in recognition of the fact that those young people are, in other circumstances, entitled and able to make their own decisions.

The bill also reflects the fact that modern policing needs modern powers. Today's investigations are often complex and protracted. In part, that is down to recent developments in technology. Police now regularly have to extensively examine electronic data, which takes time. The bill seeks to balance the needs of the modern investigation and the rights of a suspect to liberty. As part of that, the bill introduces investigative liberation, which will enable the police to continue to investigate incidents while allowing a suspect to be at liberty, with or without conditions.

I am aware of calls by the police to allow for possible extensions, in exceptional cases, to the 12-hour detention limit for keeping people in custody. Extensions are used very rarely but can be essential for the investigation of some of the most serious criminal acts, or, for example, where the suspect is intoxicated. There is a particular issue here about balancing an individual's right to liberty against the public's right to be protected. I would like to hear members' views on the potential for an extension to the 12-hour detention limit in exceptional circumstances.

The bill also includes a number of provisions that will improve the efficient operation of our justice system, reducing unnecessary delays and wasted court time. Efficiency in solemn procedure will be enhanced, for instance by the creation of a duty on the prosecution and the defence to communicate before a trial to ensure that the case is ready to proceed.

As part of the package of reforms, the bill increases the pre-trial time limit from 110 days to 140 days, in line with that for the High Court. I am pleased that the Justice Committee has accepted the need for that change, and I confirm that we will monitor its implementation. In addition, the bill takes forward many of Lord Carloway's recommendations on ensuring that appeals are handled in a timely manner. It is in everyone's interests that appeals proceed in good time. That will mean faster resolution for both appellants and victims.

However, the bill's scope goes beyond the modernisation of practice and extending the rights of suspects, as it also seeks to improve how we as a society respond to criminal behaviour. For example, by increasing the maximum term for handling offensive weapons, we will send a clear message about the consequences of carrying knives on our streets.

The bill also seeks to improve the way in which we pursue criminal cases. The past three years of debate have brought home the obligation on the Government—and indeed the Parliament—to protect all our citizens. We must answer the concerns that have been aired by brave individuals, support groups and campaigners that justice is not being delivered for victims across whole categories of crime. I acknowledge that there are legitimate concerns about how our system will work without the requirement for corroboration. The committee has done its duty in giving the matter full consideration. For my part, I have listened, I have reflected and I have acted. Lord Bonomy will undertake a thorough review of the changes that might be required as a consequence of abolition. He has assembled a veritable powerhouse of expertise on Scots criminal law.

Margaret Mitchell (Central Scotland) (Con):

What does the Government have to fear from including consideration of whether or not to abolish corroboration in the remit of the Lord Bonomy review?

Kenny MacAskill: I say to Ms Mitchell that I am quite clear that, as I will go on to say, the case for abolition has been made. It has been made and supported by prosecutors and by the police, but it has been made and articulated most effectively by Victim Support Scotland, Scottish Women's Aid and Rape Crisis Scotland. I stand with and I stand for those organisations.

Alison McInnes (North East Scotland) (LD):

Will the cabinet secretary take an intervention?

Kenny MacAskill: Not at the moment.

The work of the distinguished experts in the review will allow us to modernise our system and ensure that it is in balance. I have complete confidence that the review will answer any and all of the legitimate points of concern that have been raised.

To be clear, the corroboration reform will not take effect until any legislation that is introduced in light of the Bonomy review is approved. The Parliament will be afforded a full opportunity to ensure to its satisfaction that the new system will be in balance. To that end, I will lodge amendments at stage 2 to tie abolition to any reforms that are brought in light of Lord Bonomy's review. We will discuss the exact mechanism with

the parliamentary authorities, but at the very least I would expect a draft order to be published and consulted on, with sufficient time for committee evidence taking and a chamber debate. That process would result in an amended order being put to the Parliament.

Patrick Harvie (Glasgow) (Green): Will the cabinet secretary take an intervention?

Kenny MacAskill: Not at the moment.

All of us here share the same goal: a balanced and effective criminal justice system, and one that is safe and secure. Lord Bonomy's review will give the Parliament an historic opportunity to remake our system. In doing that, we cannot forget the many voices that have raised concerns about the miscarriages of justice that occur now, under our current system. Too many compelling cases—often involving crimes that have been committed in private—cannot even make it to our courts because of this outdated rule.

Alison McInnes: The cabinet secretary, the Lord Advocate and, indeed, Scottish Women's Aid have all openly admitted that the removal of corroboration will not in itself result in more convictions. Why is the Government proceeding with the proposal and raising false hopes? *[Interruption.]*

Kenny MacAskill: One of our most distinguished judges said that we cannot have a whole category of victims who are routinely denied access to justice. We cannot have those who suffer rape or domestic offences, those who suffer domestic abuse behind closed doors, those who are young, those who are vulnerable and those who are elderly preyed upon, picked upon and routinely denied access to justice.

Margaret Mitchell: Will the cabinet secretary take an intervention?

Kenny MacAskill: Not at the moment.

The voices of brave individuals have been echoed by those of the professionals who see the very personal and devastating impact that the corroboration rule can have in practice—not only our police and prosecutors but groups such as Victim Support Scotland, Rape Crisis Scotland and Scottish Women's Aid, all of which play such a vital role in supporting the victims of crime. On Wednesday, I visited the Glasgow-based advice, support, safety and information services together project, which does great work to support the victims of domestic abuse.

Patrick Harvie: Will the minister give way?

Kenny MacAskill: Not at the moment.

The difficulties posed by the corroboration rule to the pursuit of individual real cases could not be more apparent.

We have heard from Police Scotland that there are more than 3,000 cases every year that it cannot send to prosecutors because of the corroboration rule. Those are cases where there is quality evidence that, in other systems, would merit further consideration.

We cannot refuse to listen. We are talking about not just hundreds but potentially thousands of compelling cases in which people are being denied justice in this country under the current system. Those are not just numbers; real people's lives are affected.

Patrick Harvie: Will the cabinet secretary take an intervention?

Margaret Mitchell: Will the cabinet secretary take an intervention?

Kenny MacAskill: After so much debate, we must now act. The bill sends a clear message that Parliament has listened and is acting to address that injustice.

The corroboration reform must stay in the bill. Commencement must wait until Lord Bonomy reports, but there must be no unnecessary delay. The reform must go forward now in this legislation. If members vote to take the provisions out of the bill, they are voting to continue that injustice in Scotland for so many people.

Willie Rennie (Mid Scotland and Fife) (LD): Will the minister give way?

Kenny MacAskill: Not at the moment.

Willie Rennie: Outrageous!

The Presiding Officer: Order, Mr Rennie.

Kenny MacAskill: The extent of that injustice is clear. Research for the Carloway review identified that, in 2010, 268 serious cases were dropped after the initial court appearance—cases in which there would have been a reasonable prospect of successful prosecution. The Lord Advocate has said that there were 170 rape allegations in the past two years where no proceedings were taken because of insufficient evidence. Crown Office research from last year suggested that around 60 per cent of domestic abuse cases—2,210 cases—could have progressed under the new prosecutorial test.

I have listened and I have acted on the legitimate concerns that have been raised.

Willie Rennie: Will the minister give way?

Kenny MacAskill: I now ask Parliament to listen to the voices of those representing some of the most vulnerable people in our society and to support the general principles of the bill in its entirety. I repeat that abolition will not occur until Parliament has approved any additional reforms

brought forward in light of Lord Bonomy's review. With that assurance, I invite Parliament to approve the new guiding principle for our system—that cases in future will go forward based on the overall quality of evidence.

Willie Rennie: Will the minister give way now?

The Presiding Officer: The minister is in his final minute.

Kenny MacAskill: We need to set that important principle now and move discussion on to how to ensure a modern, efficient and fair justice system that is fit for 21st century Scotland.

The bill contains many important reforms. I look forward to a constructive debate.

I move,

That the Parliament agrees to the general principles of the Criminal Justice (Scotland) Bill.

14:44

Margaret Mitchell (Central Scotland) (Con): I thank the numerous witnesses who gave evidence and the Justice Committee clerks for their work in helping committee members to compile the stage 1 report on the Criminal Justice (Scotland) Bill. I also pay tribute to the convener of the committee and my fellow committee members for their efforts and for the spirit in which that powerful and compelling report was produced.

The bill will implement recommendations that were made in two separate expert reviews: those from Sheriff Principal Bowen, on sheriff and jury procedure, and those from Lord Carloway, on criminal law and practice. The Carloway review was set up in the wake of the Cadder case, which resulted in the provision that suspects have the right to legal representation when they are detained for questioning by the police.

Part 3 of the bill, on solemn procedure, was welcomed by the committee. It includes the proposal to introduce meetings between prosecutors and the defence and others to reduce unnecessary delays in criminal trials.

Part 1 contains provisions on arrest and custody. In attempting to simplify powers of arrest, there is a real danger that the proposed changes have instead done little more than confuse the situation. For example, at present the general public realise that, when a suspect has been detained for questioning, they have not been charged, and the presumption of innocence is still very much evident. I believe that, by changing the term to "arrest", the public perception will be that the person is, to use the cabinet secretary's phraseology, "officially accused".

Indeed, the cabinet secretary's response to the report and the introduction of terms such as

"officially accused" and "not officially accused" do little to allay those fears. In giving evidence, the cabinet secretary also introduced the somewhat unhelpful term "de-arrest", and said that he would bring forward a provision on that in an amendment at stage 2. I am glad that he has decided to drop that rather ridiculous wording.

The cabinet secretary's deafness to the justified concerns about part 2 of the bill and the provision in section 57 to abolish the general requirement for corroboration has caused a storm of controversy. He has consistently attempted to misrepresent and polarise the debate, with victims on one side and the legal profession on the other. That is not only a complete distortion; it insults all those who oppose that move, including those who signed my amendment.

I do not doubt the cabinet secretary's concern for victims; equally, I do not doubt the concern of leading judges, the Law Society of Scotland, the Faculty of Advocates, the Scottish Human Rights Commission and the cross-party group on adult survivors of childhood sexual abuse. All those organisations oppose section 57 not because they have an axe to grind but because they do not believe that it would be in the interests of the criminal justice system or victims of crime.

Kenny MacAskill: Margaret Mitchell missed out the police and prosecutors. Do they not have a say?

Margaret Mitchell: I listed the people who have expressed their opposition. As the cabinet secretary knows, for one reason or another the police gave very confused views and changed their position during the evidence sessions.

The views of those who have expertise and in-depth practical experience of the operation of the criminal justice system cannot and should not be dismissed, but the cabinet secretary has attempted to do that with well-rehearsed assertions, including the assertion that corroboration is archaic. In fact, as Lord Gill eloquently explained when he gave evidence to the Justice Committee,

"The rule of corroboration is not some archaic legal relic from antiquity. We did not get where we are by accident. The fact that our law has this rule—a rule that I regard as one of its finest features—is the result of centuries of legal development, legal thought and the views of legal writers, politicians and practitioners down through the ages. It has been found to be a good rule. I simply ask the committee to listen to the wisdom of the ages—it has a lot to tell us."— [*Official Report, Justice Committee*, 20 November 2013; c 3730.]

Sandra White (Glasgow Kelvin) (SNP): Will the member give way?

Margaret Mitchell: Not just now.

Furthermore, a key part of the Government's argument for abolition of the requirement is that access to justice will be improved, especially for the victims of interpersonal crimes, such as rape and domestic abuse.

Kenny MacAskill: Will the member take an intervention?

Margaret Mitchell: I want to make some progress.

More prosecutions does not mean more convictions, and there is nothing just in putting victims through the ordeal of gruelling interrogation by the defence when, under the Government's proposal, their evidence could be the only source available and they would just end up seeing the accused acquitted.

Corroboration is not an overly onerous requirement, particularly in the light of the increasing availability of closed-circuit television and DNA evidence.

Kenny MacAskill: Will the member take an intervention on that point?

Margaret Mitchell: No, I am sorry—I must make progress.

Furthermore, corroboration does not require each and every single fact to be backed up with additional evidence. The rule applies only to the essential facts of a case: namely, that a crime was committed, and that the accused committed it.

Kenny MacAskill: Will the member take an intervention on that point?

Margaret Mitchell: In that regard, there is a definite need to look at how the Crown applies the requirement and whether the belt-and-braces approach, in which every fact is corroborated, is necessary or whether it is preventing cases in which there is a realistic prospect of conviction from going to trial.

Kevin Stewart (Aberdeen Central) (SNP): Will Mrs Mitchell give way?

Margaret Mitchell: Not just now, Mr Stewart—I may be able to give way as I progress with my speech.

In the meantime, the introduction of independent legal representation for rape victims to help to stop the use of irrelevant prejudicial information in court has the potential to make a difference in tackling the low conviction rates for rape.

As the legitimate arguments against abolition have mounted, the cabinet secretary's handling of the issue has not been his finest hour. In one evidence session he contradicted himself, first telling the committee that the abolition of the general requirement could not be removed from

the bill as it must be implemented immediately to give access to justice for victims of rape and domestic abuse, but then stating that it was necessary to take time to get the legislation right.

In general, the cabinet secretary has been on the back foot, and he has reacted to mounting criticism of the section 57 proposal with yet another consultation. Even on the day on which the committee signed off its stage 1 report, the cabinet secretary announced a further review. The membership of the review group, which is to be led by Lord Bonomy, was revealed only two days ago.

