JUSTICE COMMITTEE

Tuesday 10 June 2008

Session 3

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JUSTICE COMMITTEE
15th Meeting 2008, Session 3

CONVENER

*Bill Aitken (Glasgow) (Con)

DEPUTY CONVENER

Bill Butler (Glasgow Anniesland) (Lab)

COMMITTEE MEMBERS

*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
*Nigel Don (North East Scotland) (SNP)
*Paul Martin (Glasgow Springburn) (Lab)
*Stuart McMillan (West of Scotland) (SNP)
*Margaret Smith (Edinburgh West) (LD)
*John Wilson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Aileen Campbell (South of Scotland) (SNP)
*Marlyn Glen (North East Scotland) (Lab)
John Lamont (Roxburgh and Berwickshire) (Con)
Mike Pringle (Edinburgh South) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Pauline McNeill (Glasgow Kelvin) (Lab)

THE FOLLOWING GAVE EVIDENCE:

Kenny MacAskill (Cabinet Secretary for Justice)

CLERK TO THE COMMITTEE

Douglas Wands

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Euan Donald

LOCATION

Committee Room 2

Scottish Parliament

Justice Committee

Tuesday 10 June 2008

[THE CONVENER *opened the meeting at 10:21*]

Declaration of Interests

The Convener (Bill Aitken): Good morning, ladies and gentlemen. I remind everyone to switch off mobile phones. We have an apology from Bill Butler, who is representing the Scottish Parliament on other important business. Marlyn Glen is substituting for him—it is the first time that she has attended the committee. I ask her to confirm that she is substituting for Bill Butler.

Marlyn Glen (North East Scotland) (Lab): Yes, I certainly am.

The Convener: I am required to ask you, in accordance with section 3 of the code of conduct, to declare any interests that you have that may be relevant to the committee's remit.

Marlyn Glen: I have no relevant interests to declare.

Subordinate Legislation

Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) Order 2008 (Draft)

10:22

The Convener: We move to item 2. I draw members' attention to the first affirmative instrument and the cover note. Prior to the formal procedure in relation to the motion on the draft order, members have an opportunity to ask questions of the Cabinet Secretary for Justice and his officials.

I welcome Kenny MacAskill MSP, the Cabinet Secretary for Justice. I also welcome Gerard Bonnar, who is head of the summary justice reform branch in the Scottish Government's criminal procedure division; Dianne Drysdale, who is a policy officer in the criminal procedure division; and Stephen Crilly, who is a solicitor in the criminal justice, police and fire division. I ask Mr MacAskill to speak to the draft order.

The Cabinet Secretary for Justice (Kenny MacAskill): Thank you, convener and members of the committee. I welcome the opportunity to contribute to the committee's consideration of the draft order. It might be helpful if I explain briefly why this new order under section 51(2)(b) of the Crime (International Co-operation) Act 2003 is required.

The European Union and the United States have agreed a mutual legal assistance treaty in order to combat serious crime more effectively by providing for enhancements to co-operation and mutual legal assistance in investigations. In order to take account of obligations under the EU-US treaty, the United Kingdom and the US have amended their previously agreed mutual legal assistance treaty. The draft order will ensure that domestic law reflects what has been agreed between the US, the UK and the EU.

The Home Office intends to lay a draft order making a similar designation in relation to the provisions that apply in England and Wales before the Westminster summer recess. In order that the Scottish Government and the UK Government have the designation in place at approximately the same time, the draft order that is before the committee was laid before the Scottish Parliament on Monday 19 May. That will allow the UK Government to confirm to partners in Europe that both Governments are ready to implement the agreement.

There is a concern that if the terms of the EU-US mutual legal assistance treaty are not implemented across the EU before the Lisbon

treaty comes into force—which is currently planned for 1 January 2009—the EU-US treaty will fall.

The purpose of the draft order is to designate the US as a participating country for the purposes of sections 37, 40 and 43 to 45 of the 2003 act. Sections 37 and 40 cover the obtaining of customer and account information. Sections 43 to 45 mirror those provisions and allow the relevant UK authorities to make out-going requests to participating countries.

For those reasons, I invite the committee to recommend that the draft order be approved by Parliament.

The Convener: As members have no questions, I invite the cabinet secretary to move motion S3M-1942.

