JUSTICE AND HOME AFFAIRS COMMITTEE

Wednesday 29 March 2000
(*Morning*)

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JUSTICE AND HOME AFFAIRS COMMITTEE
13th Meeting 2000, Session 1

CONVENER

*Roseanna Cunningham (Perth) (SNP)

DEPUTY CONVENER

*Gordon Jackson (Glasgow Govan) (Lab)

COMMITTEE MEMBERS

*Scott Barrie (Dunfermline West) (Lab)
*Phil Gallie (South of Scotland) (Con)
*Christine Grahame (South of Scotland) (SNP)
*Mrs Lyndsay McIntosh (Central Scotland) (Con)
*Kate MacLean (Dundee West) (Lab)
Maureen Macmillan (Highlands and Islands) (Lab)
*Pauline McNeill (Glasgow Kelvin) (Lab)
*Michael Matheson (Central Scotland) (SNP)
*Euan Robson (Roxburgh and Berwickshire) (LD)

*attended

THE FOLLOWING MEMBERS ALSO ATTENDED:

Angus MacKay (Deputy Minister for Justice)
Mr Brian Monteith (Mid Scotland and Fife) (Con)

CLERK TEAM LEADER

Andrew Mylne

SENIOR ASSISTANT CLERK

Shelagh McKinlay

ASSISTANT CLERK

Fiona Groves

LOCATION

The Festival Theatre

Scottish Parliament

Justice and Home Affairs Committee

Wednesday 29 March 2000

(*Morning*)

[THE CONVENER *opened the meeting at 09:30*]

The Convener (Roseanna Cunningham): Good morning, everyone. Let us get this meeting started. I have apologies from Phil Gallie and—

Gordon Jackson (Glasgow Govan) (Lab): There is Phil Gallie.

The Convener: Is Phil here? Sorry. I am just reading this.

Gordon Jackson: Perhaps he is apologising for turning up. [*Laughter.*]

The Convener: Maybe we will just minute apologies from Phil Gallie whether he is here or not. That leaves apologies from Maureen Macmillan, who is in Brussels with the European Committee. There may need to be a committee summit meeting on that. Brian Monteith may be coming, but he is not here yet. If he appears, we will welcome him.

We have a number of items on the agenda this morning. I remind members that declarations of interest pertain throughout the committee's proceedings. I know that people made what they considered to be the necessary general declarations at the first committee meeting, but now that we have non-legislative issues on our agenda for a change, I remind members that specific declarations of interest are also required.

Item 1 on the agenda is the draft report on the petition by the Carbeth Hutters Association. We will look at that report, but I want the committee's agreement that when we do so, we take that part of the meeting in private. We are not doing that today; we are just deciding to take the item in private. Are we agreed?

Members *indicated agreement.*

Subordinate Legislation

The Convener: We have two negative instruments from the Subordinate Legislation Committee: the Police Grant (Scotland) Order 2000 (SSI 2000/73) and the Charities (Exemption from Accounting Requirements) (Scotland) Amendment Regulations (SSI 2000/49). There are notes from the clerks on these.

I am not suggesting that we should lodge a motion to annul the present police grant order, which sets the funding for financial year 2000-01. However, I am aware that there are issues of police funding in Scotland that are particularly relevant to some police forces. Recently, it has been suggested that Lothian and Borders Police should be treated differently because of issues relating to city policing.

I suggest that we defer consideration of SSI 2000/73 until next week. That would allow members to think about whether there are issues that they want to raise concerning the order and give them a chance to contact police authorities for their views. It would also give the committee an opportunity to talk about police issues in more general terms, instead of rushing the order through today. Are members happy to defer consideration of the order until next week?

Phil Gallie (South of Scotland) (Con): Given that under the order police funding is due to commence in April, will a delay in our considering it cause a problem with the first payments, which are to take place around 15 April?

The Convener: No. Unless we lodge a motion to annul, there will be no delay. I have suggested that we defer consideration of the instrument because today's meeting is not an appropriate time to debate it. This is not about annulling the order, but about allowing it to trigger a 20-minute or 30-minute discussion of police funding. Are members happy that we should do that? The order will be on next week's agenda.

Members *indicated agreement.*

The Convener: The second instrument to be considered is SSI 2000/49. The amendment regulations concerning exemption from accounting requirements for charities were also referred to the Social Inclusion, Housing and Voluntary Sector Committee, which has indicated that it does not wish to make any recommendation to us. As far as I can see, the instrument deals with a technical issue and I suggest that we simply note it. Is that agreed?

Members *indicated agreement.*

Subordinate Legislation (Legal Aid)

The Convener: I move,

That the Committee holds a single debate on motions S1M-668, S1M-667 and S1M-666 (motions to approve the Civil Legal Aid (Financial Conditions) (Scotland) Regulations 2000; the Advice and Assistance (Financial Conditions) (Scotland) Regulations 2000 and the Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2000); and that the debate shall last no more than 90 minutes.

Although the standing orders indicate that we are required to allow 90 minutes' debating time for instruments, they are a little opaque about how committees should deal with several instruments that arrive all at once, like Glasgow buses, and that address essentially the same issue. If the motion is agreed, the three instruments will be debated together and there will be a 90-minute debate on all three, rather than three separate 90-minute debates. Is everybody happy with that?

Motion agreed to.

Abolition of Feudal Tenure etc (Scotland) Bill: Stage 2

The Convener: We will now debate the remaining amendments to the Abolition of Feudal Tenure etc (Scotland) Bill. I welcome the minister and his team to what we hope will be the last in this series of meetings on the bill.

Section 56—Crown application

The Convener: I call Pauline McNeill to move amendment 154, which is grouped with amendment 155, in the name of Robin Harper, who is not in attendance, and amendment 162, in the name of Christine Grahame.

Pauline McNeill (Glasgow Kelvin) (Lab): This issue was debated to some extent when we dealt with section 2 of the bill. I withdrew my amendment to section 2 on the basis of what the minister had to say about it. However, I think that it is important for the committee to discuss the issue of public interest, because that was one of the issues that interested us when we took evidence on the bill.

Amendment 154 attempts to preserve any possible remaining rights that the Crown may have as a result of being the feudal superior, as opposed to having the prerogative powers. Although it is not at all clear if there are any such residue powers, it seems important to ensure that, just in case there are such powers, we cover them in the eventual act by including something about them. The minister has already indicated that the Executive proposes to do that at stage 3.

I know that you will stop me, convener, if I go beyond the issue of public interest in land. I realise that we cannot really examine the whole subject of any desire to consider tenure of land in respect of both public and private ownership. The sad fact is that most Scottish land is privately owned, and the abolition of feudal tenure may lay the groundwork for ideas in the future about how we retain land for the public interests. Unfortunately, we cannot do that in this bill.