As a result of the mishandling of the issue, the Scottish Government is now in the ludicrous position of promising a review after corroboration is abolished. The Carloway review, on which the cabinet secretary has relied, was fundamentally flawed as it looked only at the options of retaining or abolishing corroboration. The third option of retaining corroboration but including it in a wider review of the law of criminal evidence was not considered.

The criminal justice system needs to be examined as a whole. When he was asked directly by Sandra White, Lord Gill told the Justice Committee that the corroboration proposal should be taken out of the bill and examined as a separate entity. He said that that

"would not be a way of avoiding the problem; it would be a positive way of getting a better outcome."—[*Official Report, Justice Committee*, 20 November 2013; c 3721.]

I do not believe that the cabinet secretary truly believes that retaining section 57 is the best way to legislate.

Kenny MacAskill: Will the member take an intervention now?

Margaret Mitchell: I will make progress.

The cabinet secretary is asking the Scottish Parliament to pass bad law and to vote to abolish corroboration before we know what system will replace it on a promise that the review, about which little is known, may fix the issue.

The Parliament's integrity is at stake. The Justice Committee is not convinced by the Scottish Government's proposal, and the Government should listen. For the Scottish National Party-led committee to take that view should give the cabinet secretary pause for thought, and the fact that the reasoned amendment in my name has been lodged with support from the Opposition parties and independent members John Finnie and Margo MacDonald indicates the strength of feeling among members of the Parliament about the Government's proposal in section 57. Margo MacDonald has confirmed in no uncertain terms

her opposition to section 57, and I ask members to note her comments.

Labour, Conservative, Liberal Democrat, Green and independent members have come together and put party differences behind them in order to focus on the issue of corroboration. I hope that the Parliament will prove itself to be a mature legislature that is able to listen to reason, and that MSPs who have concerns about section 57 and how the issue has been handled will vote for the amendment, or at the very least make a principled abstention.

I move amendment S4M-09160.1, to insert at end:

“but, in so doing, calls on the Scottish Government to lodge an amendment at stage 2 to remove the provisions abolishing the general requirement for corroboration.”

14:54

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): I welcome the opportunity to speak in this debate on behalf of the Justice Committee, which was the lead committee for consideration of the Criminal Justice (Scotland) Bill. I emphasise that I am speaking as convener, not as an SNP back bencher—no doubt some folks will be pleased to hear that. I am constrained to that role and therefore cannot comment on the cabinet secretary’s announcements subsequent to the committee’s report. In a way, I am not even part of the debate; I will just lay out the background to our report.

That said, like Margaret Mitchell, I thank all committee members, who spent long and focused sessions, whatever others think of their views, dealing with the bill and doing so for the most part with good humour and good manners, even when some felt frustrated by answers. On behalf of the committee, I thank all those who provided submissions and gave evidence to the committee. We forget those people, but we received 54 submissions and 11 supplementary submissions, and we took evidence from over 50 witnesses at 11 meetings between September 2013 and January 2014. There was a real consideration of the issues, which I think is reflected in the divergence in our report. I thank, too, the Finance Committee and the Delegated Powers and Law Reform Committee for their useful reports.

The bill is, as we know, significant and complex, and covers a wide range of areas, although almost all the proposed reforms have been buried, understandably, by the focus on the reform relating to corroboration. As Margaret Mitchell has already said, the bill broadly implements the recommendations of Lord Carloway’s review of Scottish criminal law and practice relating to police powers of arrest, holding suspects in custody, and

corroboration; and the recommendations of Sheriff Principal Bowen’s independent review of sheriff and jury procedure that was aimed at increasing the efficiency and cost effectiveness of solemn proceedings in the sheriff court.

The bill also introduces new measures on: weapons offences; offenders on early release; appeals; the Scottish Criminal Cases Review Commission; people trafficking; and a police negotiating board for Scotland. It is a huge bill. That substantive list evidences—some might say corroborates—my earlier point about the depth and width of the bill. It is worth saying at the outset that on most of those matters the committee was in agreement. However, we were unable, as is well known and understood, to reach agreement on the proposal to abolish the mandatory requirement for corroboration. I will address that in due course.

Part 1 of the bill aims to simplify police powers of arrest by removing common law and statutory rules on arrest and detention, and replacing them with a general power of arrest on “reasonable suspicion”. The committee agreed that there might be some benefit in simplifying the powers of arrest but, as alluded to by Margaret Mitchell, the term “arrested”, when used to refer to someone who has not been charged with an offence, may appear more suggestive of and give the perception of guilt to the public than the term “detained”. Terms such as “person not officially accused” for someone who has been arrested bewildered me, and I kept forgetting the definition, as did some other members. We considered some terms, and the idea of “de-arrest”, as confusing enough for some committee members, never mind the general public.

I somehow cannot see those terms becoming the stuff of newspaper reports. Accordingly, we were concerned that the reputation of the accused might be detrimentally affected by the provisions in the bill, and we have asked for assurances on that issue. We were all concerned about the no-smoke-without-fire syndrome and trial and conviction by the media.

Prior to the emergency Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010, suspects could be detained for a maximum period of six hours. Currently, under the 2010 act, a person can be held in custody for up to 12 hours, with the possibility of an extension to 24 hours. The bill proposes a maximum 12-hour limit without any extension. The cabinet secretary told the committee that he was also considering whether to allow an extension to that period in exceptional circumstances.

We heard a mix of views on that issue. Police witnesses argued that 12 hours might not be sufficient in the most complex of cases, and the

Scottish Human Rights Commission told us that six hours would be more proportionate. The committee had mixed views on whether detention beyond six hours was necessary. We have requested examples of exceptional circumstances in which an extension might be granted, particularly as the bill also provides the option of investigative liberation.

What is investigative liberation? It would allow the police to release from custody for a maximum of 28 days and on conditions suspects who have not been charged while the police carry out further investigations into the suspected crime. The committee has asked for assurances that investigative liberation will not have an unnecessary impact on the suspect's private life, while allowing the police to conduct complex investigations that could not be completed during the person's initial detention. Witnesses assured us that it would not be used for a fishing expedition for evidence. We also noted that this and other aspects of the bill could have resource implications for the police that would need to be considered.

I come to the subject of corroboration. I make it clear that all committee members wanted more successful prosecutions, particularly for crimes of a sexual nature such as rape. As we understand it, that and other similar offences provided the momentum for reform.

Part 2, which aims to abolish the general requirement for corroboration, has quite rightly proved the most difficult part of the bill for the committee, with strong views on both sides of the debate. I must emphasise the phrase "general requirement", because although the debate has focused on the crime that I just mentioned, the abolition of the requirement for mandatory corroboration would apply to all crimes for which corroboration is currently a requirement, such as shoplifting and vandalism. I ask members neither to lose sight of that nor to misunderstand—

Ruth Davidson (Glasgow) (Con): Will the member give way?

Christine Grahame: I really cannot respond to the member because I have to keep to the report. I hope that she understands.

Ruth Davidson: I understand that the member is speaking as the committee convener. However, she is also speaking as a member of the class of '99 in this chamber. Can she tell a new member like me whether she can recall a time in the history of the Parliament when members were asked to vote for a fundamental change in the law in the knowledge that they would find out only afterwards what they were being asked to change it to? How can she recommend that?

Christine Grahame: That is very naughty of Ms Davidson. I like to have a rammie in a debate as much as anyone else, but I made it plain from the very start that in fairness to all committee members I would be speaking as convener. I will not enter into a discussion on those points—another day, perhaps.

Going back to the general requirement for corroboration, I should not have to say this but I will say it anyway: corroboration does not mean the requirement for an eyewitness other than the alleged victim.

Some witnesses argued that removing the corroboration requirement would achieve access to justice for more victims of crime by allowing more victims of rape, sexual offences and domestic abuse to have their day in court and have their say.

Others argued that corroboration—

Sandra White: Will the member give way?

Christine Grahame: I am coming to my point. The member's views will be reflected in it.

Others argued that as corroboration was a vital safeguard against wrongful conviction the requirement for corroboration was itself such a safeguard. There were mixed views among committee members and witnesses about what is meant by corroboration; indeed, that mixed view extended to a difficulty in understanding the legal or technical distinction between supporting evidence and corroboration. The Lord Advocate and the cabinet secretary gave some indication that supporting evidence could be required in cases in which corroboration is not available. However, we received limited information on how that might work in practice and have therefore asked the Scottish Government to provide specific information on how any requirement for supporting evidence would differ from the current need for corroboration.

The same issue arose with regard to the meaning of the term access to justice. For some, it meant getting the case to court; for others, it meant getting a successful conviction. That is another problem for the committee. As a result, although all members had serious concerns about the particularly low prosecution and conviction rates for sexual offences, rape and domestic abuse, we could not reach agreement on whether removing such an integral part of the criminal justice system would improve for victims of those crimes access to justice—whatever that means to members—in a meaningful way.

If we read what we actually said—

Alison McInnes: Will the member give way?

Christine Grahame: I have only one minute to read what the committee said about the issue, and it is important to get it on the record.

The committee concluded:

“The Committee is convinced that, if the general requirement for corroboration continues to be considered, this should only occur following an independent review of what other reforms may be needed to ensure that the criminal justice system as a whole contains appropriate checks and balances.

The majority of Committee Members do not believe, in the event that the requirement for corroboration is abolished, that concerns relating to the need for further reform can be adequately explored during the passage of the Bill. The Cabinet Secretary’s proposal that the commencement of the provisions abolishing the requirement for corroboration be subject to a parliamentary procedure requires further explanation and consideration, which the Committee requires before Stage 2.”

Those are the two points that the committee made, and I have tried as fairly as possible—

Alison McInnes: The main conclusion of the committee—

The Deputy Presiding Officer (Elaine Smith): Order.

Christine Grahame: I have done it as fairly as possible. I hoped that I could square the circle by saying that the majority of members are not convinced that the requirement for corroboration should be abolished and also by reading out the conclusions to the committee’s report.

I say to the other members of the committee that I hope that I have reflected our feelings about an extremely difficult issue that, I know, splits groups across the Parliament. It splits the Labour Party, it splits the SNP and it splits others. I know that for a fact, but I speak to the committee report.

I look forward to the debate, which, unfortunately, I cannot join.

15:05

Graeme Pearson (South Scotland) (Lab): I commend the convener of the Justice Committee for the fairness with which she has reported its deliberations. I am not a member of the committee, but I believe that she gave a just account of the deliberations that took place on the days on which I attended.

I also commend the committee, the clerks and the witnesses for the work that has been done.

I remind the chamber that the entire bill deserves thought and consideration. There are significant elements in the bill that affect police powers in relation to suspects; solemn procedure, with regard to improvements in the preparation of cases; sentencing, including the provision relating to the possession of knives and maximising

sentences to five years; changes to appeal processes; and a number of provisions that deal with trafficking and the use of live television links between prisons and courts. It also includes provisions to establish a police negotiating board, which touches on important considerations around police conditions of service and so on. Those important issues are worthy of consideration.

As we anticipated, this afternoon’s debate has focused on the necessity or otherwise for corroboration in Scots law, but it is important that members do not neglect or lose sight of the other important changes while that consideration is going on.

Corroboration is the headline issue, and is extremely contentious. I come to the issue of corroboration as someone who had no prior conviction about the way forward. From the outset, I was determined to hear the Government’s proposals, listen to the evidence and, thereafter, decide my position.

Kenny MacAskill: Did the member not bear in mind Labour’s manifesto commitment to remove corroboration with regard to rape?

Graeme Pearson: My next sentence will address that, if the cabinet secretary will allow me to get to it.

The Scottish Labour Party’s 2011 manifesto committed us to considering the arguments on corroboration, and I am delivering fully on that commitment today. Following that deliberation, I agree with the Justice Committee’s recommendation regarding corroboration, and I will explain why.

I welcome the very late creation of Lord Bonomy’s reference group, but I note with extreme interest that neither Rape Crisis nor Scottish Women’s Aid is represented on the group. I find that surprising, given the significance that the cabinet secretary attached to the importance of dealing with sex crimes, such as rape, and domestic violence in particular, when demanding the removal of the requirement for corroboration. Lord Bonomy’s group should have been tasked much earlier and should have reported long before now in order to provide MSPs and the public with robust Government proposals in the event of the abolition of the need for corroboration.

The cabinet secretary is in effect asking us to allow him to put his plans out to tender now and to write us a blank cheque, with the promise that we will receive the goods sometime in the future. I would not do that at home, and I will not do it on behalf of victims.

In light of the one-year delay that he anticipates before any empowerment in relation to the abolition of corroboration, it would be prudent for

the cabinet secretary to remove that part of the bill that deals with corroboration. That would allow him to bring back a comprehensive and considered proposal at the conclusion of Lord Bonyon's work and would allow the bill, with its remaining significant issues, to progress. After all, it is important that any changes focus on ensuring that victims and witnesses are provided with every opportunity to deliver their evidence effectively.

The Government should provide whether it will maintain the current system of 15 jurors alongside corroboration and the three verdicts that are the heart of our system, or whether it will move wholesale to an English system in which there will be two verdicts and 12 jurors who will be expected to deliver a unanimous verdict except in exceptional circumstances. Tinkering solely with corroboration and not dealing with the not proven and proven verdicts is short-sighted.

What will the Government propose for post mortem pathology and forensic examinations? Will those continue to require corroboration? What checks and balances will there be for the huge number of summary cases that are dealt with without juries? What is the impact of warning juries in those cases in which there is no corroboration of the essential facts? There is also a need to consolidate legislation, given the volume of changes that have already occurred over the decades and the changes that are now taking place. Will the cabinet secretary consider codifying our law in that respect?