Motion moved,

That the Justice Committee recommends that the draft Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) Order 2008 be approved.—[*Kenny MacAskill.*]

Motion agreed to.

Human Tissue (Scotland) Act 2006 (Consequential Amendment) Order 2008 (Draft)

The Convener: We move on to another draft order. Prior to the formal moving of the motion on the draft order, members have an opportunity to ask questions of the Cabinet Secretary for Justice and his officials. I welcome George Burgess, who is the head of the Scottish Government's criminal law and licensing division, and David Johnston, who is a solicitor in the Scottish Government's legal directorate.

I invite the cabinet secretary to speak to the draft order.

Kenny MacAskill: I do not propose to speak at length about the draft order, as it is largely self-explanatory. It demonstrates our efforts in relation to the battle against human trafficking, which is an important area of public policy. That abhorrent practice has no place in a civilised society, and the Scottish Government is committed to working to ensure that it is eradicated in Scotland.

Members will recall the debate on 20 March that marked the first anniversary of the United Kingdom's signing of the Council of Europe's Convention on Action against Trafficking in Human Beings. We welcomed the Home Secretary's announcement in January that the UK will ratify the convention this year and are working to ensure that all necessary arrangements are put in place in Scotland to support early ratification. The draft order is part of that process. It ensures that there is no loophole in relation to our criminalisation of trafficking for the purposes of organ removal.

Although we are responsible for tackling the problem in Scotland, the issue is clearly one that does not respect national boundaries. The joint Scottish Executive-Home Office action plan sets out more than 60 measures that will be delivered in four key areas: enforcement, prevention, victim support and child trafficking. That was reinforced by the launch last October of the police operation, pentameter 2, which ran until the end of March. Although there is no evidence from that operation of trafficking for the purposes of organ removal, we must remain ever vigilant, and it is better to ensure now that our law is up to the mark than see traffickers escape justice.

I commend the draft order to the committee.

The Convener: As members have no questions, I invite the cabinet secretary to move motion S3M-1941.

Motion moved,

That the Justice Committee recommends that the draft Human Tissue (Scotland) Act 2006 (Consequential Amendment) Order 2008 be approved.—[*Kenny MacAskill.*]

Motion agreed to.

The Convener: I suspend the meeting in order that the officials can change.

10:28

Meeting suspended.

10:29

On resuming—

Judiciary and Courts (Scotland) Bill: Stage 2

The Convener: I welcome to the meeting Pauline McNeill, who is a distinguished former convener of the Justice 1 Committee and the Justice 2 Committee. She has joined us for the next agenda item, which is stage 2 of the Judiciary and Courts (Scotland) Bill.

We will go through the marshalled list of amendments.

Section 1—Guarantee of continued judicial independence

The Convener: Amendment 22, in the name of Nigel Don, is grouped with amendments 1 and 2.

Nigel Don (North East Scotland) (SNP): Amendment 22 would bring members of the Scottish Parliament individually but not, of course, corporately into the ambit of section 1, on the guarantee of continued judicial independence. My purpose in lodging the amendment was simply to ensure that it is clear to MSPs that we should separate ourselves from the judiciary for all practical purposes and that it is up to us to uphold the independence of the judiciary.

There is nothing in particular to say about the other amendments in the group, which are technical.

I move amendment 22.

Kenny MacAskill: I was pleased to note the committee's conclusion that the statutory guarantee of continued judicial independence in section 1 is important and valuable. In concluding that, committee members brought to my attention the concern that the provision in section 1(2) could be construed as being too narrow. In response, I undertook to lodge an appropriate amendment at stage 2 to address that concern. Amendment 1 achieves that aim by providing that the duties in section 1(2) are only examples of actions that would affect the continued independence of the judiciary. The provision of those examples does not affect the generality of the duty in section 1(1).

It has been separately brought to my attention that the guarantee should also extend to the judiciary of international courts, as they have supranational jurisdiction. Amendment 2 will amend section 1(3) to cover the judiciary of international courts by the guarantee.

On Nigel Don's amendment 22, I have already made it clear that we do not consider the matter to be for the Government. If Parliament wishes to impose such a duty on its members, I am more than happy to accept that judgment.

The Convener: I have a brief question. On what legal basis is the Security Council considered a court?

Kenny MacAskill: It is not the Security Council per se; rather, it is the court that is established under resolution of the Security Council.