We have an opportunity at least to discuss that point, and I have got some of what I wanted to say on the record. My feeling is that we should have something in this bill to ensure that we cover all eventualities, if there are any powers left to the Crown following the abolition of feudal tenure.

I move amendment 154.

Christine Grahame (South of Scotland) (SNP): I will mention a case, to which I was referred by Professor George Gretton, namely, Shetland Salmon Farmers Association v Crown Estate Commissioners, published in *The Scots*

Law Times in 1991. I have been trying to get my head round what we were speaking about, and I think that I understand now.

In section 56, reference is made to this point at the end. It reads:

"but nothing in this Act shall be taken to supersede or impair any power exercisable by Her Majesty by virtue of Her prerogative (including, without prejudice to the generality of this section, the prerogative of honour and prerogative rights as respects ownerless or unclaimed property)."

I was interested in that vesting of land that we were talking about. It was absolutely nothing to do with the feudal system. Where I drift from Pauline McNeill's point is on her using the expression "ultimate superiority". I accept that the abolition of feudal tenure removes the Crown as the ultimate superior, but what is left for the Crown with regard to how land can vest to it?

In the case that I mentioned, three examples are given. First is ultimus haeres, in which succession on death fails. The right of the property vests in the Crown. Secondly, the case mentions the example where, with regard to land that is

"appropriated, but is derelict, the Crown takes"

by force of the Crown prerogative. There is always therefore an ultimate ownership under those circumstances, which are distinct from the feudal system. The third example reads:

"Where part of the national territory has never been appropriated to private use, it continues vested in the Crown by virtue of the prerogative".

I want to consider what the prerogative is actually doing. It is a concept that is distinct from feudal tenure, and is to do with ultimate stewardship of the land. It relates to a different kind of ownership that is not proprietorial or patrimonial, but fiduciary. It is to do with entrusting—with acting in the public interest.

In the case that I have mentioned, there was an argument about the sea bed around Shetland. It was held that the Crown had

"a right of property in the sea bed by virtue of the prerogative".

At that stage, ownership could have been made feudal, but it was not. This is what I am getting at: this other concept of the vesting of land in Scotland. In the Shetland case, it was accepted that the exercise of Crown prerogative prevailed over the whole of Scotland. In a sense, there is an ultimate Crown right to the land that is distinct and separate from the feudal system. It is to do with acting in the public interest, holding land in a fiduciary capacity.

I knew that this was the wrong way to start the morning, but I got quite interested in this point. I tried to think of an application, but I could not think of one for land. I could think about one only for sea beds and the sea. However, if there is an interest in land that is not foreseen and not dealt with by the abolition of the feudal system, that right in the land might fall to the Crown exercising its prerogative in a fiduciary capacity. According to my amendment, that right would then be devolved to the Scottish Parliament, which in turn would devolve to ministers the right to exercise that power on behalf of Parliament.

That is where my amendment is coming from. Professor Gretton's view is that it simply restates the common law position, but I think that it is important to restate it there.

09:45

The Convener: Before I ask the minister to speak, I ask everybody, including members of the public, to switch off their mobile phones, as they are interfering with the broadcasting system.

The Deputy Minister for Justice (Angus MacKay): Thank you, convener, and good morning.

The Convener: You could say that with a little more enthusiasm, minister.

Angus MacKay: I know the length of the contribution that I am about to make. [*Laughter.*] We have our own professor too, but I shall come to that later.

I am sure that the committee is well aware that both it and the Executive have received a large volume of representations on Crown rights and the public interest. It is right to welcome the amendments that have been lodged, because it is right and proper that the concerns that have been expressed throughout the bill's passage and during the land reform debate should be given proper consideration by the committee. The amendments also give the Executive the opportunity to explain how it intends to respond to those representations.

The committee may find it helpful if I briefly review the relevant rights of the Crown in Scotland, which are known as the regalia. The regalia are royal rights and are divided into the regalia majora and the regalia minora. The Executive does not consider that there are any other Crown rights that might be prejudiced by the abolition of feudal tenure.

The regalia majora are inalienable and include: the Crown's right in the sea and sea bed in respect of public rights such as navigation and fishing for whitefish; the Crown's right in the foreshore in respect of public rights such as navigation, mooring boats and fishing for whitefish; and the Crown's right in the water and bed of navigational rivers in respect of public rights such

as navigation. I can see that Mr Gallie is rooted to his seat by this contribution. [*Laughter.*] The majora are held by the Crown, as guardian of the public interests for navigation, fishing and other public uses.

The regalia minora are property rights, which the Crown may exercise as it pleases and which it can alienate. Examples of these include: the Crown's ownership rights in the foreshore; the Crown's ownership rights in the sea bed; the Crown's rights in treasure and lost property; the rights of the Crown in gold and silver mines; the Crown's rights in salmon fishings; and the rights of the Crown in wrecks.

The crux of the issue is that there may be some uncertainty as to the source from which those various rights have been derived. Some supporters of amendments to the bill have attempted to argue that, if any of those rights derive from the Crown as ultimate superior, they might be lost through the abolition of the feudal system. There does not seem to be a difficulty as regards the regalia minora, which are property rights that are capable of alienation. If they have not been alienated, they have never entered the feudal system and would therefore be unaffected by abolition under the bill. Where they have been alienated by the Crown prior to the appointed day of feudal abolition, section 2 would convert the present vassal's interest in them into straightforward ownership.

That leaves the regalia majora, such as the Crown's right in the sea and sea bed in respect of public rights such as navigation and fishing. Those may be rights that, being incapable of alienation, could not be said to have entered the feudal system of land tenure. In that case, they would not be abolished by the bill. If they were a burden on land, they would survive to the extent that they were maritime burdens, which are covered by section 58. There is some authority that the regalia majora are derived from the prerogative, and if that is the case, they would in any event fall within the existing saving in section 56 for powers exercisable by virtue of the prerogative.

However, given the uncertainty about the source of the regalia majora, it seems appropriate that, for the avoidance of doubt and to avoid anything being lost inadvertently, an amendment should be introduced by the Executive at stage 3. We indicated earlier that we would do that. In view of the need to get various clearances, it proved impossible to introduce an amendment at stage 2. However, the Parliament will have another opportunity to discuss the matter fully at the next stage.

It is important to re-emphasise that the Executive's amendment will confirm the abolition of the Crown's ultimate superiority. Abolition of the feudal system must be of the whole feudal system, including the Crown's ultimate superiority. The whole of the bill would have to be redrafted if the ultimate superiority of the Crown or the superiority of the Prince and Steward of Scotland were to be preserved. In effect, the feudal system would continue, as feudal law would have to be preserved to regulate the vassal/Crown relationship. That would completely negate the system of simple ownership of land that we want there to be as a result of abolition.