Lord Carloway accepts that, although he had a group involved in the recommendations, he was solely responsible for the recommendation on corroboration. There are alternative views. Justice for the victims of rape and domestic violence requires a cultural change in public attitudes—it cannot be dealt with simply by removing one part of the justice system. Under the proposal, the requirement for corroboration would be abolished for all crimes, not only one-to-one crimes. It would apply, for instance, to trade unionists on a picket line or a youngster who was accused of shoplifting.

Other safeguards that need to be considered include what we would do about dock identifications and allowing judges to dismiss cases in which no reasonable jury could convict. Those matters are not fully dealt with in the bill. In any case, changing the jury verdict requirements as proposed in the bill would be no safeguard in the 96 per cent of cases that are heard without a jury.

The Deputy Presiding Officer: Draw to a conclusion, please.

Graeme Pearson: There are several key issues. How will we protect victims, their medical

histories and their private lives? How will we defend victims from hostile and inappropriate cross-examinations in the new environment? How will we decide jury verdicts? What will we do with judicial examination, and how will we empower our judges for the future?

I implore the Government to take time to reconsider and allow that part of the bill to be held in abeyance, to be considered in the round in a year's time when it can come back to the chamber fully considered.

15:13

Christian Allard (North East Scotland) (SNP):

I thank my fellow members of the Justice Committee, the convener, the clerks and everyone who was involved in putting together the stage 1 report.

As members have heard, the committee agreed to support the general principles of the bill. We might have gone further and supported Lord Carloway's recommendation to abolish the requirement for corroboration but, to my surprise, after months of taking evidence, the majority of the committee chose not to back Lord Carloway's recommendation at our last meeting at stage 1, when Graeme Pearson joined us to write the conclusions of our report.

I will concentrate on why the minority of committee members, including myself, after listening to months of evidence from judges, prosecutors, the police and victim support organisations, concluded that we must trust our police, prosecutors, judges and juries to deliver equal justice for all. The case has been made and we must move forward, not sit on our hands. We must vote today to support the bill, including the provisions on corroboration.

John Finnie (Highlands and Islands) (Ind):

Did the member change his view on the police approach to the matter when the police themselves changed their view?

Christian Allard: I will come on to that issue.

We all recognise that the situation in which we find ourselves is not of our making. In October 2010, the Cadder ruling started the process to reform our criminal justice system. The cabinet secretary wasted no time in responding, and emergency legislation followed.

In December 2010, Lord Carloway was asked to head a review team. The review process involved a range of evidence gathering, research, analysis and consultation. The consultation process ran from April to June 2011. The Justice Committee considered Lord Carloway's report, which was followed by more consultations—the Scottish Government carried out two consultations during

2012 and 2013—before the bill came to the committee.

How many more consultations and reports do we need? The evidence is there and it is time to move forward. The justice secretary did not sit on his hands; nor should we.

We took evidence from many in the criminal justice system. In our report, members can read that the Lord President, Lord Gill, agreed that there is a concern to ensure that sexual crime and domestic abuse are properly and effectively prosecuted. He added that he was also concerned that abolishing the requirement for corroboration would result in weak cases with uncorroborated evidence brought forward but, to my disappointment, Lord Gill did not suggest any alternative, except that we should sit on our hands.

We heard that the focus should be on the quality not the quantity of evidence.

Margaret Mitchell: Will the member take an intervention?

Christian Allard: Not just now.

The Lord Advocate has made it clear that, after removing the corroboration rule, supporting evidence will always be sought before criminal cases go to court. The Lord Advocate said:

“I would not—and prosecutors would not—take up a case without any supporting evidence. However, that is different from a legal requirement for corroboration. Of course, when reaching a decision, we would want to look at evidence that supports what the complainer or victim is saying and we would apply the reasonable prospect of success test and look at issues of credibility and reliability.”—[*Official Report, Justice Committee, 20 November 2013; c 3736.*]

I trust prosecutors, judges and juries to deliver justice for all after we remove that barrier to justice. That barrier is not only for women who are denied access to justice but for victims of other crimes that take place in private. Sitting on our hands is not an option.

I also trust the police who gave evidence. The Scottish Police Federation, the Association of Scottish Police Superintendents and Police Scotland all came to the same conclusion, and they all support the abolition of the requirement for corroboration.

Members might have read that some changed their minds during our consideration of the bill; some even mentioned that fact to us. They changed their minds because, like many others, they looked at the evidence and reached the conclusion that sitting on our hands was not an option.

Others also changed their mind during the process. When I asked the Lord President, on the

principle of access to justice, whether abolishing the requirement for corroboration would increase the number of cases that are brought to prosecution, his first answer was no. When I pressed him on his answer, he changed his mind and said that that might increase the number of prosecutions, but that he was not convinced that it would increase the number of convictions. The debate had moved on; indeed, the debate keeps moving on.

I leave it to other members to tell us why victim support organisations—many of which came to give evidence to our committee—are asking us to vote to abolish the requirement for corroboration. The justice secretary has been listening to the voices in the committee and others who came before us who want some safeguards to come with the change. I trust Lord Bonyon's review on the matter.

Let us give Scotland a criminal justice system fit for the 21st century. The case has been made. Scotland is not on pause. The choice today is not to sit on our hands as the majority of the committee did on the day that we wrote the report's conclusions. The choice is to vote on the opportunity to move forward and support the bill.

15:19

John Pentland (Motherwell and Wishaw) (Lab): The media attention on the bill has mostly centred on corroboration, and that is clearly the most contentious aspect today.

Along with my Scottish Labour colleagues, I am absolutely committed to tackling the abysmally low level of cases of rape and sexual assault taken to court and successfully prosecuted. The question is how that can best be done.

Kenny MacAskill: The Lord Advocate has stated that, in the past two years, 170 cases could not be brought because of the lack of corroboration. Will Mr Pentland tell me how Labour proposes to address that?

John Pentland: It would help to secure an answer from us if you would allow the review that Lord Bonyon is undertaking to be part of the measures on corroboration when the bill comes before us again. Corroboration should be removed from the bill, we should allow Lord Bonyon to come back with his review, and then we can make a judgment. Do not try to play with words. We are as serious about helping people as you are, cabinet secretary.

The Deputy Presiding Officer (Elaine Smith): Speak through the chair, please.

John Pentland: The solution must be right, not something that has the appeal of simplicity but fails to address the complexity of the problem.

I sat and listened carefully to a lot of conflicting evidence on the issue. On one hand, we have the legal establishment closing ranks and resisting any change. It has depicted the proposal as an attack on fundamental human rights that would lead to miscarriages of justice. On the other hand, we have the victims who are denied access to justice because their cases, which might otherwise be strong enough to secure convictions, do not meet the strict rules of corroboration.

To address those cases, the Scottish Government wanted to remove corroboration across the board. At first sight, that seemed an attractive solution to me. After all, cases would still need to be proven beyond reasonable doubt and there should be appropriate safeguards, with corroboration continuing to be sought wherever possible.

However, as I considered the pros and cons of removing corroboration, a number of things became clear. One is that the evidence advanced by both sides of the argument is, to say the least, patchy and inconclusive. Comparisons do not compare like with like. Evidence such as that about additional and wrongful convictions varies from speculative to hypothetical, and some of it would not be admissible in court. Indeed, it was admitted that the assertions about the dangers of wrongful conviction were impossible to prove. Although that might not always be an obstacle in politics, it is a serious matter in a legal debate.

The Scottish Government's majority in the Parliament enables it to bulldoze through reform, but I detected that there were signs of movement in the legal establishment's position. Lords Cullen and Hamilton conceded that allowing exemptions from the requirement for corroboration in certain cases might be preferable to outright abolition.

With a back-bench rebellion becoming a prospect because the whole legal establishment was against abolition, the Cabinet Secretary for Justice offered a review. People can be forgiven for thinking that that was just an act of tokenism or a ruse to buy off back-bench opposition because he is still determined to push ahead with abolition regardless and he does not anticipate the review causing any significant delay in that.

What the cabinet secretary offers by way of safeguards still leaves a lot to be desired. Although most countries do not require corroboration, they require greater majorities than the 10 out of 15 proposed for Scotland. Most require at least 10 out of 12.

What are the alternatives? We could examine whether the refusal to give evidence could be taken into account when considering a verdict. We could also examine how we define corroboration. Unfortunately, there is no definitive definition.

There have been a few definitions and, in practice, it is often a case of considering the precedents for how the principle has been applied.

Over the years, various modifications have been proposed, including evidence of bad character, similar-fact evidence and the Moorov and Howden doctrines, in which there is mutual corroboration between cases based on time, character and circumstance. Moorov is already used in Scots law, but there are issues with its use that could be considered, especially in the context of crimes such as rape and sexual assault. Indeed, its incorporation into general statutory rules was considered by the Scottish Law Commission less than two years ago, but that report was bypassed by the proposal to remove corroboration.

Rather than seek to clarify or extend the concept of corroboration, the cabinet secretary chose to enter the fray with his own alternative—supporting evidence. Some thought that that was corroboration by another name, but attempts to compare the two soon revealed that the concept of supporting evidence also suffers from a lack of clarity.

The Deputy Presiding Officer: You must conclude, please.

John Pentland: Far from helping, it muddied the waters. Frankly, the more we look into the debate, the messier it becomes. I do not think that the proposal should be used as a political football and pushed through just to tick a few boxes.

The Deputy Presiding Officer: I am afraid that you need to close.

John Pentland: I hope that the suggested amendment will give us the time that is needed to give careful consideration to all the issues and options. We need to get this right, because hundreds of people every year are deprived of justice.

The Deputy Presiding Officer: You need to close, please.

John Pentland: To do that, we all need to work together to help find the best solution.

The Deputy Presiding Officer: I advise members that we do not have extra time for interventions. If members take interventions—even interventions from the front bench—they must do so within their own time.

15:26

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): Before I come to the crux of my speech, I commend the cabinet secretary for the new aggravation that relates to human trafficking, which I am sure that all members welcome.

Article 7 of the Universal Declaration of Human Rights says:

“All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”

If a person is raped or subjected to any kind of sexual or domestic abuse, as the law stands in Scotland they will not be treated equally. That assault on basic human rights is not the fault of the police or even of the Crown Office and Procurator Fiscal Service, its judges, its QCs or its lawyers. It is the fault of our failure, until now, to alter the legislation so that it can take into account the need to bring to trial the brutal and vicious men—virtually all of them are men—whose idea of a cosy night in is to get drunk, rape their partner and then batter her into unconsciousness before going back down the pub to tell their pals.

I appreciate that that is a stereotypical image, but if members talk to the police or Rape Crisis Scotland, they will—sadly—discover that the model is stereotypical because that is, in fact, usually how it happens. Depressingly, as co-convenor of the cross-party group on men’s violence against women, I see time and again just how accurate that stereotype is. It sounds like cavemen fighting over their spoils. The women, they will say, asked for it or provoked them so much that they had to hit out. They are 21st century cavemen indeed. “I gave her a good doing” is not just the language of cavemen; it is alive and thriving in certain favoured drinking dens across Scotland and—more important—in the private homes of too many women. As George Orwell put it,

“All animals”—

and perhaps cavemen—

“are equal, but some animals are more equal than others.”

In my opinion, Napoleon the pig is well titled.

Deservedly, we see ourselves as a progressive, forward-thinking nation. We have a wealth of history to support us in our ambitions as we continue to push forward towards a fairer and more egalitarian society. I am absolutely astonished at the position that Labour has taken. The Bain principle is alive and well in the Scottish Parliament.

Patrick Harvie *rose*—

Christina McKelvie: Why is it that some of us seem to be so reluctant to change legislation that is outmoded, lacking in credibility and out of place—much like Labour’s position?

Patrick Harvie *rose*—

The Deputy Presiding Officer: Mr Harvie, the member is not giving way.

Christina McKelvie: Corroboration is a legal principle in Scots law that demands that two different forms of evidence must be in place before a decision is made on whether a case can go to trial. In a rape case, it is necessary to have two forms of evidence that penetration took place, two forms of evidence that there was no consent and that the accused acted with malintent, and two forms of evidence that it was the accused who committed the crime. The complainer has to prove that the accused understood that the act was not consensual. How does she do that? If the accused says, “Oh, she likes it that way,” how can she prove that she did not and does not like it that way?

Ruth Davidson *rose*—

Christina McKelvie: A legal worker from Scottish Women’s Aid, Louise Johnson—I had a phone call with her yesterday—told me recently:

“It is profoundly shocking and demeaning how women who are victims of sexual or domestic abuse are treated in our courts. For example, a request to look at previous sexual history may help turn up previous offences but it is often used as a way of attacking the victim’s morality.”

She also said:

“It is very rare that if a case gets to court at all it is a single event. There will almost always be a background of coercive, controlling and violent behaviour”.

There is no question but that we need robust evidence to be gathered to put before procurators fiscal so that cases can go to court and have a reasonable chance of a successful outcome, but it is not good enough just to say that there is not enough evidence so the cases should not get to court. Removing the need for corroboration in abuse cases will in no way undermine the demand for that evidence. On the contrary, it will allow women—who have been denied the opportunity to go to court—the chance to get justice and move on with their lives. Many have attempted and committed suicide because they have not had that access to justice. That is an indictment on all of us.

There is a significant number of victims of sexual violence and domestic abuse whose cases do not go to court. In the past two years, that has affected 2,800 cases of domestic abuse and 170 rape cases. The Tories, the Liberals and—astonishingly—the Labour Party might be happy with that, but I will not have that on my conscience. [*Interruption.*]

John Finnie: Will the member take an intervention?