The Convener: Thank you.

No other member wishes to speak. Therefore, I invite Nigel Don to wind up and say whether he wishes to press or withdraw amendment 22.

Nigel Don: I will pass on winding up, but I wish to press my amendment.

Amendment 22 agreed to.

Amendments 1 and 2 moved—[Kenny MacAskill]—and agreed to.

Section 1, as amended, agreed to.

Section 2—Head of the Scottish Judiciary

The Convener: Amendment 23, in the name of Cathie Craigie, is grouped with amendments 27, 28, 40, 48 to 62 and 64.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I wish to speak to amendments 23, 27, 28, 40, 48, 52, 56 to 62 and 64 in particular.

Members will be aware that I raised concerns during stage 1 about the far-reaching transfer of responsibility from ministers to the Lord President that is proposed in the bill. I did that not because I believe that any person who holds the post of Lord President would not be capable of

"making and maintaining arrangements for securing the efficient disposal of business in the Scottish courts",

but because I believe strongly that the responsibility for such a fundamentally important function of the state should remain with the Scottish ministers.

It is a key duty of the state to ensure that the administration of our courts, inferior and superior, is resourced and that the courts run smoothly to the benefit of all who use them—the public expect nothing less. The public also expect that function and responsibility to rest with ministers. My amendments in the group would retain the existing ministerial powers and responsibilities.

I move amendment 23.

Margaret Smith (Edinburgh West) (LD): The bill proposes far-reaching changes to the administration of our courts. My amendments 53 and 55 suggest that certain strategic matters should be retained by the Scottish ministers, rather than be part of the wholesale transfer of

powers to the Lord President and the new Scottish Court Service. There has been general concern about the issues, particularly in relation to accountability for key decisions.

Although I might accept that the Lord President should have responsibility for the day-to-day efficient running of the court service, decisions about boundaries, which involve links to other boundaries and communities, are likely to raise concerns among the public and local elected representatives and should therefore be left in the hands of the Scottish ministers. No doubt the Lord President, sheriffs principal and the Scottish Court Service would have an opinion, too. It should be up to ministers to decide such matters, taking all those views into account.

My amendment 53 is about decisions on boundaries and my amendment 55 relates to decisions on where sheriff court districts are situated and where the courts are held. Those are decisions that ministers should take. The alternative that is proposed in the bill would result in orders about boundaries and the placement of sheriff courts being laid before Parliament by the Lord President, rather than by the cabinet secretary. Right now, parliamentarians can question the cabinet secretary on such matters, either generally or in respect of a particular order. However, under the Scotland Act 1998, we cannot compel the Lord President to come before us to speak to an order, even if a particular proposal results in a great deal of concern in a local community. There are issues of accountability.

Although we may accept the argument that the general transfer of responsibilities to the Lord President as head of the judiciary and of the Court Service, as a separate body corporate, may lead to efficiencies in the court system, we retain concerns that that will diminish accountability. In those two areas of the general background of the criminal justice system, decision making should be retained by ministers and MSPs should retain the ability to carry out full and proper scrutiny by holding ministers of whatever Government is in power to account. I understand the convener's motivation in lodging amendment 54, which would be reasonable, too.

My amendment 61 would leave the establishment and disestablishment of justice of the peace courts and the parliamentary orders in that respect in ministers' hands, rather than the Lord President's. Cathie Craigie's amendment 62 would go further and would remove the proposal to give all the powers on establishment and constitution of those courts to the Lord President, so they would be retained in ministers' hands. There is a question of balance. The establishment or otherwise of JP courts will be of interest to communities. If a JP court is to be relocated or closed down, that proposal should be open to proper scrutiny and accountability, which means that ministers should be involved.

Strategic decisions, rather than decisions about day-to-day administration, should be left in ministers' hands.

The Convener: I will speak to amendment 54, which is in my name, and the other amendments in the group.

As Cathie Craigie rightly said, the transfer to the Lord President of powers over the business aspects of the service was a cause for concern at stage 1. As a result, we prevailed upon the cabinet secretary to obtain an additional report from Douglas Osler regarding the viability of the entire concept and whether or not there could be a loss of judicial time were we to implement the proposals. We now have Douglas Osler's report. It has left me persuaded that, providing that there is some assurance that the appropriate measures will not be introduced on the basis of a block transfer of powers and that they will be phased in, the proposed legislation is justified.