In view of the undertaking that the Executive will introduce its own amendment at stage 3, I hope that the amendment will be withdrawn.

Christine Grahame: I am content that what I think you have said is along the lines of my amendment. We are talking about prerogative rights. I accept that abolition of the feudal system means abolition of the ultimate superior—that is not what I was talking about. I will not move my amendment.

Pauline McNeill: I agree that there is no question about preserving the Crown as superior—

The Convener: Pauline, you will have to speak more clearly as your voice is getting lost.

Pauline McNeill: I feel that there is still some doubt about where the rights of the Crown lie, whether in the prerogative or in the feudal system. It is right that any residue powers should be covered by an amendment. In view of what the minister has said, I am content to withdraw my amendment.

Amendment 154, by agreement, withdrawn.

Amendments 155 and 162 not moved.

Section 56 agreed to.

Section 57—Crown may sell or otherwise dispose of land by disposition

Christine Grahame: Amendment 156 changes "be" to "remain". It clarifies the position in section 57, and avoids the potential challenge to previous dispositions that were granted by the Crown. The opportunity should be taken to confirm that it has always been competent for the Crown to alienate Crown estate land by way of disposition. It is a continuance of the status quo, rather than a change, as the bill implies.

I move amendment 156.

The Convener: Minister?

Angus MacKay: That is a tremendously resigned expression, convener.

The Convener: It matches yours.

Angus MacKay: Although this is not a complex

amendment, it raises an interesting point. Section 57 simply makes clear that it is competent for the Crown to dispose of property by ordinary disposition. Christine Grahame's concern seems to be that it should not cast doubt on the competence of any past dispositions that have been made by the Crown. It would be useful to put this into a broader context.

The underlying concern of this amendment is that the Crown estate commissioners may, in the past, have granted dispositions of land that formed part of the Crown estate. It is possible for the Crown to dispose of land to its subjects in two different circumstances. The first is when the land in question has never been feued before, and the Crown therefore holds the land as ultimate superior. The second is when the Crown has acquired land that is already in the feudal system and is selling that land on.

There is no doubt that the Crown can grant a disposition of land that has already entered the feudal system. Any possible problems would relate only to direct grants by the Crown of previously unfeued land. We have undertaken some research in the Registers of Scotland, but I have not yet uncovered any examples of a deed that would fall within that category. The only examples that we have found of dispositions by the Crown to its subjects relate to land that had already entered the feudal system.

If Christine Grahame can provide some examples of dispositions by the Crown of land that has not entered the feudal system, we would be happy to reconsider the position. On that basis, we hope that Christine will consider withdrawing her amendment.

Christine Grahame: Unless anybody else wants to enter this debate, I am content to withdraw the amendment and to pursue further research.

Amendment 156, by agreement, withdrawn.

Section 57 agreed to.

Sections 58 to 60 agreed to.

Section 61—Baronies and other dignities and offices

The Convener: Amendment 135 is in the name of Brian Monteith, who has now joined us.

Mr Brian Monteith (Mid Scotland and Fife) (Con): The purpose of amendment 135 is to try to ensure that there is some way of tracing or checking the title—for instance, the Baron of Fordell—that one would receive if one purchased a castle. At the moment, it is possible to check the title deeds. The bill does not seek to abolish such titles, which will continue to exist, but it makes it impossible to check their veracity.

In the past, there has been an unscrupulous trade in titles and people have sought to sell them, particularly to people from overseas, by giving the impression that they will make the person a laird or entitle them to a certain barony. It has, however, been possible to check, to ensure that people have bought the land before they receive the title. The difficulty is that the bill, as I interpret it, will no longer ensure that that happens. This amendment seeks to change that.

People go to considerable lengths to trade in false titles. I have a photocopy of an example here. Often, they are printed on parchment paper, in colour and with calligraphy, to make it look as though they are proper titles. Unless means of checking such sales are introduced, there will be a growth in this unscrupulous trade, which is illegal and a form of fraud. It would therefore be better to have some way of checking, and I suggest that the land is tied to the map so that it can be cross-referenced.

I move amendment 135.

The Convener: Minister?

Phil Gallie: May I make a point?

The Convener: I will let the minister respond first, but I will let you in if he capitulates straight away.

Mr Monteith: That would be a first.

Angus MacKay: I am not coming out with my hands up on this one, I am afraid. I do not have much sympathy with the amendment. The thrust of the bill is to put an end to archaic practices and language. We are trying to provide Scotland with an up-to-date system of land tenure. As part of that process, we have tried to provide that there should no longer be a link between baronies and the ownership of land. I understand that there is a fairly healthy trade in baronies. I was surprised to read in the Law Commission's report that the going rate was £60,000. At present, if you choose to spend your £60,000 on a barony—as members of the committee may be considering doing, I do not know—you must buy it with a piece of land. Some of those pieces of land may be little more than small pieces of waste ground. We are saying that you can continue to spend your £60,000 on your barony, but that you no longer need to buy that piece of waste ground.

10:00

As there will no longer be a link between the land and the title, the Keeper of the Registers will no longer need to record baronial interests in land. I hope that the committee will agree that the Keeper of the Registers will be busy enough for the next few years. Brian Monteith is suggesting that he should have a completely new task and set

up a completely new register. That register would be of now landless barons walking the land with their baronial titles. The Executive does not see what purpose that would serve. I therefore invite Brian to withdraw his amendment.

Phil Gallie: I am a bit disappointed that the minister is so unsympathetic towards—

The Convener: Landless barons?

Phil Gallie: Towards what seems to me a well-put argument. We are talking about an important historic tradition in Scotland. If you consider some of the individuals who have taken those titles, you find that they have made an input to their local community, and have invested in it. It would be a shame if that were to be lost. On that basis, the amendment has merit.

I do not think that Brian's request will impose greatly on the work of the Keeper of the Registers. Brian wants to protect what is already on the register. Providing that the register is maintained, I do not think that the work required will expand.

As Brian suggested, if the link between land and title is to be abolished, we do not know who will vet all kinds of titles in future. That would not be good for Scotland's image and it would not bring us up to date. I would like the minister to reconsider. The amendment has merit, although I admit that it is not the most important issue that the committee will deal with today.

Gordon Jackson: To solve the problem, the minister could set up a false baronies enforcement agency.

I understand the points that are being made, but I do not think that the measure would achieve anything. People may be in Deacon Brodie's pub selling false titles to unsuspecting tourists, but those tourists will never check the title in a register. If you are going to be conned into buying a title, you are not going to nip out to the phone box to call the Register of Sasines. I cannot get worked up about the measure, which I think would lead to an added layer of bureaucracy and administration.