The Deputy Presiding Officer: Order.

Christina McKelvie: This is not some airy-fairy notion of correcting an imbalance. Under the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence—the Istanbul convention—the action of preventing and combating such violence is no longer a matter of good will but a legally binding obligation. The steps that the Government has proposed are a moral imperative.

Some Governments, including our own, are implementing at least some elements of the convention, but we must do more. We must implement all its demands, to reduce and ultimately to eliminate the obstacles that limit women's opportunities to claim their rights in court.

The burden of proof for rape in Scotland is extremely high—the Crown has to prove and corroborate not only that sexual intercourse took place and that the complainer did not consent to it but that the accused knew that the complainer did not consent. The fact that we have always done it in that way is not an adequate reason for continuing the corroboration requirement. We have a duty to victims in Scotland to seek actively to remove—as far as legislation can do so—the barriers that limit access to justice for them. On top of the fear, the shame, the lack of awareness about official procedures and about available assistance, economic dependence and concern for children, women face an additional and unnecessary burden in the judicial process.

Until 1982, women in Scotland could not be raped in a marriage. Equal marriage was agreed to only recently in the Scottish Parliament. Sometimes, we need to be bold in the face of opposition and to do what is morally right to ensure equality and justice. The proposal is morally right, and I ask all my colleagues to search their consciences before pressing their voting buttons at 5 o'clock.

15:32

Alison McInnes (North East Scotland) (LD): The bill contains a number of welcome reforms. There is a clear need to ensure that Scotland's criminal law and practice comply with the European convention on human rights. At stage 2, we should carefully consider many issues that the committee identified, including investigative liberation, the appropriate detention limit, the use of the term "arrest" and the basis on which all those activities are conducted.

To turn briefly to matters that are not in the bill, I share the belief of children's charities including Barnardo's that the Scottish Government has missed an opportunity to raise the age of criminal responsibility from eight to 12. I hope that we can return to that at stage 2.

In the short time that is available to me, I must focus on the part of the bill that has—rightly—attracted the most attention. I am of course talking about section 57, which proposes to scrap the requirement for corroboration.

When Parliament first debated Lord Carloway's review back in 2011, the justice secretary told us that he wanted to

"hear the views of those who disagree in whole or in part"

with what

"would clearly be a momentous reform."

He claimed:

"There is no political dogma".—[*Official Report*, 1 December 2011; c 4248, c 4246 and c 4249.]

Since then, the justice secretary has been patently partial and has relentlessly pursued only one outcome. He has been unwilling to act as the guardian of the wider justice system. The reasoned pleas of Scotland's top judges, including the Lord President, and of legal professionals and human rights organisations have been ignored.

The justice secretary cites emotive cases and anecdotal evidence to make his case. I do not doubt that he speaks of genuine grievances and wrongs; I find it insulting when people think—wrongly—that we do not care about those genuine grievances. However, the proposal is a sweeping change that will impact on every criminal case—summary and solemn. Choosing to portray the debate as a contest between some sort of primitive justice system and the blood and tears of victims is disingenuous and misleading, and it devalues the debate.

I agree that we must strive to enable the victims of rape, sexual assault and domestic abuse to secure justice. However, it is because I am entirely sympathetic to their plight that I am concerned about the proposal. In the absence of corroboration, more prosecutions could rest on the credibility of the alleged victim. Victims could increasingly be subjected to the already unbearable cross-examinations that Christina McKelvie talked about. The "He said, she said" scenarios will make juries reluctant to convict.

Also, the Lord Advocate, the justice secretary himself and Rape Crisis Scotland have all openly admitted that they do not believe that the measure will result in more convictions, but simply increasing the number of cases that reach court is not enough; if we do not also endeavour to improve conviction rates, we are offering victims nothing more than false hope. The committee concluded that abolition of the requirement for corroboration will not improve access to meaningful justice, which is why we need a wide-ranging inquisitorial examination of how the entire

system can better respond to offences that occur behind closed doors.

I do not defend corroboration because of tradition; it is so much more than tradition. It protects against miscarriages of justice, false accusations, wrongful convictions and the erosion of the presumption of innocence. That pillar of our justice system cannot be removed without making the whole structure unstable. In the absence of checks and balances that are equivalent to those that exist in other jurisdictions, corroboration is central to ensuring that our courts secure the right conclusions through fair means.

After months of meticulously exploring detailed evidence, the Justice Committee concluded that the case has not been made for abolishing the general requirement for corroboration, and recommended its removal from the bill. That is an unequivocal message to the justice secretary. The reasoned amendment that has been lodged by Margaret Mitchell and signed by many of us is further testament to the gravity of what is at stake today.

Having failed to quell fears and disquiet, at the 11th hour the justice secretary has stumbled into the offer of a review. I do not know whether he finally got it or whether that was merely a fig leaf to cover his embarrassment.

The review group in itself demonstrates the scale of the problem. The justice secretary is recklessly urging members to pass legislation that he knows is so defective that it needs a 17-strong panel of distinguished minds to patch things up afterwards. The new dean of the Faculty of Advocates, James Wolffe QC, has described this approach as asking MSPs

“to buy a pig in a poke”.

Lord McCluskey condemned placating opponents with “sweeteners” and said that

“the interests of justice are not served by awarding sops to one side or another”

That is no way to legislate. Secondary legislation should establish comparatively minor details—it should not define how we prevent miscarriages of justice, or prevent the problems that the bill invites. Despite the justice secretary’s assurances, everyone here should know that an instrument that is subject to affirmative procedure leaves no scope for proper parliamentary scrutiny. In proposing the use of secondary legislation for such a momentous reform, the justice secretary demeans his office and reveals his contempt for Parliament.

The matter is now no longer only about whether we think corroboration should be abolished. It is also about how Parliament is regarded in terms of how seriously we take our role as legislators. I

appeal to SNP members from the class of ’99 to think carefully about that.

The existing case for abolishing corroboration is deficient and unsubstantiated in so many respects. In this situation, there can be only one logical next step for the justice secretary: accede to the committee’s recommendations and remove section 57 from the bill, and allow Lord Bonyon’s group to conduct its review completely unfettered, after which Parliament could rightly return to the matter afresh. It is obstinate and absurd to suggest any other course of action.

15:39

Annabelle Ewing (Mid Scotland and Fife) (SNP): I am pleased to have been called to speak in the stage 1 debate on the Criminal Justice (Scotland) Bill. I refer to my entry in the register of interests, which states that I am a member of the Law Society of Scotland and that I hold a current practising certificate.

The bill that is before us today, like many criminal justice bills that have preceded it, deals with a number of important reforms to the criminal justice system, including corroboration, to which I will return. Key among the other provisions are the sections that deal with arrest and custody. Following the action that was taken as a result of the Cadder judgment, it has been recognised that there is no longer merit in having a discrete power of detention. The bill provides, in effect, that the only general power to take a person into custody is the power of arrest on reasonable suspicion that the person has committed a crime. That is a great step forward.

On custody, the bill will place on a statutory footing a 12-hour time limit, with review after six hours. There are provisions on investigative liberation, which offers an alternative to protracted custody, with safeguards to ensure that conditions are proportionate and necessary.

There are other protections in relation to the rights of suspects in custody. Section 25 provides that a person under 16

“may not consent to being interviewed”

by the police

“without having a solicitor present”.

That is an important provision.

It is right and proper that the bill provides many important safeguards for persons in custody. However, an imperative of any properly functioning criminal justice system is the need to balance the rights of the accused with the rights of victims of crime—[*Interruption.*]

The Deputy Presiding Officer: I am sorry to stop you, Ms Ewing, but your microphone is

picking up the conversation that is going on behind you.

Annabelle Ewing: The need to balance the rights of the accused with the rights of victims of crime is a fundamental principle of our criminal legal system. That brings me to the issue on which I think most members have focused—the proposal to remove from Scots criminal law the general requirement for corroboration.

I speak as a member of the legal profession when I say that the law cannot and should not stand still. We must keep our criminal justice system under review in order to ensure that the balance of rights to which I referred is maintained. In all conscience, I cannot—as a lawyer or as a politician—accept a status quo that denies access to justice to so many people who are, as we have heard, the victims of sexual crimes, domestic abuse and other crimes that are committed in private.

We heard the dreadful statistic that in the past two years 170 cases of rape have had no proceedings taken, because of, inter alia, a lack of corroboration. I will cite an example—

Margaret Mitchell: Will Annabelle Ewing give way?

Annabelle Ewing: I think that I am about to deal with the subject of Margaret Mitchell's intervention.

In the case of Lee Cyrus, in Perth, there were charges of rape and assault and robbery, but there was no prosecution. I wrote to the Solicitor General for Scotland, whose reply to me is dated 31 December 2013. She said, inter alia:

“Crown Counsel instructed that because of a lack of corroboration there was insufficient evidence to prosecute Lee Cyrus for the crimes reported.”

Graeme Pearson: Will Annabelle Ewing give way?

Annabelle Ewing: I need to make progress.

Scots criminal law is unique among the ECHR states' law in hanging on to corroboration as a general requirement. We removed the requirement from civil cases some time ago. Moreover, if members ask two or more lawyers to give their precise definition of corroboration, they will get two or more definitions.

The law must evolve. I can think of no more highly regarded representatives of the legal profession than the people who, with others, will form part of Lord Bonomy's review group. Those people are at the pinnacle of the criminal legal system of Scots law. We can place our confidence in their ability to come up with the appropriate balances and safeguards, which will be subject to the scrutiny of the Parliament.

Graeme Pearson: Will Annabelle Ewing give way?

Annabelle Ewing: I have just over a minute left and I want to use it, I am afraid.

The time to act is now, in the bill, by taking the approach that the cabinet secretary set out clearly again today, so that we can see the full effect of the reform in 2016.

To members who say that parliamentary process is key above all other considerations, I say that the delay that would be created if we took the provision out of the bill would result in our Parliament in effect condoning the denial of access to justice in hundreds, if not thousands, of cases between now and some indeterminate date in the future. It is sad that that appears to be the Labour Party's position.

That is simply not good enough, if members believe, as I do, that there should be no second-class citizens when it comes to access to justice in Scotland. I urge all fair-minded members to think carefully about what they will do at decision time today. I hope that they will come to the conclusion that the way that has been proposed by the cabinet secretary is the best way forward to ensure that all our citizens have access to justice.

15:45

Rhoda Grant (Highlands and Islands) (Lab): The bill is wide ranging, but I will concentrate on corroboration.

For a number of years, I have been concerned that the requirement for corroboration in cases involving rape and domestic abuse has prevented people from receiving justice. I was therefore delighted when a proposal came forward to remove the need for corroboration. If I am honest, even when a number of people in the justice system and legal profession started to question the policy, I thought that that was simply because of fear of change rather than because of concern about the policy itself. However, as the clamour became louder, I began to become concerned. I was therefore pleased when the cabinet secretary set up a review group to examine the policy and the required safeguards.

Although I want to abolish corroboration for cases whose very nature means that corroboration will be difficult to find, we owe it to victims to do that properly so that it works and gives access to justice for those who are involved. A day in court is just not enough. At the least, it is traumatic, so it has to be followed by a conviction that provides a degree of closure. Surely we all want real justice for victims.

I ask the cabinet secretary to explain in winding up the debate why Rape Crisis and Scottish

Women's Aid have not been included in the review group. Many groups exist to support women who have experienced violence and abuse, but all members will acknowledge that Rape Crisis and Scottish Women's Aid hold the expertise in that area.

Kenny MacAskill: I am pleased to tell Rhoda Grant that I have spoken to Sandie Barton and have made it clear to her that I will make representations on the issue. The selection of the members of the group is up to Lord Bonomy, but I am happy to advise that I think that he should at least consider engagement with those organisations.

Rhoda Grant: I would be pleased if Lord Bonomy were to include them in the review group. If we are to introduce changes using subordinate legislation, we will not get the full impact of the information that those groups hold and we will not be able to consult them properly on the findings of the review. That is because subordinate legislation does not receive the same scrutiny in Parliament as primary legislation receives, and it does not provide an opportunity for stakeholders to be involved to the same extent.

Therefore, I ask the cabinet secretary to reconsider the proposed removal of the requirement for corroboration, so that he can build consensus and introduce primary legislation on the issue that can be properly scrutinised by the Parliament, that can involve the stakeholders and that we can all unite around.

Sandra White: Will Rhoda Grant take an intervention?

Rhoda Grant: I have taken an intervention, so I am struggling for time.

The review group has been asked to look at evidence that is admissible in court. Currently, in cases regarding violence against women, courts consider evidence that has no bearing whatever on the case; for example, victims have their sexual history examined, which has no bearing on their right to protection under the law. To allow such questioning creates the impression that the victim, having engaged in sexual activity in the past, cannot be raped. Therefore, evidence that involves someone's sexual history should never be admissible in a court of law.

To be cross-examined in that way is devastating for the victim, who should be protected. It creates a barrier to justice by introducing evidence that should have no bearing whatever on the case, and it is a barrier to victims pursuing their cases. It is also a problem for wider society because it creates gender inequalities and promotes stereotyping. What steps can the cabinet secretary take to stop that practice? Judges continue to allow such lines of questioning. The only discouragement to it is

that the judge can allow prosecutors to examine the perpetrator's history, but no one in the court protects the victim from that type of questioning. The fact that people experience such an ordeal is likely to deter other victims from coming forward in the first place.