Margaret Smith's amendments have some merit. The closure of a court is an important matter, and we would have to treat it accordingly. My concern was that there might not be the level of consultation on closures that we would expect. I think that my amendment 54 would deal with that, however.

Paul Martin (Glasgow Springburn) (Lab): I welcome Cathie Craigie's amendments, which cover issues that were raised in evidence to the committee. Although I appreciate that the minister has made some progress on the capacity of the Lord President's office to deal with the reconfiguration of services and the transfer of powers, I remain unconvinced. I would be willing to consider the matter further at stage 3 if more evidence is brought to us on the subject of the capacity of the Lord President to take on the additional powers. The Parliament should be given the opportunity at stage 3 to consider whether it is satisfied with the principle of the Lord President taking those powers into his jurisdiction. Further evidence is required, and I would welcome further consideration of the matter. I hope that the minister can give further evidence before stage 3.

Pauline McNeill (Glasgow Kelvin) (Lab): I raised some of these issues at stage 1. The principles of the bill are, essentially, about the independence of the judiciary, and all members at the table agree that that should be set out in statute, as the bill proposes. However, I am very concerned about what might be seen as the definition of independence of the judiciary. In my view, the transfer of some ministerial powers to judges will give the impression that we think it

fundamental to the independence of the judiciary for judges to be able to make decisions on, for example, the boundaries of sheriffdoms, which Margaret Smith's amendment 53 addresses.

Perhaps the minister could clarify whether that is a matter that ministers would be happy for judges to decide. Does he think that such decisions are integral to judicial independence? I would certainly draw the line there. If decisions that affected local communities were to become a matter for independent judges rather than politicians, I would be concerned about the direction that the bill is taking. I do not accept that it is necessary for the smooth running of the courts for judges to decide the boundaries of sheriff court or JP court jurisdictions.

It is less than a year since Marlyn Glen and I scrutinised the reform of summary justice, when we decided the structure of the JP courts. At that time, boundary decisions were a matter for ministers. I am not the first member to express concern that the issue at hand was meant to be about management, yet now, we find that it is an issue of rationalisation, with a proposal concerning two local courts already out for consultation. Lord Gill, in his review of civil justice, mentioned in passing that he would quite like to examine the boundaries of sheriff courts. There is no doubt that judges are considering whether or not they want to change sheriff court boundaries.

Will the minister clarify whether it would be in order for the Lord President to lay an order before the Parliament? I am sure that that would be unprecedented. Given that orders are normally laid by the Scottish ministers, will the minister talk us through the proposed procedure?

10:45

We will discuss later the huge issues to do with democratic accountability that arise in part 3 and in part 4, which is on the Scottish Court Service. Lines need to be drawn in that regard. Local politicians and elected members should have jurisdiction over where courts sit and the drawing of boundaries. Although amendment 54, in Bill Aitken's name, is helpful in that it would provide for consultation of members on such matters, it does not go far enough. Such issues should have been dealt with in the bill.

I hope that the committee will give serious consideration to what we want from the bill in the context of putting down markers of judicial independence, setting out matters that are for the democratically elected Scottish Parliament and for ministers, and identifying matters over which we want to have influence.

Kenny MacAskill: We are more than happy to accept amendment 54. We accept the logic of Mr Osler's report and we are happy to undertake to phase in provisions. It would be remiss of us not to accept advice that has been given.

I point out to the committee—and to Pauline McNeill in particular—that there will be interaction with the Parliament. Statutory instruments, for example in relation to closure of a court, must come before Parliament to be dealt with through subordinate legislation, so members will always have an opportunity to interact.

The purpose of the summary justice reforms was always to give scope for consolidation of the court estate in the interests of achieving efficiency and safeguarding access to justice: the two elements are entwined and are not irreconcilable. The bill's overarching aim is to improve the judicial system by modernising the arrangements for the judiciary and strengthening the judiciary's role by giving it greater authority over the Scottish Court Service.

I am surprised by the amendments in Cathie Craigie's name. She proposes that we leave in place arrangements for the organisation of our courts that were introduced in the 1970s, which were probably a bit of a muddle even then and which now stand in the way of modernisation of our judicial and court systems. I do not know why Cathie Craigie wants to turn the clock back, especially given that in the previous Administration her party made similar proposals for modernisation. How she can seek to undermine a major strand of the bill after supporting the principles of the bill at stage 1 also escapes me.