The Convener: Brian, I understand your reasoning, but have you thought about the way in which your proposal would work? I am not sure that your proposal does not push out over the edge of this bill. You want to set up another register at the Register of Sasines, which is not a property register, but a sort of register of titles. How would that be policed, for want of a better word? Have you thought about the implications?

Mr Monteith: Yes, I have. I would like to answer a number of points. For the minister to use the untypical example of a piece of waste ground giving a person a title is sadly loaded. I accept that titles can be traded at up to £60,000, but why not charge for the keeping of the register? I am not suggesting that the state should do that for free. In everyone's interests, a charge should be made.

We all want the bill to be passed, but I interpret the minister's answer as suggesting that it should go through on the cheap. If we want a good bill that abolishes feudalism, let us ensure that it works properly and does not throw up anomalies that the minister or subsequent ministers will rue later, when we have to sort them out. We are likely to see five barons of Fordell when there should be only one. [MEMBERS: "Or none."] Exactly—if that is what we want, we should do something to get rid of them. The bill does not do that.

I am suggesting a way of making everyone happy, except those that want the titles abolished. The Keeper of the Registers should keep a list of dignities. We are not talking about a large number—there are more cricket teams in Scotland than there are barons. However, I believe that a charge could be levied, and the cost recovered, when the transfer takes place. I understand that that can be done through the Ordnance Survey and I have been advised that it would be acceptable to those people who trade in baronies, in place of the title deeds that would no longer ensure the link. This issue affects very few people in Scotland. However, such anomalies can make legislation look silly.

Angus MacKay: I remain unpersuaded. I understand the point that Brian Monteith is making and where he is coming from, but I do not think that his suggestion is appropriate. I object to the scheme not on the ground of cost—I take the point that Brian makes about the cost of transferring baronial titles—but because it would require the Keeper of the Registers to put in much time and work. The keeper will be kept busy enough dealing with other issues arising from the bill. It is up to prospective purchasers of baronial titles to carry out adequate checks and to ensure that they are getting what they think they are getting. For that reason, I remain unsympathetic to the amendment.

Phil Gallie: I am slightly surprised by that. It is not like a minister in this Executive to turn his back on any means of raising additional revenue. On that basis, I would have thought that Brian Monteith's comments were very valid. Although I accept that there is not a great deal of support for the proposal, I suggest that the minister discusses it with the Minister for Finance.

The Convener: Brian, what do you want to do with your amendment?

Mr Monteith: Given the overwhelming support for the amendment, I will ask the committee's leave to withdraw it.

Amendment 135, by agreement, withdrawn.

Section 61 agreed to.

Sections 62 to 64 agreed to.

Section 65—Prohibition on leases for periods of more than 125 years

The Convener: I call the minister to move amendment 88, which is grouped with amendment 158, in the name of Christine Grahame, and amendments 90 and 125, in the name of the minister.

Members will have spotted that we cannot agree to all the amendments and that agreeing to one will affect what happens to others. I ask members to cast their minds back to similar situations that we have faced in the past. Here we have three amendments to section 65, each of which seeks to increase the maximum length of leases from 125 years, as is currently proposed. Amendment 89 would increase it to 175 years. If that is agreed to, amendment 157 can still be moved, because it would increase the maximum length of leases still further. If amendment 157 is agreed to, amendment 136 can be still moved, because that would increase the maximum length of leases once again. The amendments run on from one another, rather than pre-empting one another.

That gives the committee the maximum choice, so members who support an increase in the existing figure need not be concerned that, by supporting an increase to 175 years, they will lose the opportunity to increase the figure to 200 or even 999 years. If you want 999 years, you can vote for each one in succession.

Angus MacKay: There is some question on this side of the table about the accuracy of what you have just said, convener. We may be wrong.

Christine Grahame: You are living dangerously.

Angus MacKay: That is why I said that we might be wrong. Are we dealing with the group that starts with amendment 88?

The Convener: Yes.

Angus MacKay: We were under the impression that you were talking to the following groups.

The Convener: You are right. I seem to have jumped ahead slightly. People should bear my advice in mind when we deal with the next grouping. We will deal first with amendment 88.

Angus MacKay: Amendments 88 and 125 are consequential on amendment 90, which proposes three exceptions to the new limit on the length of leases on non-residential property to be contained in section 65. The Executive has separately proposed an amendment to the section to increase the length of time limit to 175 years.

Amendment 88 introduces references to the commencement date of section 65, which will be on royal assent. Amendment 125 simply makes it clear, in the long title of the bill, that there will be exceptions to the rule that leases of non-residential property may not be for periods longer than 175 years.

Amendment 90 is the substantive amendment. It introduces three exceptions to the rule that non-residential leases should be subject to the new limit for length. Those exceptions all aim to avoid any difficulties arising for existing arrangements that have been put in place before the limit comes into force on royal assent. The rule will not apply where there is an existing contract to grant a lease for a length in excess of the new limit. That will cover the situation, particularly in commercial developments, where there can be a long delay between conclusion of the original contract or missives in respect of a development and the eventual grant of a lease. Paragraph (b) in amendment 90 stipulates that the new limit will not apply to a lease that is executed before royal assent and which is subsequently renewed to comply with a provision of that lease. That part of the amendment would cover the provision of leases such as the Blairgowrie leases, which are for 99 years but contain an obligation for renewal at the end of 99 years for a further 99 years. Those two terms added together come to more than 175 years. Leases such as Blairgowrie leases will be considered as part of the Scottish Law Commission's work on leasehold tenure in its next programme of law reform, but the amendment ensures that those leases, and any existing leases containing an obligation on the landlord to renew, will not fall foul of section 65.

Paragraph (c) will ensure that the 175-year rule will not apply to existing leases or to leases entered into in pursuance of an obligation created before royal assent that have more than 175 years to run and where it is desired to grant a sub-lease for the full residue of that lease. If the amendment was not made, a tenant currently enjoying a lease that had, perhaps, 300 years to run, would be unable to grant a sub-lease for longer than 175 years. That might cause difficulties for a tenant seeking to introduce another occupant in all or part of the development.

Amendment 158, in the name of Christine Grahame, appears to the Executive to be a somewhat unnecessary drafting amendment, as the words "operative" and "subsisting" appear to have exactly the same meaning in the context of the provision in which they appear. I therefore ask the member not to move her amendment.

I move amendment 88.

The Convener: My colleague John Swinney will be vastly relieved to know that Blairgowrie leases

will be well catered for. Christine, do you want to say anything about amendment 158?

Christine Grahame: The amendment would clarify an expression in statute with which I am not familiar. I am clear about what is meant by an obligation subsisting, but I am not sure what "operative" means.