Another aspect of so-called evidence that should never be allowed in court is somebody's medical history. Often, a defence will spend time going over someone's medical records, and they will often highlight mental health issues. Again, that can be devastating for the victim, and again it has no bearing on the case. Being mentally ill does not mean that it is okay to be raped or abused—in fact, more protection should be afforded to people who are vulnerable. Again, there are wider implications for our society in that mental illness is being stereotyped.

Both of those types of evidence can repeat the abuse that the victim has already experienced. I very much hope that the Bonomy review will deal with those issues and take a clear stance on them.

I also hope that the review will consider what constitutes supporting evidence. Many people do not report rape and abuse immediately, and it is therefore important that behavioural changes and the like are admissible as evidence of a victim's having suffered trauma. In cases of domestic abuse, the victims often cover up the crimes and believe that they are in some way responsible. Evidence that takes account of that must be admissible in court. I argue that it should be admissible now as corroboration, but the training of the people who operate our justice system is woefully inadequate in this area.

The Deputy Presiding Officer: You must conclude.

Rhoda Grant: I have had cases where the court has been used to perpetrate domestic abuse. Surely that is not right. I hope that the cabinet secretary will listen to the Parliament's concerns, take the opportunity to build consensus and change the justice system to one that protects, rather than abuses, victims.

The Deputy Presiding Officer: Once again, I point out that interventions must be taken within the time that members have for their speeches.

15:51

Roderick Campbell (North East Fife) (SNP): I refer to my entry in the register of members' interests as a member of the Faculty of Advocates.

Although the Criminal Justice (Scotland) Bill is substantial, public attention has tended to concentrate almost exclusively on the proposal to abolish the requirement for corroboration. The

Justice Committee was divided on the matter, and the witnesses who gave evidence to us had very different views. It is clear that many victims of sexual and domestic abuse and, indeed, other crimes, theft in particular, may well be denied access to justice by the rule. Indeed, the now-retired eminent judge Lord Hope, in his *Holyrood* article, accepted that we have a rule that impedes us in a particular class of case. However, I also take on board the evidence of James Wolffe QC, the new dean of the Faculty of Advocates, who told us that what really counts is access to effective justice.

I note the figures that have been produced in the Carloway report and by the Crown and police to support contentions on the number of additional cases that might proceed if the requirement is abolished, but I also bear in mind Lord Carloway's point that there are cases that proceed at present but will not proceed under the new test. It would serve no useful purpose to seek to quantify those, but it is as well to be aware of that.

Whatever the increase in the number of cases that might proceed under the new test, no one can say with certainty how many will result in a conviction and what they will do to conviction rates. The Lord Advocate said in evidence:

"the justice system is not about conviction rates".—
[*Official Report, Justice Committee*, 20 November 2013; c 3737.]

I agree with the convener that no one should regard appearing in court as a complainer or victim as therapy. In traumatic cases, even lawyers can find the process stressful. Nevertheless, it is at the very least deeply unfortunate to deny individuals the opportunity to obtain justice and the right to tell their story, to be tested before their peers. I also reflect on the comments that the distinguished lawyer Maggie Scott QC—now Lady Scott—made to our committee in 2011, when she said:

"I understand people's desire to have a day in court—that applies to accused people as well. However, I do not feel that, if there is little likelihood of a conviction, that particularly helps anyone in the process."—[*Official Report, Justice Committee*, 20 December 2011; c 790.]

I hope that the new prosecutorial test will tackle that, at least in part, with its requirement that there be a reasonable prospect of conviction before proceeding.

The Lord Advocate advised us in evidence that questions of credibility and reliability are not considered against a reasonable prospect of conviction test at the present time. The Crown will have to consider carefully in respect of each case whether it is in the public interest to proceed. The new prosecutorial test will not change that.

Lord Carloway's original recommendation to abolish the requirement for corroboration with no attempt to rebalance the system by introducing further safeguards has had scant support. The Government recognised that following its first consultation, and it took the view that a second consultation on safeguards was required, but it then proceeded with only one safeguard in the bill—to increase the majority required for a guilty verdict. Like the Faculty of Advocates, the Scottish Human Rights Commission and others, I strongly believe that a judge ought to have the ability to withdraw a case from a jury where he or she forms the view that no reasonable jury could convict on the evidence presented.

Despite the Government's attempts to engage in discussion about appropriate safeguards, perhaps the strongest call we heard in evidence was for the whole question of the requirement for corroboration to be removed from the bill and considered by the Scottish Law Commission or a similar body.

However, even the Scottish Law Commission can get it wrong, particularly on corroboration. Those of us with very long memories should be aware that, back in 1965, the SLC consulted widely on the abolition of corroboration in personal injury cases only. Subsequently, it changed its mind and recommended the abolition in all civil cases. That recommendation was incorporated in a Government bill. Following a political and legal outcry, the Government of the day agreed to Opposition demands to abolish it for personal injury cases only. The bill was amended and it became law in 1968. It took a further 20 years, following a further SLC report, before it was abolished in civil cases altogether. Some of the concerns about reliance on one smooth-talking but apparently credible witness were heard then, but we have moved on and no one now would seek its return for civil matters. Controversy around corroboration is not new.

The Government has taken on board concerns. I would say that it has listened, reflected and acted on its proposal. I very much welcome Lord Bonomy's appointment and the wide terms of reference for the group, which I am pleased to say go well beyond those for the Government's second consultation.

I am pleased that Lord Bonomy will be looking at summary proceedings, under which the vast majority of cases proceed. I am pleased that he will look at whether a formal statutory test for sufficiency, based on supporting evidence and the quality of the evidence, is required. I am pleased that the question of whether a prosecutorial test should be placed in statute will also be considered.

What is absolutely clear is that it is vital that we have in place a system that provides appropriate balances to prevent miscarriages of justice, so that we do not replace one set of injustices with another.

Lord Bonomy needs time to carry out his work and we as a committee in Parliament will need to absorb that work and to consider and scrutinise it before any proposals pass into law. Most of all, we need sufficient time to build a new consensus. I accept that this might be optimistic, but I hope that this time that will include not only the Crown, police and witness groups but legal practitioners, judges and academics, too.

However, the bill is not just about corroboration. I note and agree with the Government's comments on arrest provisions, particularly on a record of reasons where an arrestee is released before arriving at a police station. I agree with the Government on the time limit for detention.

I emphasise that the bill provides a valuable extension of the right of access to a solicitor to all suspects held in custody. I welcome also the Government's commitment to discuss with relevant stakeholders how post-charge questioning will operate.

We as a committee welcomed the proposed administrative and procedural changes to solemn procedure in the sheriff court, which I think are largely uncontroversial.

This is a substantial bill, which ought now to proceed.

15:57

John Finnie (Highlands and Islands) (Ind): I thank the convener of the Justice Committee for the way in which she has chaired the committee and for her delivery of the report today—it must have been a challenging position for her.

Someone talked early on in the debate about putting party differences aside. Sadly, we have not heard that on either side of the debate. This debate should not be about personalities; it should be about the merits of the case. We should all accept that we can have different views and hold them in good faith.

Having said that, I remain absolutely resolute in my belief that a case has not been made that supports the abolition of corroboration. Corroboration is a fundamental building block of Scots law.

The cabinet secretary tells us that he has listened, reflected and acted and that a consequence of that is the setting up of the Lord Bonomy group. If I noted this correctly, the cabinet

secretary said that the group would be balanced and effective.

The group has wide terms of reference, but I am disappointed that the status quo has been ruled out; it seems to me that the Government is limiting the scope of the group, which is not helpful.

Having said that, I think that the group is comprised of very good folk. I am grateful to my colleague Rhoda Grant for raising that. If the group could be broadened to include the likes of Rape Crisis Scotland, it would be all the richer for that.

However, I have some disquiet about the parliamentary process; I do not think that this is how we should transact business.

In the committee, Lord Gill told us:

"If there is a good solid ... case for abolishing corroboration, there should be no need for any safeguards. The moment we say that there have to be safeguards, we are conceding that the change creates a risk of miscarriage of justice, which, in my view, it will."—[*Official Report, Justice Committee*, 20 November 2013; c 3727.]

That is a very powerful source of evidence.

What we heard in evidence from the Scottish Human Rights Commission is that corroboration—

Sandra White: I know that it has mentioned miscarriages of justice, but is there not a miscarriage of justice for victims who cannot get heard at all and cannot get access to justice?

John Finnie: If there is one phrase that has characterised the debate and which has just become meaningless, it is "access to justice". I want everyone—the accused and victims—to have access to justice. That is very important. Characterising the debate in any other terms is extremely unhelpful.

The Scottish Human Rights Commission told us that corroboration is a form of protection. Other forms of protection are available. I will certainly welcome the Bonomy review and read with interest what it comes up with. However, I stress again that this is not the way in which we should go about business.

Some protections have been offered, but they, of course, relate to solemn procedure, which represents only 10 per cent of the cases that are tried. That makes it clear that the 90 per cent of summary cases do not have those protections. This is a time when we have a record number of police officers and there have been great advances in technology. We have heard about some of the advances. Many advances in technology that are often cited as frustrating police operations actually enhance them, too. I say to my colleague Sandra White that a person can be a

victim one day and an accused another day. We want the highest standards to apply for everyone.

It is certainly the case that the failure to prosecute is not always down to corroboration. There is a public interest to be served and the interests of the complainer have to be served. I had some disquiet—I have shared this information with the cabinet secretary—about some of the examples that we were given; there were very emotive cases. We cannot understand the minutiae of a case in two sentences. Some of the representation was less than helpful.

I want to move on to other aspects of the bill.

I am not convinced that there is a need to change the terms of detention and arrest. If we do so, arrest should have a definition. That is not only my view; it is a view that is shared with Lord Carloway and the Scottish Human Rights Commission. We have heard about the legal debates that will take place. We can be assured that there will be plenty around that in stated cases, notwithstanding the cabinet secretary's assurances that the process will be streamlined.

I thought that the suggestion in the Scottish Government's response that providing a definition would

"jeopardise the employment of ... alternatives to court proceedings"

was very peculiar and strange. The idea that defining "arrest" would somehow impact on the issuing of parking tickets seems to me to be way off the mark. I welcome the word "de-arrest" not being used.

I am delighted that the letter of rights is on a statutory footing. Given what we know about the communication and literacy skills of people who find themselves in custody, it should be read out to people.

I am not convinced about the call for an extension of detention time by the police, and welcome the abolition of the 24 hours. I speak as a former police officer and the reality is that if the police were offered 48 hours' detention, they would bid to get 72 hours' detention. Again, I support the Scottish Human Rights Commission's position that there should be six hours, with extension only in exceptional circumstances and only to facilitate rights under article 6 of the European convention on human rights, on the provision of a lawyer or interpreter.

Depriving someone of their liberty is a very important issue. As has been said, doing so must be based on evidence, not anecdote.

The idea of keeping a child in custody for more than six hours is from the dark ages. We need to

look at that and issues to do with the age of criminal responsibility.

We are told in the Scottish Government's response on the detention provisions that it is

"creating a mandatory custody review, performed by a senior officer not directly involved in the investigation".

Good grief. Is that not happening already? If it is not, it certainly should be.

Investigative liberation cannot be summed up in 10 seconds, but it will be very problematic in rural areas, and I think that there are many challenges to come from that.

16:03

Linda Fabiani (East Kilbride) (SNP): Although I have been a member of the Scottish Parliament for a long time, I have never been a member of the Justice Committee or had anything to do with any of the justice portfolios. I am not a lawyer and have never served in the police force or anything like that. Therefore, I come at the issue entirely from a layperson's view, which is the way in which the vast majority of people in this country come at it.

I will start on the corroboration issue, because that is what all the fuss has been about. I went out of my way to look at the issue, and to try to study and understand it.

It strikes me that an awful lot of nonsense is being talked about the issue, and I have heard some of that this afternoon. It is in the phraseology too: I keep hearing that we are abolishing corroboration, but when I look at what is in the bill, I see that we are actually abolishing the requirement for corroboration that is mandatory to get a case to court.

John Finnie: You talk about needing to explain things in layman's terms, which is clearly shorthand for what the layman understands. You are just playing about with words.

Linda Fabiani: No, and you should not insult the layman—that is an appalling thing to say. I tell you what: I read the bill and it was fairly straightforward. I understood it, and most people could read the truth if it was given to them.

There is a big difference between saying that the Government is abolishing corroboration and saying that it is abolishing the requirement for corroboration. If there is corroborating evidence, it will be used. It seems to me that the requirement for corroboration is preventing a lot of people from gaining access to justice.

I have read many of the differing views that have been expressed. The Lord Advocate, for whom I have huge respect, said:

"I would not—and prosecutors would not—take up a case without any supporting evidence".—[*Official Report, Justice Committee*, 20 November 2013; c 3736.]

Margaret Mitchell: Will the member take an intervention?

Linda Fabiani: No, thank you.

Our Solicitor General has said:

"The current corroboration law means too many victims are denied access to justice and that is a situation no modern legal system should tolerate."

There is a lot in that phrase—we are supposed to have a "modern legal system." It seems to me that when a system is denying people access even to be heard in court, and denying such access to women who are sexually assaulted and raped, it is no modern legal system.

That applies not only in sexual cases. Age Scotland says that

"Elder abuse can take place behind closed doors",

which of course it does, and that

"sometimes there may be little or no supporting evidence. In many cases this involves 'hidden harms' such as mental or emotional abuse, making threats or withholding food or medicine. Changing the corroboration rule for these cases might help to make prosecutions possible."