I will not deal with all the amendments in the group individually; they have a common purpose, which is to maintain the current arrangements, so let us consider what that would mean. Lead amendment 23 would remove the provision that will give the head of the judiciary the responsibility for making

"arrangements for securing the efficient disposal of business"

in all courts. If amendment 23 were agreed to, the management of the court system would remain fragmented and the Lord President would be responsible only for the Court of Session and the High Court. Responsibility for the efficient disposal of business in the sheriff courts, which deal with the bulk of court business, would continue to be divided between the six sheriffs principal, under the arrangements in the Sheriff Courts (Scotland) Act 1971. I make no criticism of the sheriffs principal, who do an important job well—we do not propose to take that from them. However, the influence of each sheriff principal is limited to his sheriffdom and there is no single point of leadership. Ministers are constitutionally limited in what they can do.

Other amendments in Cathie Craigie's name would maintain the status quo, which would be a sad result that would thwart the positive aspirations of the Lord President, who said in his written evidence to the committee that he supports the proposals on the head of the judiciary, which will

"enable the matter of the efficient disposal of business in the Scottish courts to be addressed strategically in a way which takes account of the operation of the whole system rather than on a piecemeal basis".

We cannot let pass the opportunity to create a structure that has the potential to bring about modernisation for the benefit of everyone who uses the courts. If the amendments in Cathie Craigie's name are agreed to, that opportunity will be lost, so for that reason I do not accept them. I ask her to reflect on what I said and to consider withdrawing amendment 23 and not moving the other amendments.

I welcome Margaret Smith's support for giving the Lord President a broad leadership role. Her concerns are limited to the proposals that it should be for the Lord President to determine the boundaries of sheriffdoms, and where sheriff courts and justice of the peace courts should sit. I understand why that might cause concern, but I am sure that the Lord President and the Scottish Court Service, as the governing body that will run the system, are best placed to decide how the judiciary should be deployed and where court services should be delivered to meet the needs of users.

There will be a number of checks on how those decisions will be made. Although the Lord President will make the necessary orders, he will be bound to seek the consent of the Scottish Court Service before altering sheriffdom boundaries, and he will not be able to change court districts or where courts sit except on the recommendation of the Scottish Court Service. The Scottish Court Service will be under a statutory duty when carrying out its functions to take account of the needs of members of the public and other court users, and to co-operate and co-ordinate activity with others who are involved in the administration of justice.

The Lord President will exercise his powers by making subordinate legislation, which offers the opportunity for parliamentary scrutiny. If Parliament does not agree with the Lord President's proposals, it can stop him altering a sheriffdom boundary or closing a court. I hope that that reassures Margaret Smith and I invite her to not move amendments 53 and 55.

I turn to amendment 54, which is in the name of the convener. I welcome his support for the proposals in part 2 of the bill and I agree that any alteration to where a sheriff court sits is a significant matter. I understand the wish for consultation before the Lord President makes an order that will change where a court sits. I agree entirely with that principle and I intend that the Scottish Court Service should continue to consult a wide range of interested parties whenever there is a proposal to change the geographical location of courts.

However, there are a couple of reasons why I do not think that the committee should agree to amendment 54. First, I do not think that it is necessary. As I have said, the Scottish Court Service will be under a statutory duty when carrying out its functions to take account of the needs of members of the public and other court users, and to co-operate and co-ordinate activity with others involved in the administration of justice. Therefore, in considering where to provide court buildings, the SCS would already have to take account of the needs of members of the public and court users. The most obvious way of doing that would be to consult. In the light of that, I do not think that we need a separate provision that would require consultation.

Secondly, I do not think that amendment 54 is correct in seeking to impose on the Lord President the duty to consult. It would be for the Scottish Court Service, rather than the Lord President, to carry out such consultation. The SCS has the statutory duty to make a recommendation about opening or closing a court and it should consult before it makes any such recommendation to the Lord President. The SCS also has the administrative capacity to conduct the consultation. The Lord President will wish to take account of the outcome of consultation before deciding to propose to Parliament a statutory instrument for opening or closing a court. In the light of those comments, I invite Bill Aitken not to move amendment 54.