Angus MacKay: I do not think that there is any substantive difference between the two. It was simply felt that the existing wording effectively takes care of the concern that you are attempting to deal with. This is not something over which we wish to enter into a protracted fight.

Christine Grahame: I just wondered whether you would concede that "subsisting" would be a more accurate use of language in legal terms.

Angus MacKay: Will Christine Grahame allow me to take this away and to consider it further, with stage 3 in mind?

Christine Grahame: Yes.

Amendment 88 agreed to.

The Convener: Amendment 89, in the name of the minister, is grouped with amendment 126, also in his name, amendments 157 and 160, in the name of Christine Grahame, and amendments 136 and 138, in the name of Brian Monteith.

I hope that I have not irredeemably confused everybody by making my comments at the wrong moment. I ask members to remember that the amendments can simply be voted on one after the other. If the first amendment, to increase the period to 175 years, is agreed to, the next amendment, to increase it to 200 years, can be debated and can also be agreed to. We can continue on that basis. I ask everyone to be as clear and as focused as possible about why the time limit that they are proposing is appropriate.

10:15

Angus MacKay: The issue of long leases is mainly relevant to the commercial property sector, since there is already a restriction on long leases beyond 20 years for residential property. At the moment, however, there is no restriction on the length of commercial leases. Commercial conveyancers and their clients are free when considering how to structure a commercial transaction to choose between using an ordinary disposition, a feu disposition or a long lease. Much will depend on the circumstances.

The Scottish Law Commission believes that when the feudal system is abolished there may be pressure on owners to lease. Its argument is that it will be necessary to place a limit on the length of the lease so that perpetual leasehold tenure does not become the norm in Scotland, as I understand it has in England. The Executive agrees with the commission that it would be a retrograde step to replace the feudal system with a system of leasehold tenure that would have many of the same defects.

We have, however, been anxious to ensure that, if we were to restrict long leases at the same time as we were abolishing the feudal system, we would not be inadvertently abolishing two systems of land tenure rather than one. The limit on the length of non-residential leases is therefore crucial. The Scottish Law Commission considered a range of periods between 125 and 200 years and plumped for 125, believing that the period should be the lowest that is not commercially damaging.

The committee will be aware that both it and the Executive have received a number of representations, mostly from commercial interests, stating that 125 years was too short a period. A number of arguments were put, but one strong one was that it would not reflect the likely lifespan of any given commercial development and the number of times that it might be redeveloped during the period of a commercial lease.

There seems to be a broad consensus that a restriction in the region of 175 to 200 years would be acceptable. Given that Christine Grahame is supporting the Executive amendment, I hope that she will be persuaded not to press amendment 157.

Amendment 136, proposed by Brian Monteith, would raise the limit for leases of non-residential property to 999 years—he resisted the temptation of going for 1,000 years. I suspect that the amendment is supported by those who wish to see no limit set for commercial leases. As I have already mentioned, we do not want to replace the feudal system with the system of leasehold tenure that has become the norm in England and which will inevitably develop the same kinds of defects. In practical terms, to accept that amendment would amount to removing section 65 in its entirety. I believe that a period of 175 years is perfectly adequate for commercial interests and ask Brian Monteith to consider not pressing his amendment.

I move amendment 89.

Christine Grahame: I endorse much of what Angus MacKay has said, because our evidence suggests that there would be an instability in commercial leases if leases were limited to the shorter period. Although I will not go to the wire about the higher limit, which is only 25 years more, I should say that it is more appropriate, as it provides a fine balance between Brian Monteith's far too extensive proposal—which, by inserting conditions into head leases, would be a

continuation of the feudal system—and a proposal that might cause commercial instability. I ask the committee to accept my proposed limit of 200 years, but I will not go to the wire about it—I will on some other matters.

The Convener: Brian, will you speak to both your amendments?

Mr Monteith: I will speak only to my first amendment, as the second is consequential to it.

At a previous meeting of the committee, the minister admitted that the length of time in various provisions of the bill was purely arbitrary. This is another example; the 125-year limit is as arbitrary as the 999-year limit. However, although I understand the argument that a 999-year limit might in effect allow feudalism in the commercial property market to continue under another name, my reason for proposing the limit is to point out that a suitable compromise can be found in the apparent disparity between the different limits proposed. In that respect, my amendment represents a negotiating position, although I accept that I have a fairly weak hand, as I am not even a member of the committee.

However, I agree that it is right to extend the limit to 175 years; a 200-year limit would be even better. In Scotland, we have one of the world's most successful commercial property markets; there is no current limit on leases. I suggest that the minister not only accepts Christine Grahame's amendment, but goes that little bit further. On that basis, although I am relaxed about seeking the committee's permission to withdraw the amendment, we should still pay due regard to the commercial property market and seek to extend the length of leases. A limit of 250 or 300 years is hardly likely to result in the return of feudalism under another name and the commercial property market might welcome a little bit more give from the Executive.

The Convener: Brian, you can withdraw an amendment only if it has been moved, and your amendment has not been moved.

Mr Monteith: Yet.

The Convener: Well, you can decide whether to withdraw the amendment when I call it.

Angus MacKay: I know that different parts of the commercial market use leases of different lengths for different purposes. The bill will not interfere with the market's operations in such contexts and, by conceding 50 years on our initial 125-year limit, we think that we have had addressed adequately the concerns that have been raised. As we believe that the limit is not unduly restrictive and will not discourage inward investment or place the commercial market at a competitive disadvantage, we are inclined to maintain a 175-year limit.

Scott Barrie (Dunfermline West) (Lab): I find it interesting that we can have some sort of auction in which we come up with a compromise by adding up figures then dividing by two.

The evidence that we had on this issue indicated that the 125-year limit was somewhat arbitrary. Commercial interests suggested that it was perhaps too short. However, nothing that I heard then and nothing that I have seen since persuades me that the period is too short. I cannot imagine why we need to increase the proposed limit in order to ensure that sufficient commercial development takes place. Some of Brian Monteith's comments were slightly emotive—what he said might happen with inward investment or commercial development is not borne out, as other countries that limit leases do not appear to suffer any of the difficulties that he suggested.

I was quite happy with the argument that the limit of 125 years, although it was arbitrary, should be agreed to. I am still of a mind to accept that limit today.

Phil Gallie: I cannot agree with Scott Barrie's comments. For commercial, engineering and production companies, 125 years could be a relatively short time span. The original figure was arbitrary, as the minister has acknowledged today. His extension of the limit to 175 years is welcome but, if a limit is to be imposed, my view is that it should be extended further. I support Christine Grahame's amendment, if she cares to proceed with it.