As a layperson, that last part sounds like a heck of a good thing to me. I fail to see why there should be a problem, unless we take the terribly old-fashioned view that the law on corroboration is sacrosanct and should not be changed.

Of course the law should be changed when it is no longer fit for purpose, and I do not believe that the law on this particular issue is fit for purpose.

Patrick Harvie: Even if I was to accept that the law should be changed if it is not fit for purpose, should we not know what we are changing it to before we change it?

Linda Fabiani: I will speak again as a layperson. It seems to me that we are looking at doing away with the mandatory need for corroboration before a case can be taken to court and we can have it properly judged by a sheriff, judge or jury. That seems to be fairly straightforward.

As a result of the big argument on corroboration, we are ignoring an awful lot of other things that are in the bill. Rod Campbell raised some of those issues as a lawyer—I do not know if it is all right to call an advocate a lawyer, is it?

Roderick Campbell: Yes, it is okay.

Linda Fabiani: Okay. Well, our advocate at the back here mentioned some of those issues, but there are other issues that are important to people that are not being mentioned. We heard a little bit about people trafficking.

The need to reduce inconvenience for witnesses is a major issue, given the number of people I hear talking about the ridiculous nonsense that sometimes go on when they go to local courts as witnesses or to give evidence. Provisions for witnesses need to be upgraded, and I am glad that the issue is addressed in the bill.

Another issue that has not been mentioned is sentencing. Part 4 of the bill increases the maximum sentences for handling offensive weapons to ensure that courts have appropriate powers to sentence effectively persons who commit possession offences with knives or other offensive weapons.

Not that long ago in Parliament we heard Opposition members screaming at the cabinet secretary that he was not doing anything to stop knife crime and that he was not being hard enough. After successful campaigns to reduce the carrying of knives, we have before us a bill that says that there should be powers to increase the sentence for carrying an offensive weapon. Therefore, that part of the bill is certainly worthy of note.

On child suspects—

The Deputy Presiding Officer (John Scott): You are in your last 10 seconds.

Linda Fabiani: —the fact is that the rights of those under 16 cannot be waived, but 16 and 17-year-olds have a degree of autonomy, so theirs can be waived unless a person is considered vulnerable.

There is an awful lot in the bill, and I have a real worry that some of it—

The Deputy Presiding Officer: You must close now, please.

Linda Fabiani: —is being sidelined. Let us not do that.

16:10

Margaret McCulloch (Central Scotland) (Lab): Parliament will divide when we vote later this evening, and when we do many of us will be thinking about the requirement for corroboration and how many changes arising from the bill could shape our criminal justice system for years to come. As we have heard, the bill includes welcome measures on human trafficking and a more efficient appeals process, but its proposals on corroboration are controversial. Corroboration is a central tenet of Scots law. It is a unique and historic feature of our legal system, which those who defend it say prevents miscarriages of justice. Critics, however, say that it is an abnormality and that focusing on the quantity of evidence over quality is a barrier to justice.

Like others, I have concerns about whether the requirement for corroboration prevents victims of particular offences not just from having their day in court but ultimately from getting justice. That case has been made by Scottish Women's Aid and Rape Crisis Scotland, which are speaking up for women affected by rape, sex crimes and domestic violence.

I stood on a manifesto that sought to give greater emphasis to the rights of victims in our justice system. We said that there should be a charter of victims' rights, setting out what victims can expect from the law before, during and after their time in court. We said that there should be an independent victims commissioner to defend that charter. We said that it was wrong that rape conviction rates here are among the lowest in the western world, and that we wanted a renewed focus on improving the treatment of victims of rape in the justice system. Crucially, we said that the time has come to review corroboration in rape cases and that we would consider the findings of the Carloway review. We considered the Carloway review recommendations and, while we remain sceptical about blanket changes without corresponding safeguards, we feel that there is still a case for reform.

What does it say about the way in which the bill has been handled when a proposal that has found some measure of support, at least, in the two largest parties in the Parliament is about to go to a knife-edge vote that the Government might lose? What does it say about this Government when it has to announce a last-minute review—potentially a year long—of a bill just weeks before the stage 1 debate but still expects Parliament to vote for it?

Lord Bonomy's review is undoubtedly welcome, even if many of us believe that its scope is still too limited. Its recommendations could well set out how confidence in the justice system is sustained if the Scottish Parliament does indeed abolish the general rule of corroboration. The review's findings might well determine the future shape of the Government's legal reforms. However, we are still being asked to vote on the bill tonight without having any idea of what Lord Bonomy's conclusions will be, and then deal with the matters of primary importance at a later date through secondary legislation. As James Wolfe, the new dean of the Faculty of Advocates, has said, "It's a pig in a poke."

There are people in the chamber with an open mind about the abolition of corroboration in rape cases who will vote this evening to remove the provision from the bill because the Government has failed to get the basics right. The Scottish Government must provide clarity about the implications of abolishing the requirement for corroboration now, not after the stage 1 vote; it

must go further by satisfying the Parliament that victims will not just get their day in court, but will be supported through the whole process.

Given the Government's failure to find consensus, I believe that the section on corroboration should be removed from the bill and that we should return to corroboration when the case on it has been made and we have a thought-through proposal to vote on.

16:14

Gil Paterson (Clydebank and Milngavie) (SNP): Before I make my main contribution to the debate, I want to put two thoughts to the chamber—I, too, speak as a layperson and not as a lawyer. First, corroboration has been in place in Scotland for centuries and those who support it claim that it is essential for preventing miscarriages of justice, so why has no other country adopted it? Secondly, are all those who defend corroboration saying to other jurisdictions that do not use this practice that their jails are filled with innocent people?

John Finnie: Will the member give way?

Gil Paterson: I apologise to John Finnie and, indeed, the rest of the chamber but although I would like to take an intervention I really want to finish this speech. To be quite honest, I might get a bit emotional and might not be able to finish it.

I was, until recently, a board member of Central Scotland Rape Crisis & Sexual Abuse Centre—indeed, I had that position for more than 10 years—but I want to make it clear that I am not speaking on its behalf this afternoon. However, I would like to pay tribute to that organisation and the countless other women's organisations who, to a person, are in favour of scrapping corroboration. In fact, if we look at the history of those groups, we will see that one of the main drivers for their formation was the consequences of corroboration; now, ironically, they have to deal with the aftermath of its failures on a daily basis.

I want to dedicate my speech to a woman called Jean by telling her story—and I should tell the chamber that Jean is not her real name. Her story will in many ways be familiar to those in women's groups who have had similar experiences and who have to deal with the wreckage when personal tragedy strikes.

Jean was overpowered and raped by a person she knew. The incident was very quickly reported to and acted on by the police. They did not collect the evidence at that time; they did even better than that by using their valuable training and escorting Jean to a hospital where a forensic surgeon immediately examined her and expertly collected the evidence. While the examination was taking

place, the surgeon was quietly counselling Jean and offering advice about where she could find and who could offer the vital early services that could support her over what the surgeon knew would be a protracted and traumatic period. Jean was supported through this time by her husband and assisted by Rape Crisis, and she was also sympathetically dealt with by the police while at the same time questioned in detail by them.

The process lasted months and months. The fiscal service was extremely sympathetic to Jean's situation, but the time that it took to reach a conclusion about whether a trial would proceed took its toll. The second worst day of Jean's life happened when the fiscal service declared that it could not proceed to trial. The word "corroboration" was never used but, as matters unfolded, it became clear that the case had failed because of the lack of corroboration.

The day that Jean was raped, her life changed but she had others' support to help her meet the challenges that arose. Sadly, when it was announced that the case would not be brought to court, Jean's life as she had known it came to an abrupt end. Although her husband had been supportive throughout, he could not get over the fact that after the attack on Jean and the subsequent thorough investigation there would be no trial. For him, no trial meant no rape. The accusations and mistrust started; the fights became frequent as the blame was put on Jean; and then the marriage ended.

The depression that had started shortly after the rape deepened into chronic depression as Jean turned to alcohol for comfort. Soon after, her child was taken from her. She became so low and so full of self-loathing that she attempted suicide. In just a few short but horrendous years, Jean had lost everything in her life and although, thankfully, she and her daughter were reunited she wonders what might have been had she lived in another jurisdiction. She had early and excellent forensic evidence; her story was believed entirely by the police; the fiscal service supported her claims; and most people believed that things would have been different if this had happened somewhere else.

Our justice system is dysfunctional. It has barred tens of thousands of Jeans from justice. I know it; Kenny MacAskill knows it; the victims know it; the forensic experts know it; the police know it; the fiscals' departments know it; every person who is involved in women's groups and works on the front line knows it; even lawyers and judges know it. If we all know it, that in itself is an affront to justice, and we should be thoroughly ashamed. Why does our system recognise barriers to justice but do nothing about them? Surely it must not be the system that makes the verdict. Surely it must be a judge and a jury.

Jean, if you are listening, I know that you were not heard in your time of need but I pray that, today, this Parliament hears your voice. I urge all members to think of Jean and all the other Jeans and support the Government's bill.

16:20

Patrick Harvie (Glasgow) (Green): I suspect that the speech that we have just heard will have had an effect on every member in the chamber, whatever position they take tonight on the motion and amendment that are before us; on the detail of the legislation that the Government is working on; and on the prospect of recommendations from the Bonomy review.

The fact that such a speech can have that effect on members who take different views on the matter needs to be recognised. The debate has benefited from some calm, reflective but passionate speeches on both sides. It does not benefit from anyone claiming a monopoly of concern—few have done that in this debate, but, sadly, not none. There is no monopoly of concern in relation either to the specific instance that Mr Paterson has raised, very articulately, or to the wider issue.

Those of us who have concerns about the prospect of miscarriages of justice or of trials coming to court that have no prospect of safe conviction do not claim that we have a monopoly on that concern. I am certain that Rape Crisis and the other organisations that campaign on these issues and work in this area every day do not want an increase in convictions for the sake of it. They want an increase in safe convictions, not in wrongful convictions, which benefit nobody.

Christian Allard: I want the member to realise that the debate is about an increase in prosecutions, not convictions.

Patrick Harvie: I am sorry, but an increase in prosecutions without an increase in convictions would worry me very much, in terms of the expectations that that would raise and the stress that it would cause the accused persons and the victims without justice coming out of it. We all want an increase in justice. We want safe convictions, not wrongful convictions.

As I said, we do not claim a monopoly of concern on the issue. I ask members who support the Government's position, similarly, not to claim a monopoly of concern about the impact of the offences and the lack of access to justice that, undoubtedly, exists. I say that as someone who is not yet convinced that we should remove the requirement for corroboration but who will be open to the arguments once I see what the Government proposes in its place.

I like the cabinet secretary and admire his position on a number of issues, but I am sorry to say that his demeanour on the front bench today, openly laughing at the arguments of Opposition members, does him no credit.

The cabinet secretary says, “Out with the old and in with the new.” I can only ask myself why Parliament may not vote on both matters on the same day. Why can the Parliament not take evidence on both matters at the same time and reach its decision once we know what the proposals will be?

The cabinet secretary and the Government accept that a new system of safeguards will be required. If we are to move from a position that places greater emphasis on the quality of evidence than the quantity, I am open to those arguments. However, those arguments have not yet been laid out in detail, and I think that it is unreasonable for the Parliament to be asked to pass legislation on that basis, especially given that the change is not specific to rape and sexual offences but applies to the whole of our criminal justice system. That approach—to put it mildly—is not a safe basis on which to pass such substantial legislation.

The cabinet secretary argues that if we defer—if we wait until we know what is proposed in place of the requirement for corroboration—that will cause too much delay in the implementation. However, if we pass the bill without knowing what is to come or when the provisions on the requirement for corroboration will be introduced, implementation can still be only tentative implementation of a hypothetical change. Those who are preparing the way will still not know if or when the Parliament will finally pass secondary legislation to make the change come about. If tentative preparation for a hypothetical change is what is about to happen, there is no reason for our not saying that we will take both decisions at the end of the process, once we know what the proposals are.

I will vote for the amendment in the name of Margaret Mitchell, which bears my name in support, but I am open to arguments in the future about what will be proposed. If Scottish law in this area is going to evolve, into what will it evolve? I want to be able to judge that, see the detail of it and hear the evidence of those on whom it will impact and who will work with the consequences of our decision. I want to know all that before we make our decision, and that is why I will support the amendment this evening.

16:26

Sandra White (Glasgow Kelvin) (SNP): I thank all the members who have spoken previously, particularly Gil Paterson, whose speech was very

moving. I also thank Linda Fabiani for her measured, down-to-earth contribution, which was a breath of fresh air. I would be more than happy to welcome her to the Justice Committee.

Many of the measures in the bill have been welcomed by every party—the arguments have been well rehearsed—but there is one that has not been welcomed by every party, and it is to that issue that I turn. The reform of corroboration has generated more heat and discussion than any other aspect of the bill, although in my mind it is long overdue not only for the victims of rape and sexual assault—whose case was put so powerfully by my colleague Christina McKelvie—but for the elderly, as Linda Fabiani mentioned, and other vulnerable groups.

Many members who have spoken against the reform of corroboration cite miscarriages of justice and the need for justice for all. However, as I asked John Finnie earlier, what about the victims who see it as a miscarriage of justice that they do not have access to justice? It is disparaging of John Finnie to treat access to justice as though it should not be spoken about and does not exist. It exists in the minds of victims, and access to justice is what it is to them. We have also heard the phrase “having their day in court” bandied about, but this is nothing to do with people having their day in court; it is to do with people having access to justice. Victims do not like the disparaging phrase “having their day in court” and I think that people should stop using it. Members should think before they say such things.