Cathie Craigie: I want briefly to address points that other members have raised. I accept entirely the points that Margaret Smith made about strategic matters and I agree that we have to ensure that certain issues around sheriff courts, boundaries and JP courts remain in the hands of ministers. It is a question of accountability, but the fact that part 2 of the bill will take powers away from ministers will diminish accountability. The committee's members are all agreed on that—or, at least, we were when we discussed the matter at stage 1.

The Osler report, which the convener and the minister mentioned, is welcome, but I am sure that the convener and the minister will agree that the committee has not had much time to digest it. Although we welcome the fact that the minister asked for the report, we need time to digest it fully.

I am surprised that the minister is surprised that I lodged my amendments. The minister gave evidence at a meeting at which other members and I raised our concerns. My colleagues also expressed concerns during the stage 1 debate. Matters of democracy should not be taken lightly. The current arrangements have served this democracy well over the years—I think the minister said since 1977—and we should guard them carefully.

I would be happy to speak with the minister between now and stage 3 because I really have serious concerns. I know that I am not the only committee member who has those concerns, and that members from more than one political party share them. Between now and the stage 3 debate, there is an opportunity to sit down with the minister and further discuss matters of concern in order to ascertain whether we can reach an understanding or agreement on them.

The Convener: Will you press amendment 23?

Cathie Craigie: I will not press amendment 23. I wish to have discussions with the minister.

Amendment 23, by agreement, withdrawn.

The Convener: Amendment 24, in the name of Nigel Don, is grouped with amendments 25, 26, 13, 15 and 21. I draw members' attention to the pre-emption information on the correction slip to the marshalled list. I ask Nigel Don to speak to and move amendment 24 and to speak to all the amendments in the group.

Nigel Don: I confess that the significance of the pre-emption information eludes me. However, I think I can talk to the amendments without worrying too much about that.

The matters before us relate to judicial training, which has exercised us a great deal. Amendment 24 is a facilitator for amendments 25 and 26. I lodged amendment 26 because I was concerned to ensure that the bill would state not only that the Lord President will be responsible for training but that training should be introduced in at least two areas.

However, Margaret Smith's amendment 25 is a better amendment, which I am happy to support. As I read it, amendment 25 seeks to leave discretion entirely with the Lord President while also making it clear that whatever he decides will be mandatory for judges, which is the substance of what we are trying to achieve. Therefore, I am happy to support amendment 25, not to move amendment 26 and not to press amendment 24. I have no doubt that the minister will want to speak to the other amendments in the group.

I move amendment 24.

The Convener: So, you are moving amendment 24.

Nigel Don: I think that I am required to move amendment 24. I have not heard from Margaret Smith yet on her amendment.

The Convener: You have moved amendment 24, so you will have to seek leave to withdraw it at the appropriate point.

Margaret Smith: I welcome Nigel Don's comments. They reflect a general concern in the committee, which is probably shared by the community at large, about judicial training. Few elements of the bill would get people talking in the bars, pubs and steamies of Scotland, but many people have probably given their opinions on whether judges are properly trained. We heard such opinions from organisations such as Victim Support Scotland, which expressed concerns about training. The committee's report says that we believe that confidence would increase if training became mandatory. We are certainly keen that there be mandatory training in certain circumstances, particularly in relation to the Vulnerable Witnesses (Scotland) Act 2004. We have said a number of times that that is crucial.

11:00

The committee's first view was that Parliament should be able to maintain control, but in the light of the Lord President's willingness to accept mandatory training so long as there is to be no ministerial direction, I have lodged what I believe is a reasonable compromise amendment, which seeks to raise the important issue of training of the judiciary, but which also leaves the power with the Lord President. The public expects to be dealt with by members of the judiciary who have had training on key issues such as the Vulnerable Witnesses (Scotland) Act 2004, family law and so on. Parliament also hopes that the judiciary throughout Scotland would be trained early in respect of the ramifications of significant new legislation, such as the rape and sexual offences legislation that we will consider soon and which may be passed by Parliament.

I am pleased that Nigel Don has intimated that he will not move amendment 26. Had my amendment fallen, I would have been happy to support amendment 26, although it was a bit more prescriptive on the Lord President. Bearing in mind the letter that the committee received from the Lord President, which states that he is quite happy for certain elements of the training to be mandatory so long as it is in his hands, and having taken advice from others in the Scottish Court Service, amendment 25 tries to reflect that point of view at the same time as acting on the general concerns that were raised with the committee and which we shared.