Pauline McNeill: I would like to spend a bit more time on this important section. I share Scott Barrie's view—although the point has been made many times that 125 years is too short for a commercial lease, I have yet to hear any evidence that such a limit would cause hardship. I would like to hear evidence on that point.

I am concerned that longer leases would strengthen the hand of the landlord. I want to ensure that the interests of the landlord are balanced properly with those of the other party to the lease. I would be interested to learn how an increase in the length of a lease to 175 years would affect that situation. I am not inclined to support a limit of longer than 175 years—I am still caught between 125 years and 175 years and remain unconvinced.

Christine Grahame: Longer leases will not necessarily mean more advantages for the landlord, as that would depend on the lease and on the other conditions contained in the lease—in fact, a longer lease could create difficulties. It would also depend on the nature of the commercial market at the time that the lease was entered into, and on where the property was

located. All conditions must be considered—after all, a commercial lease is a contract that is entered into freely.

Phil Gallie: Pauline McNeill asked for evidence; I ask her to reflect on the legislation that covers the environment and contaminated land. Developments will take place on leased land that could end up being contaminated. Both the lessee and those people who take over responsibility for the land—those who own it—will be deeply concerned about contamination clear-up, for example. We must take that factor on board when we are considering this issue. I am sure that that is one of the elements that drove the minister to extend the time limit.

Euan Robson (Roxburgh and Berwickshire) (LD): If the Executive has conceded that 125 years is an arbitrary figure and practitioners say that they want a longer period of about 175 to 200 years, I would be minded to accept the limit of 175 years. I have received representations from a number of groups on the longer period; it is important that we respond to some of the concerns that have been put to members, particularly as the Executive conceded that the original figure of 125 years was arbitrary.

Mr Monteith: Pauline McNeill raised a question about evidence. It is my understanding that the Royal Institution of Chartered Surveyors submitted evidence to the Justice and Home Affairs Committee—I do not know whether the institution provided oral evidence, but the submission was copied to me.

In its submission, the institution states:

"A limit on the length of ground leases in particular could potentially seriously harm investment values."

Obviously, that is the institution's opinion, but it goes on to state that there will be difficulties in seeking investment in ground leases, and that

"If the investment value of ground leases were to fall"—

which could be a consequence of having too short a lease—

"there could be a knock-on restriction on the development of brownfield sites which would be contrary to policies of urban regeneration."

A number of examples are given in the submission. The institution states that it is

"aware that many of the funding institutions in England will not finance developments where the lease is less than 150 years. We are also aware that in the case of the Dalmahoy Golf Course, Whitbreads refused to take a ground lease of 125 years because of the huge investment they were to make in providing hotel accommodation and improving golf courses. In view of these concerns, we would strongly recommend that any **statutory** limit be no less than 200 years."

The clear evidence from people in the profession is that there could be difficulties in raising finance for investment and effects on developing brownfield sites, which is surely better than developing greenfield sites.

While the Executive has moved in the right direction and taken cognisance of some of the evidence, a move to 200 years would at least meet what the professionals think is a workable limit, even if the minister cannot accede to a limit of 999 years.

10:30

Gordon Jackson: My instinct is to agree with Scott Barrie and Pauline McNeill that a limit of 125 years is sufficient. To be honest, I remain a little sceptical about the business community's claim that all investment will stop and that civilisation as we know it will come to an end if the limit of 125 years is not increased. However, I agree that 125 years is arbitrary.

If the Executive has considered representations on the limit and feels that there is a genuine reason why a longer arbitrary period is better than a shorter one, I am content to go with that. I do not think that that runs the danger of reinventing the feudal system and giving it a different name. Perhaps a limit of 999 years would do that, but I do not think that a limit of 175 years would do so, any more than a limit of 125 years would. If I am told that research indicates that a limit of 175 years is appropriate, for once I will trust that.

Angus MacKay: We are trying to abolish the feudal system and balance the commercial sector's legitimate interests against that. We acknowledge that 125 years was relatively arbitrary as a kick-off point in the bill, but we have attempted to examine the detail and to take cognisance of the representations that have been made.

By lodging the amendment to extend the proposed limit on the length of non-commercial leases, we are trying to respond directly to legitimate concerns, but we will not take the argument beyond a reasonable point. In England, there is no limit to the length of leases. If we introduce a limitation of insufficient length in Scotland, there is the possibility that owners of commercial property in Scotland will be placed under restrictions that are not applicable throughout the UK, which might create commercial disadvantage—that may be a legitimate argument.

In our view, it is worth bearing in mind that major investors and occupiers might expect the playing field to be level north and south of the border. Having considered that, we accept that a limit of 125 years could discourage inward investment proposals, which is why we propose to extend the limit by an additional 50 years. The proposal to

limit the length of non-residential leases derives from a legitimate need to stop the replication of the worst of the feudal system through a system of leasehold tenure. We believe that we have struck the right balance between potential, legitimate, commercial interests in the Scottish commercial property market and the whole thrust of the legislation, which is to abolish the feudal system.

Phil Gallie: Might I ask—

The Convener: Can we get a move on?

Phil Gallie: The minister did not address the issue of contaminated land and the environment. Has he considered those issues? What does he consider the impact of the legislation to be?

Angus MacKay: If Phil Gallie is asking whether I consider that a lease length of 175 years is sufficient to address those issues, my answer is yes. Perhaps I misunderstood the question.

The Convener: As there are no other contributions, we will move on to the votes on these amendments. The question is, that amendment 89 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Phil Gallie (South of Scotland) (Con)
Christine Grahame (South of Scotland) (SNP)
Gordon Jackson (Glasgow Govan) (Lab)
Mrs Lyndsay McIntosh (Central Scotland) (Con)
Kate MacLean (Dundee West) (Lab)
Michael Matheson (Central Scotland) (SNP)
Euan Robson (Roxburgh and Berwickshire) (LD)

AGAINST

Scott Barrie (Dunfermline West) (Lab)

ABSTENTIONS

Roseanna Cunningham (Perth) (SNP)
Pauline McNeill (Glasgow Kelvin) (Lab)

The Convener: The result of the division is: For 7, Against 1, Abstentions 2.

Amendment 89 agreed to.

Amendment 157 moved—[Christine Grahame].

The Convener: Amendment 89 has been agreed, so instead of reading

"leave out <125> and insert <200>"

amendment 157 should now read

"leave out <175> and insert <200>",

as the starting point is 175.

Christine Grahame: Yes, I understand that.