John Finnie: Will the member take an intervention?

Sandra White: I am sorry, but I do not have time.

There has also been talk about members changing their minds, and a number of members who are in the chamber have changed their minds. I will give a couple of examples. The 2011 Labour Party election manifesto stated:

“We believe that the time has come to consider the arguments for reforming the need for corroboration in rape cases and will consider the recommendations of the Carloway Review.”

Elaine Murray (Dumfriesshire) (Lab): Will the member take an intervention?

Sandra White: Please let me go on.

On 1 December 2011, in a debate on the Carloway review, James Kelly said:

“Lord Carloway’s report sets out the history of why corroboration was incorporated into Scots law. It is important to remember that it was incorporated at a time when the legal system and the country were very different ... There have been many advances since that time, not only in technology but in the skill and expertise of prosecutors and defence agents. Times have moved on ...

Labour has previously made its position clear on rape cases, in relation to which we feel that corroboration should be abolished.”—[*Official Report*, 1 December 2011; c 4250.]

What are you waiting for?

Elaine Murray: Will the member take an intervention on that point?

Sandra White: No, I am sorry. In your 2011 manifesto you spoke about the Carloway review and when you saw the evidence you said, “corroboration should be abolished”, yet you still say that you do not have enough information. I really cannot understand that at all.

Graeme Pearson said:

“the requirement for corroboration goes back so far that it is difficult to remember why and how it all began ... We should also bear in mind that, although the recommendation is to abolish the requirement for corroboration, it is not to ban corroboration.”—[*Official Report*, 1 December 2011; c 4258-59.]

Please get this right.

Then we have Claudia Beamish who, only a couple of weeks ago on 7 February, on “Brian Taylor’s Big Debate”, said:

“I respect the fact that there is now the Bonomy Review”.

Scottish Labour is

“supportive of the review and I think we have to see what that review does ... I do understand the concerns of women’s groups at the moment that this must not be kicked into the long grass”.

That is exactly what will happen if you vote for the amendment—it will be kicked into the long grass. Annabelle Ewing and the cabinet secretary very eloquently made that point in their speeches.

Let us look at why the reform of corroboration would be kicked into the long grass. If we have to wait for Lord Bonomy’s report to bring forward primary legislation, we run the very great risk that we will be unable to bring this matter before Parliament before the 2016 elections. I ask everyone, including Patrick Harvie, to understand that that is why we cannot support the amendment. I am not saying that everyone who says that they do not support the issue at stage 1 and supports the amendment does not support the abolition—or the moderation—of corroboration; I am saying that they are very misled. That is particularly true of the Labour Party. The quotes that I have cited make clear that you support the abolition of corroboration yet you are prepared to vote with the Tories and the Lib Dems and kick this into the long grass. You should think again, because this will not be progressed any quicker if you vote for the amendment. Think of all the victims who will not get access to justice while we sit and deliberate even further down the line.

Let us vote for the motion and reject the amendment because otherwise you would be rejecting the opportunity for the thousands of people out there who are denied justice and who would be denied it in the future.

The Deputy Presiding Officer: We move to closing speeches. I invite members to speak through the chair when they can, please.

16:32

Murdo Fraser (Mid Scotland and Fife) (Con):

It has been an excellent debate, with some very good speeches. In particular, I single out those made by Alison McInnes, John Finnie, Gil Paterson and Patrick Harvie. As Margaret Mitchell said, the bill is wide ranging, with much in it that we welcome. It contains measures to reduce unnecessary delays in progressing cases, a proposal to increase the maximum custodial sentence for knife crime from four to five years, a fairly minor but nevertheless welcome change to automatic early release—it affects 2 per cent of offenders—and other worthy provisions.

The major controversy is the proposal to abolish the rule of corroboration. As we have heard, concerns have been raised about that proposal by the Law Society—I declare an interest as a member—every senior judge, apart from Lord Carloway, including Lord Gill, the Lord President and every single living previous Lord President; the Faculty of Advocates; the Scottish Human Rights Commission; the cross-party group on adult survivors of childhood sexual abuse; Lord Carloway’s own expert reference group; Justice Scotland; and many other experts and academics.

I struggle to understand from the cabinet secretary and his colleagues on the SNP benches why the change is required. The case seems to be that more victims would get their day in court. However, it would not be the case that the change would increase the rate of conviction, because in England and Wales the conviction rate for sexual offences, despite the lack of a corroboration rule, is almost identical to that in Scotland. The Lord Advocate in evidence to the Justice Committee made the point that there would not necessarily be an increase in convictions. Indeed, in this very debate, Mr Allard made precisely that point.

Christian Allard: I am not sure that the member listened to my speech. The issue is not about the rate of conviction—that will come later. Rather, it is about the rate of prosecution and access to justice. We need cases to be prosecuted. No miscarriages of justice are taking place at the moment because cases are not being prosecuted.

Murdo Fraser: I thank Mr Allard for confirming that what I said about his earlier intervention was entirely correct. If abolishing the requirement for

corroboration does not increase the rate of conviction, I cannot see what it does for victims of crime. They want to see those who they claim have assaulted them being convicted. Surely that is the point.

Lord Carloway and the Cabinet Secretary for Justice both described the rule of corroboration as “archaic”. It is certainly an ancient rule of law. So, of course, is the presumption of innocence. I dare say that there are prosecutors and people in the police who would be quite happy to scrap what they would describe as the archaic law of the presumption of innocence and I dare say that that would increase convictions. There is no doubt about that.

However, our role in Parliament is not to do everything that the police and prosecutors ask for. As Alison McInnes said in an excellent speech, our role is to strike a balance—sometimes, it is a difficult balance—to ensure that the innocent are protected. Scrapping the requirement for corroboration tips the balance too far, in my opinion.

I will say something about the Justice Committee. Those of us who are involved in committees in the Parliament know how unusual it is, since 2011, for SNP-dominated committees to say anything critical of a measure that the SNP Government proposes. We have all sat there and seen lines that are in any way critical of anything that the Government is doing being excised by SNP members.

What makes the Justice Committee’s report remarkable is that it is the first instance that I can think of in the past three years in which an SNP-dominated committee has disagreed with a proposal from the Scottish Government. The cabinet secretary should take note of that. In particular, he should take note of the views of the committee convener, Christine Grahame. She is a well-regarded convener and a lawyer like me. When she decides that what the Government is doing is not correct, the cabinet secretary, the Government and Parliament should listen to that.

Even the cabinet secretary himself has concerns. We know that because he has conceded a review under Lord Bonomy. It is an extraordinary approach to say that we should pass the measure into law and thereafter have the review. That is the wrong way round. We should not be asked to pass a law until we have full scrutiny of the proposal and have the review first.

Let us make an offer to the cabinet secretary. We will not be unreasonable on the issue. We are happy to consider the case for scrapping the general corroboration rule as part of a wider review of the laws of evidence. That is precisely what Lord Gill proposed to the Justice Committee.

The cabinet secretary can take that away, take the measure out of the bill and bring back fresh primary legislation following the review. It will get proper parliamentary scrutiny and he will get support from us if he does that job properly.

The cabinet secretary has a simple choice. He is a fair-minded man and I have a lot of respect for him as Cabinet Secretary for Justice. He can either do the right thing, listen to the Justice Committee, its esteemed convener, all the Opposition parties in the Parliament and all the various outside bodies that have raised concerns about abolition and take the provision out of the bill, rethink it, review it and bring it back to Parliament for proper consideration; or he can railroad it through on a tightly whipped vote with, inevitably, a narrow majority at best and show contempt for the view of the Justice Committee. This is his chance to show his mettle. I hope that he will not disappoint me or the people of Scotland.

16:38

Elaine Murray (Dumfriesshire) (Lab): There are several parts of the bill that Scottish Labour members agree with and want to proceed. We support the reduction of the number of hours for which a person can be kept in custody to 12. There is, perhaps, a case for occasionally allowing that to be extended beyond 12 hours in exceptional and difficult cases.

We welcome the focus on knife crime, which increases the maximum sentence for carrying a knife from four years to five. Scottish Labour has taken knife crime extremely seriously for many years. Indeed, in office, we took action to strengthen sanctions on the carrying of knives.

We agree that the appeals process should be speeded up and we are also pleased to see Sheriff Bowen’s recommendations—in particular, the requirement for effective communication between the prosecution and defence in sheriff and jury cases—being reflected in legislation.

We welcome sections 83 and 84, which create two statutory aggravations relating to people trafficking. Of course, we hope that that will be followed by Government support for Jenny Marra’s member’s bill. Indeed, it is disappointing that the SNP is the only party that has failed to have one single MSP sign in support of the bill being heard—a bill that has been described as world leading and which has attracted the backing of more than 50,000 members of the public.

We have concerns about some proposals. As Christine Grahame said, the use of the term “arrest” to cover questioning by the police without charge could lead to a misunderstanding of people’s status, and the term “person not officially

accused” might be difficult to introduce into common parlance. If those changes are to be introduced, focused efforts will need to be made to ensure that the media and the public understand them. It is important that they understand that the fact that someone has been arrested will no longer indicate that the police have sufficient evidence to press charges against them.

We agree that the police should be able to release a suspect for a period of investigative liberation before any charges are pressed, but consideration needs to be given to how that may be interpreted by the person’s employers and by members of the public, and the effect that it may have on the suspect’s private life. I also have much sympathy with the view that the complainer—particularly in the case of person-to-person crimes—should be advised of the period of investigative liberation and any conditions that are attached. We can pursue that at stage 2.

As others have said, the most contentious issue is the abolition of the requirement for corroboration, which, unsurprisingly, has dominated the debate. I make it quite clear that I do not oppose its abolition out of any desire to give the Government a kicking. The question whether one of the cornerstones of Scots law should be abolished is far too serious to be used for transitory political gain. Indeed, it was with deep regret that I concluded—having listened to the 11 evidence sessions to which the convener referred and read the 57 pieces of written evidence and the 11 pieces of supplementary evidence—that the cabinet secretary has not yet made the case for the abolition of the requirement for corroboration. I wanted him to convince me that it would make a difference to the lives of victims of person-to-person crimes such as rape, sexual assault and domestic abuse without compromising the civil liberties of those suspected of other crimes but, unfortunately, he has failed to do so.

Sandra White: I am a wee bit confused by what the member has said about corroboration. How come James Kelly said, when he had read the Carloway report, that Labour supported the abolition of corroboration? How can a party change its mind quite so quickly?

Elaine Murray: I had never made up my mind on that, and I do not think that Sandra White has given a correct account of what James Kelly said. I would like to continue, especially as Sandra White did not take an intervention from me.

We understand the frustration of organisations that represent the victims of such crimes, such as Women’s Aid, Victim Support and Rape Crisis, about the difficulty of getting cases to court but, as Murdo Fraser said, there is no evidence from systems in which corroboration is not required,

such as the English system, that the rate of successful conviction for sexual crimes is any higher than it is in Scotland. Unfortunately, there is evidence from England that, across the system as a whole, the miscarriage of justice rate is higher.

As Alison McInnes said, if the requirement for corroboration is abolished, it might be easier to get a case to court but, once that happens, it will be one person’s word against another’s and the victim is likely to be subjected to very robust examination by the defence counsel, and juries or sheriffs may be reluctant to convict on the basis of one person’s word against another’s. The experience of an unsuccessful trial could be horrific for a victim and could leave her exposed and, indeed, endangered if the accused is not convicted.

All Labour members agree with Rhoda Grant, Sandra White and others that domestic and sexual violence must be taken extremely seriously, but the problem of achieving justice for victims goes far wider than the prosecution system. The terrible case that Gil Paterson described shows how bad the whole justice system is and indicates that the whole system, and the attitudes of society, need to be reviewed, not just corroboration.

I turn to the effect of the abolition of corroboration on people who are accused of other crimes. What about the trade unionist on the picket line, the protestor at a demonstration or the youngster who is accused of shoplifting? What will protect them if their face does not fit, the cause that they support is not popular with the establishment or they have already had a brush with the police? Who will protect them if corroboration is removed?

The cabinet secretary has made some concessions. He and the Lord Advocate have stated that no case will be taken to court without supporting evidence. It could be a way forward to put that on the face of the bill, but I am not sure that that is not corroboration by another name.

Margaret McCulloch, John Finnie, John Pentland and Patrick Harvie all mentioned the fact that the cabinet secretary has convened a review group under Lord Bonomy to look at additional safeguards. That is an admission that the cabinet secretary did not do his homework before introducing the bill. As all those members said, enacting the recommendations through secondary legislation is the wrong way to put the situation right.

Scottish Labour’s plea to the cabinet secretary and others in the chamber is this: please withdraw from the bill the provisions to abolish the corroboration requirement; widen the reference group’s scope so that it can consider the range of problems that face victims of person-to-person

crime; widen the group's membership to include representatives of those victims; look at removing the corroboration requirement, or at defining corroboration or putting a definition of supporting evidence in a bill; and look at the additional safeguards that might be required to protect civil liberties.

When all that has been done and the process is concluded, I ask the Government to bring back robust and well-evidenced legislation to the Parliament. By all means set a timescale for the process—it does not need to be kicked into the long grass and it can be achieved in a defined timescale—but let us pass the legislation properly.

If the cabinet secretary does what I have proposed, he and his Government will have the full support of Labour members and, I think, members across the chamber, because we all want to make a difference to victims who do not get justice at the moment, but we do not want to do that at the expense of the civil liberties of other vulnerable people in our society.

The Presiding Officer (Tricia Marwick): I call Kenny MacAskill to wind up the debate. I would be obliged if he continued until 4.59.

16:46

Kenny MacAskill: I put on record my gratitude to all who have taken part in the debate and especially to those whose comments extended beyond corroboration. It is important to deal with those other aspects, which I will also comment on. We will reflect on the many points that have been made, and we will seek to work with the Justice Committee, groups and individuals to address those points. I am grateful to them for that work.

We have heard outstanding speeches, such as those from Annabelle Ewing and Gil Paterson. I think that Patrick Harvie was eloquent, as ever, although I disagreed with the points that he made.

I again thank Lord Carlway for his comprehensive report, which took him approximately a year to produce. I am grateful for all his efforts and studies. We should also thank Sheriff Principal Bowen, who did considerable work that parts of the bill are based on and which will improve justice for Scotland. I am also grateful to all the members of the Justice Committee, the Delegated Powers and Law Reform Committee and the Finance Committee for their work.

I will deal with matters that have been raised. The charge is being dealt with by the Conservative Party, which is supported by its helpers—as is becoming the norm—in the Labour Party and the Liberal Democrats. We know that the better together campaign extends beyond the constitutional remit to other aspects.

John Finnie *rose*—

Patrick Harvie: Would the cabinet secretary like to take an intervention?

Kenny MacAskill: Not at the moment.

Let me say that Margaret Mitchell said—*[Interruption.]*

The Presiding Officer: Order.

Kenny MacAskill: Margaret Mitchell said that corroboration is not about non-essential aspects, that the position does not need to be beefed up and that it is all to do with important aspects. I will give her examples of aspects that require corroboration.

Two police officers are required for the taking of mouth swabs from alleged offenders. The taking of intimate swabs from a complainer in a rape case must be corroborated; that might involve a child and injuries to sexual parts. In child pornography cases, the Crown must corroborate that children are under 16. Two witnesses are required to prove that a child is a child; a birth certificate is inadequate. It is not simply a waste of police resources—

Margaret Mitchell: Will the cabinet secretary take an intervention?

Kenny MacAskill: Let me finish, and then I will give way.

It is not simply a waste of police resources—

Margaret Mitchell: Will the cabinet secretary take an intervention?

The Presiding Officer: Ms Mitchell—

Margaret Mitchell: I did not hear the cabinet secretary's reply.

The Presiding Officer: Ms Mitchell, sit down.

Kenny MacAskill: It is not simply a waste of police resources but an infringement of the civil liberties of the child or the rape victim that two people must be present for something that is so intimate, harsh and personal when they have been traumatised. Perhaps Ms Mitchell would like to clarify why that should be the case.

Margaret Mitchell: What I would like to do is say that the cabinet secretary has just made a point that explains why corroboration should be taken out of the bill and looked at, to see how situations such as that are working in practice.

Kenny MacAskill: What that proves is that the case against corroboration has been made.

We expected that from the Tory Party: it is the Conservative and Unionist Party; that is what we expect from it. We did not expect that from those who have had a lifetime of experience. Mr

Pearson was a very lengthy police officer for many years. [*Laughter.*] To be fair, he served with distinction and I worked with him. His position has changed. His position now is not the position that he had when he was a police officer. He stands now full square against not just Police Scotland but the Scottish Police Federation and the Association of Scottish Police Superintendents.

Graeme Pearson rose—

Kenny MacAskill: I will take Graeme Pearson in a minute.

I do not know what has changed other than Mr Pearson's taking on the mantle for Labour, but I defer to Mr Pearson.

Graeme Pearson: I am saddened that the cabinet secretary is making this a political issue, instead of considering victims. Let me confirm for him that my concern is that we are putting victims on a footing that is no better than the footing that they are on currently. If he would just take time, as I implored him to earlier, to allow the whole of the avenue to be looked at properly and a comprehensive proposal to be brought back, I would be glad to support him.

Kenny MacAskill: I would take that with more credibility if the member—and other members in this chamber—had not received communications from Victim Support Scotland, Rape Crisis Scotland and Scottish Women's Aid. They are clear and they are unequivocal: they are saying not to support the Tory amendment lodged by Margaret Mitchell. There is no equivocation there; the equivocation comes from Mr Pearson.

We know that Labour members take their cue from Cameron and Osborne. [*Interruption.*]

Murdo Fraser: Unworthy.

The Presiding Officer: Order.

Kenny MacAskill: I did not think that they took their view from Richard Keen. It seems that it does not matter whether it is a minimum price for alcohol or free school meals—[*Interruption.*]

The Presiding Officer: Order!

Kenny MacAskill: If Labour has a policy, if Labour knows that it benefits the community—[*Interruption.*]

The Presiding Officer: Cabinet secretary, will you sit down?

I will not have speakers being barracked in the chamber.

Members: Oh!

The Presiding Officer: I recognise that this is a very heated debate, but people are watching the

debate and members are not doing the Scottish Parliament any favours by their behaviour.

Kenny MacAskill: There are aspects where Labour had clear, principled positions, which now seem to have been stood on their head.

I accept that Patrick Harvie has a different view, and I am prepared to discuss and engage with him. I think that he does not believe that the case against corroboration has been made; I believe that it has. The important thing is that the Labour Party believed that the case against corroboration had been made.

Patrick Harvie: Will the cabinet secretary give way on that point?

Kenny MacAskill: Not at the moment. I have to deal with Labour.

That is why the Labour Party manifesto was clear that Labour wished to consider the issue with regard to rape.

Elaine Murray: Will the cabinet secretary give way?

Kenny MacAskill: No—let me deal with the position before. On 1 December 2011, James Kelly, who is whipping Labour at the moment, was a justice spokesman. He said:

“Labour has previously made its position clear on rape cases, in relation to which we feel that corroboration should be abolished.”—[*Official Report*, 1 December 2011; c 4250.]

On 25 September 2012, in a parliamentary debate on Carloway, Mary Fee, who I have the greatest admiration and respect for, said:

“I agree with Lord Carloway that corroboration should be abolished. Corroboration is an ancient and archaic law that is preventing justice from being served in some of the most heinous crimes, such as rape and serious assault.” — [*Official Report*, 25 September 2012; c 11848.]

We have heard today from Rhoda Grant. When she addressed my colleague Fergus Ewing, who was then the community safety minister, she made it clear that, in cases of domestic abuse,

“there are no corroborating witnesses to the crime—it happens within the home. That is what makes domestic abuse different from any other crime.”—[*Official Report, Justice Committee*, 9 November 2010; c 3744.]

What has changed since Rhoda Grant had that position, Mary Fee spoke and the Labour Party stood on that manifesto? What information have they received? They have received the information that has been forthcoming.

Elaine Murray: For clarification, the manifesto said that we would consider the removal of the requirement for corroboration in rape cases. I pursued the matter with Lord Gill and with Scottish Women's Aid and Rape Crisis Scotland during evidence taking, and no one was interested in

removing the requirement only in relation to certain crimes. All said that it should be done across the board or not at all.

Kenny MacAskill: That is what the Government is seeking to do, because we recognise that the issue does not affect only the victims of rape or other sexual offences. As Rhoda Grant knows better than anyone, and as Lily Greenan said in evidence, the issue affects victims of domestic abuse. We know that it affects the elderly, as Age Scotland said and as members have said today.

Rhoda Grant: Will the cabinet secretary take an intervention?

Kenny MacAskill: I do not have time, I am afraid.

We know that it affects children. We have heard how children suffer behind closed doors.

Evidence has come in since Labour made its manifesto commitment. We heard the testimony of Colette Barrie and Mary Ann Davidson. We have heard the victims of Lee Cyrus speak out—in that respect, Mr Fraser seems to ignore points that he has taken before. He has been told by the Solicitor General for Scotland that the decision in the Lee Cyrus case was down to corroboration, but he wants the status quo to continue, which creates situations such as the one he has been correct to complain about.

Murdo Fraser: The cabinet secretary knows perfectly well, because I have corresponded with the First Minister and the Solicitor General on the case, that my concern was the lack of application of the Moorov doctrine and had nothing to do with the general rule of law on corroboration. The cabinet secretary should know that.

Kenny MacAskill: I take the view of the Solicitor General on the matter much more than I take Murdo Fraser's view. The impediment to access to justice in that case was the law of corroboration, as it has been in 170 rape cases over the past two years and as it is in 3,000 cases annually.

At new year I watched Jonathan Watson's parody of Johann Lamont—*[Interruption.]* I never thought that I would see Johann Lamont play Jonathan Watson. "Mibbees aye, mibbees naw" appears to be Labour's position on corroboration, despite its manifesto commitment and despite Labour members going on record—*[Interruption.]*

The Presiding Officer: Order. *[Interruption.]* Order!

Kenny MacAskill: Thank you, Presiding Officer.

The burden of proof remains: beyond reasonable doubt is the standard that has to be proven by the Crown.

The evidence is clear. It is clear in the court of public opinion. It has been put forward in the Parliament by organisations that have represented victims of crime for years and years, by the people who have to wipe away the tears and mop up the blood, by the people who are involved in policing and prosecution and—I reiterate, in letters to every member—by Scottish Women's Aid, Rape Crisis Scotland and Victim Support Scotland. Those people have given us clear, unambiguous advice that we should ensure that the law of corroboration, which has harmed access to justice, is dealt with.

I said that there seemed to be a parody in terms of Labour's position with regard to—*[Interruption]*—Labour's position on corroboration. Let us be clear: it is only an excuse for Labour, which is selling out on its principles. We accept that that is the norm for the Conservative Party, but for years the Labour Party, especially under Johann Lamont, prided itself on tackling domestic abuse and addressing issues to do with sexual offences. Labour has sold its soul and is in danger of selling out the victims of crime. I commend the motion in my name.

The Presiding Officer: That concludes the debate. I ask all members in the chamber to reflect on their behaviour this afternoon. *[Interruption.]* I ask all members to reflect on their behaviour this afternoon, which, quite frankly, was unacceptable.

Criminal Justice (Scotland) Bill: Financial Resolution

16:59

The Presiding Officer (Tricia Marwick): The next item of business is consideration of motion S4M-09149, in the name of John Swinney, on the financial resolution for the Criminal Justice (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Criminal Justice (Scotland) Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act.—[*John Swinney.*]

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

Parliamentary Bureau Motions

16:59

The Presiding Officer (Tricia Marwick): The next item of business is consideration of two Parliamentary Bureau motions. I ask Joe FitzPatrick to move motion S4M-09065, on committee membership, and motion S4M-09172, on substitution on committees.

Motions moved,

That the Parliament agrees that Mary Scanlon be appointed to replace Liz Smith as a member of the Education and Culture Committee.

That the Parliament agrees that—

Patricia Ferguson be appointed to replace Neil Bibby as the Scottish Labour Party substitute on the European and External Relations Committee; and

Liz Smith be appointed to replace Mary Scanlon as the Scottish Conservative and Unionist Party substitute on the Education and Culture Committee.—[*Joe FitzPatrick.*]

The Presiding Officer: The question on the motions will be put at decision time.

Decision Time

17:00

The Presiding Officer (Tricia Marwick): There are five questions to be put as a result of today's business. The first question is, that amendment S4M-09160.1, in the name of Margaret Mitchell, which seeks to amend motion S4M-09160, in the name of Kenny MacAskill, on the Criminal Justice (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Davidson, Ruth (Glasgow) (Con)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDougall, Margaret (West Scotland) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McMahan, Siobhan (Central Scotland) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Rowley, Alex (Cowdenbeath) (Lab)

Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Keir, Colin (Edinburgh Western) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine)

(SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

Abstentions

Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)

The Presiding Officer: The result of the division is: For 61, Against 64, Abstentions 1.

Amendment disagreed to.

The Presiding Officer: The next question is, that motion S4M-09160, in the name of Kenny MacAskill, on the Criminal Justice (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Keir, Colin (Edinburgh Western) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)

Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

Against

Hume, Jim (South Scotland) (LD)
 McArthur, Liam (Orkney Islands) (LD)
 McInnes, Alison (North East Scotland) (LD)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scott, Tavish (Shetland Islands) (LD)

Abstentions

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Davidson, Ruth (Glasgow) (Con)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Fergusson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hilton, Cara (Dunfermline) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDougall, Margaret (West Scotland) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McMahan, Siobhan (Central Scotland) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)

McTaggart, Anne (Glasgow) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rowley, Alex (Cowdenbeath) (Lab)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)

The Presiding Officer: The result of the division is: For 64, Against 5, Abstentions 57.

Motion agreed to,

That the Parliament agrees to the general principles of the Criminal Justice (Scotland) Bill.

The Presiding Officer: The next question is, that motion S4M-09149, in the name of John Swinney, on the financial resolution for the Criminal Justice (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Criminal Justice (Scotland) Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act.

The Presiding Officer: The next question is, that motion S4M-09065, in the name of Joe FitzPatrick, on committee membership, be agreed to.

Motion agreed to,

That the Parliament agrees that Mary Scanlon be appointed to replace Liz Smith as a member of the Education and Culture Committee.

The Presiding Officer: The next question is, that motion S4M-09172, in the name of Joe FitzPatrick, on substitution on committees, be agreed to.

Motion agreed to,

That the Parliament agrees that—

Patricia Ferguson be appointed to replace Neil Bibby as the Scottish Labour Party substitute on the European and External Relations Committee; and

Liz Smith be appointed to replace Mary Scanlon as the Scottish Conservative and Unionist Party substitute on the Education and Culture Committee.

Meeting closed at 17:03.

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