The Convener: The question is, that amendment 157 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Phil Gallie (South of Scotland) (Con)
Christine Grahame (South of Scotland) (SNP)
Mrs Lyndsay McIntosh (Central Scotland) (Con)
Michael Matheson (Central Scotland) (SNP)

AGAINST

Scott Barrie (Dunfermline West) (Lab)
Gordon Jackson (Glasgow Govan) (Lab)
Kate MacLean (Dundee West) (Lab)
Pauline McNeill (Glasgow Kelvin) (Lab)
Euan Robson (Roxburgh and Berwickshire) (LD)

ABSTENTIONS

Roseanna Cunningham (Perth) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 1.

Amendment 157 disagreed to.

Amendment 136 not moved.

Amendment 90 moved—[Angus MacKay]—and agreed to.

Section 65, as amended, agreed to.

Sections 66 to 68 agreed to.

Section 69—The appointed day

The Convener: Amendment 91, in the name of Mr Jim Wallace, is grouped with amendment 137, in the name of Brian Monteith, and amendments 121 to 124, in the name of the minister.

Angus MacKay: These amendments concern the commencement of the bill. Amendment 91 responds to the committee's suggestion in its stage 1 report that there should be ample warning of the appointed day of abolition of the feudal system, in view of the amount of work that will have to be done to prepare for it. Amendment 91 makes clear that the appointed day should be not less than six months after the relevant order is made by Scottish ministers.

Amendment 137, in the name of Brian Monteith, replicates amendment 91 and adds a further stipulation that the appointed day of abolition of the feudal system should be not less than three years after the date on which the bill receives royal assent.

The committee may recall that the Scottish Law Commission suggested that the appointed day of abolition should be two years after royal assent, to allow sufficient time for superiors and their agents to make the necessary administrative arrangements to adapt to the non-feudal world. In particular, superiors will want to examine title deeds to attempt to preserve real burdens when they have a genuine interest in doing so under the bill, and may require to register the requisite notices and agreements. They may also want to

register notices to reserve the right to claim compensation for the loss of development value burdens.

Although the Executive is aware that a two-year transitional period may not be long enough, we do not believe that it is appropriate to stipulate a three-year period instead. As it stands, the bill allows Scottish ministers some flexibility in appointing the day of abolition. We will be able to take account of the number of notices and agreements being registered by superiors and the number of applications to the Lands Tribunal under section 19. We believe that it is better to retain that flexibility to allow ministers to recognise the amount of activity being undertaken by feudal superiors in response to the impending abolition. I therefore invite Brian Monteith not to move his amendment.

Amendments 121 and 122 are technical amendments that are consequential on the change in commencement arrangements introduced by amendment 124. Amendment 123 is also a technical amendment relating to the commencement provisions of the new section introduced by amendment 69.

Amendment 124 provides that the relevant provisions in part 4, on real burdens, which would otherwise have come into force on royal assent, will be delayed so as to come into force on the day prescribed by Scottish ministers. The committee may recall that, at the beginning of its consideration of part 4, I made a statement reminding the committee that the Deputy First Minister and Minister for Justice had written indicating that the Executive intended to introduce amendments to set a separate and later commencement date for part 4, as that was the area most likely to be affected by the Scottish Law Commission's work on the title conditions proposals.

As the bill is drafted, most of part 4 would automatically commence on royal assent and superiors might begin the work of identifying those burdens in respect of which they wish to register notices and agreements with a view either to preserving the burden or to reserving the right to claim compensation for the loss of a development value burden. Superiors and their staff should not be asked to start that task if there is any possibility that the title conditions bill might amend the existing provisions on real burdens. The most sensible and efficient course is to set a separate and later date to ensure a smooth process of abolition of feudal tenure. That is the purpose of amendment 124.

I move amendment 91.

Mr Monteith: The purpose of amendment 137 was to suggest that it may be necessary to introduce the effect of the act over a period of more than two years. I would like the minister to clarify the situation. What he said seemed to suggest that, if the Executive had the freedom to decide, it could take longer even than the three years that I am proposing. If that is the case, I would like to hear about it.

I suggested three years instead of two because of the timing of this bill becoming an act, because of the implications of the bills on titles and burdens and because of other bills that seem to rear their heads every time the convener meets Jim Wallace. If we are going to do this, we must get it right, so that the timing dovetails with the other bills and it all works effectively. If the minister says that he could decide, having seen the evidence, that three years may be appropriate, I would be satisfied with that assurance. My amendment pointed out that the impact of other bills could present a difficulty.

Angus MacKay: Our proposal would give ministers flexibility, which would give some purpose to any representations that interested parties might wish to make about the date of commencement. There are certainly no built-in restrictions that stipulate that it could not be three years if it was felt that that was appropriate.

Amendment 91 agreed to.

Amendment 137 not moved.

Section 69, as amended, agreed to.

Section 70 agreed to.

Section 71—Feudal terms in enactments and documents: construction after abolition of feudal system

The Convener: I call the minister to move Executive amendment 92, which is grouped with Executive amendments 93 and 94.

Angus MacKay: These are all technical amendments. Amendment 92 clarifies that the definition of subordinate legislation in the bill includes subordinate legislation made by the Scottish Parliament under an act of the Scottish Parliament.

Amendment 93 is a consequential amendment on amendment 94 and on the change to the commencement provisions in amendment 124. Amendment 94 responds to a point made by the Subordinate Legislation Committee, which felt that repeals or amendments to primary legislation by subordinate legislation should be made by affirmative rather than by negative resolution.

I move amendment 92.

Amendment 92 agreed to.

Section 71, as amended, agreed to.

Section 72—Orders, regulations and rules

Amendments 93 and 94 moved—[Angus MacKay]—and agreed to.

Section 72, as amended, agreed to.

Section 73 agreed to.

Section 74—Minor and consequential amendments, repeals and provision for postponement of amendments and repeals

The Convener: Amendment 95, in the name of the Minister for Justice, is grouped with amendments 96 to 120.

Angus MacKay: Amendment 95 corrects a typo. Amendments 96 to 120 relate to consequential amendments or to repeals.

I move amendment 95.

Amendment 95 agreed to.

Section 74, as amended, agreed to.

10:45

Schedule 10

MINOR AND CONSEQUENTIAL AMENDMENTS

Amendments 96 to 100 moved—[Angus MacKay]—and agreed to.

The Convener: Amendment 159 is in the name of Robin Harper, who is not here.

Amendment 159 not moved.

Amendments 101 to 111 moved—[Angus MacKay]—and agreed to.

Schedule 10, as amended, agreed to.

Schedule 11

REPEALS

Amendments 112 to 120 moved—[Angus MacKay]—and agreed to.

Schedule 11, as amended, agreed to.

Section 75—Short title and commencement

Amendments 121 to 124 moved—[Angus MacKay]—and agreed to.

Section 75, as amended, agreed to.

Long Title

The Convener: I should point out that the amendments to the long title have already been debated and that, as concerns amendment 126, it would be helpful if the committee made the same choice of figure as it did for section 65.

Amendments 125 and 126 moved—[Angus MacKay]—and agreed to.

The Convener: Amendment 160, in the name of Christine Grahame, has already been debated with amendment 89.

Christine Grahame: Withdrawn.

The Convener: That should be “not moved.”

Christine Grahame: Not moved, then. I will get it right—I wonder what my hit rate is.

Amendments 160 and 138 not moved.

Long title, as amended, agreed to.

The Convener: That concludes stage 2 consideration of the Abolition of Feudal Tenure etc (Scotland) Bill. We look forward to seeing the minister at stage 3, which I have no doubt he will handle as well as he has handled this. I thank everybody for their forbearance.

Petition

The Convener: We will now move on to item 5, which is petition PE89, sent in by Mrs Eileen McBride, on information to be included on the enhanced criminal record certificates.

The petition has been circulated to members, with a note from the assistant clerk. The concerns relate to inclusion of information on a criminal record certificate that does not relate to conviction information—suspicion is recorded. This raises serious issues of law. Research note RN 00/19, which has been prepared by the Scottish Parliament information centre, describes the current position and outlines the background. The provision relates to a narrow range of suspicions.

The best immediate approach for the committee would be to write to the minister to clarify when the Police Act 1997 will be brought fully into force in Scotland, because that is unclear. We should also ask for comment about the difficulties that the provision may now pose in the light of the European convention on human rights.

With the committee's agreement, that is the first step that we should take on this petition. Pending the minister's answer to those questions, the petition should be referred to the meeting immediately after the Easter recess, to be included in the discussion then.

Christine Grahame: This is an interesting issue. I have done some work in relation to criminal police checks for elderly people.

It is stated on page 6 of research note RN 00/19 that:

"a joint committee of the Part V Board and the Association of Chief Police Officers in Scotland (ACPOS) is considering the issue and will prepare guidance to forces on the nature of the data which can be disclosed."

It might be interesting to see what the guidance is.

The Convener: We can add that to the letter to the minister.

Pauline McNeill: It is important that we examine this issue. We must be clear that this is the right way to proceed.

I agree with your suggestion, convener, but would like to add that this procedure may be against our own law since, as it currently stands, someone is innocent until proven guilty. I accept the need to ensure that this is ECHR proofed, but it may also be contrary to our own law. Whichever decision we decide to take, it is important that we examine the issue thoroughly.

Phil Gallie: This is one of the issues that came up when the legislation was introduced. The act is heavily related to the incident at Dunblane. The debate was full of emotion and the legislation that followed might not have been terribly logical.

The Convener: I have received a letter from Eileen McBride, which is dated 25 March and contains her responses to some of the points raised in the research note. Has it been circulated?

Members: No.

The Convener: I will ensure that the clerk circulates it to everybody.

Is there anything else that should be included in the letter to the minister?

Scott Barrie: On Phil Gallie's point, I will be very interested when this matter comes back to the committee, because it attempts to prevent unofficial lists being kept, which was the practice in the past. It means that there will be a more public record. Although people might be alarmed that it breaches the ECHR—it may well do—it certainly tightens up previous practice.

The Convener: I think that we have a note of all the points that are to be included in the letter to the minister.

Stalking and Harassment

The Convener: Members will be aware of the announcement of a consultation on the law relating to stalking and harassment and on potential changes to the law. "Stalking and Harassment: A Consultation Document" has been published and I have looked through it. It lays out clearly the issues and the variety of options that may be available in Scots law.

I think that the committee needs to make some input into the consultation exercise. I propose that the committee appoint a reporter to deal with the issues that are raised in the consultation paper and to report back to the committee so that it can take a view. In effect, appointing a reporter would take the issue off the agenda. The committee would consider the issue when it received the report, rather than schedule meetings at which it would hear evidence. It is important that we make an input. There will be other consultation exercises for us to deal with, such as that on freedom of information legislation. Indeed, another consultation, on judicial appointments, was announced, but we did not have time to put it on to the agenda for this meeting—it will be on the agenda for our next meeting.

Is it agreed that we handle this matter by appointing a reporter?

Members *indicated agreement.*

The Convener: The next question is who the reporter should be. I propose that it should be Pauline McNeill, if she is happy about that.

Pauline McNeill: Of course.

The Convener: That is exactly what I wanted to hear. Does anyone else have a strong view about this? There is no reason why Pauline McNeill has to do this on her own—the committee may feel that there should be a second reporter. [*Interruption.*] The clerk is hissing at me that it would be better if there were just one reporter, but that does not preclude other interested members of the committee joining Pauline in whatever she does. Pauline should keep the committee advised of meetings that she sets up so that members who wish to attend can do so.

In effect, we are moving the issue off the official agenda. Other committees have used reporters for the same reason. It is agreed that Pauline McNeill will be the reporter on this issue. In a sense, it is now up to you where you go with this and how you deal with it, but the deadline for submissions is 9 June.

There are no more items on the agenda and it is bang on 11 o'clock—which is something of a miracle.

Gordon Jackson: What are we doing next week? I know that we do not yet have an agenda, but could we have a wee clue?

The Convener: We will deal with the Carbeth hutters and there will be three Scottish statutory instruments on legal aid before the committee. We will not be short of agenda items.

Gordon Jackson: I know that, but it is nice sometimes to know roughly what is planned.

The Convener: We will debate the Police Grant (Scotland) Order 2000, three SSIs, the Carbeth hutters and there will be an item on judicial appointments similar to the discussion that we had during the stalking and harassment consultation.

Gordon Jackson: Are we taking evidence on, or merely debating, those issues?

The Convener: We need to discuss the appointment of a reporter. If the Minister for Parliament comes back to us, the committee will, effectively, be working on nothing but legislation when we come back from the Easter recess. There will be only tiny spaces for the committee to do anything else.

The committee has been named as the secondary committee on the Protection of Wild Mammals (Scotland) Bill. I propose to restrict the committee's input to that debate to the specifics of the criminal offences that would be created by enactment of the bill. The committee will not have anything to do with the principles of the bill.

The committee must also contribute to the debate on the budget procedure—that will take at least two meetings.

A new bill is being introduced that has not hitherto been officially announced by the Executive, although we all know that it is coming. It is not only being introduced after the Easter recess, but it is expected that its passage will be completed by the summer recess. There are behind-the-scenes negotiations about how that is practically possible.

We have yet to find out to which committee the Abolition of Poindings and Warrant Sales Bill will be referred for stage 2 consideration. As we were the lead committee at stage 1, it would be fair to bet that it will be fired back to us for stage 2. That work severely limits the committee's select committee function. The only way we will be able to function at all in select committee mode will be by appointing reporters.

Meeting closed at 11:02.

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