The Convener: Two not dissimilar amendments are before the committee. Both have been well thought out and fit the bill, so to speak. Either amendment would ensure that the public can be certain that there will be appropriate training, although we are not telling the Lord President how that training should function.

Paul Martin: The section on training in our stage 1 report on the bill makes it clear that

"the Committee agrees that confidence in the judiciary would be enhanced by making such training mandatory and so recommends."

There is an issue about the discretion of the Lord President, and following the evidence that we received the recommendation in our report went further than Margaret Smith's amendment 25. Although I am minded to support amendment 25, there may be an opportunity at stage 3 to take the matter further, in the spirit of what we agreed in our stage 1 report.

The Convener: I turn to Mr MacAskill, before we extend the debate on to a wider issue.

Kenny MacAskill: I am happy to meet members of the committee and any other members to discuss any matter that arises.

I welcome the contributions that have been made on the issue. The right of the judiciary to have responsibility for the delivery and content of training is widely considered to be an important component of judicial independence. I am particularly pleased that the committee has recognised and respected that important principle, not only in its stage 1 report but in the amendments that have been debated today.

I appreciate that there is a strong feeling within the committee and beyond that judicial training should be mandatory. Indeed, the committee expressed the view

"that confidence in the judiciary would be enhanced"

by such a move.

The committee has before it two different approaches to the issue. Nigel Don's amendment 26 would remove the general duty on the Lord President to make and maintain appropriate arrangements for training and replace it with a specific duty on the Lord President to ensure the provision of "initial training" for newly appointed judges and "subsequent training" as he "considers necessary or desirable". On the other hand, Margaret Smith's amendment 25 simply provides that the Lord President must require particular judges or classes of judges to attend training.

I am more attracted to Margaret Smith's amendment. She has proposed a balanced and fair approach, which rightly retains a general responsibility for making and maintaining arrangements for judicial training. She leaves the responsibility in the hands of the Lord President, while at the same time introducing an element of compulsion. That offers a reasonable way forward on this complex issue. I am happy to accept Margaret Smith's amendment 25 and ask Nigel Don not to move amendment 26. I know that he has said that he will not.

Amendment 13 will bring the training of justices of the peace into line with that of other judicial office holders by transferring responsibility for the training of JPs from the Scottish ministers to the Lord President. Section 69 of the Criminal Proceedings etc (Reform) (Scotland) Act 2007 gives the Scottish ministers the role of prescribing the arrangements for the training of justices of the peace. It is consistent with the Lord President's role in relation to training in section 2(2)(d) of the bill that the Lord President, rather than the Scottish ministers, should have that role in relation to JPs. In exercising the role, the Lord President will set out the arrangements for the training of justices of the peace in an order that will be subject to the negative procedure. Amendment 13 will amend section 69 of the 2007 act to achieve that effect.

Amendments 15 and 21 will make consequential drafting changes.

Cathie Craigie: I accept that Margaret Smith's amendment 25 goes some way towards addressing the concerns that the committee raised at stage 1, but it does not go far enough to meet the recommendations in the committee's report. I am sure that the committee made a unanimous decision on the matter. I thought that the minister accepted during the stage 1 debate that the committee had strong views on the matter and expected an amendment to be lodged to deal with it. Amendment 25 is the most attractive option, but it does not go as far as the committee intended after it heard evidence on and considered the matter.

The Convener: I ask Nigel Don to wind up or simply to say whether he wishes to press or to seek to withdraw amendment 24.

Nigel Don: I wish to withdraw amendment 26, and therefore amendment 24.

The Convener: At the moment, we are dealing only with amendment 24.

Nigel Don: I wish to withdraw amendment 24, in that case.

Amendment 24, by agreement, withdrawn.

Amendment 27 not moved.

Amendment 25 moved—[Margaret Smith]—and agreed to.

Amendment 26 not moved.

Section 2, as amended, agreed to.

Section 3—Delegation of functions

Amendment 28 not moved.

Section 3 agreed to.

Section 4—Lord President

The Convener: Amendment 29, in the name of Margaret Smith, is grouped with amendments 30 to 33.

Margaret Smith: Amendments 29 to 33, on incapacity, were inspired by the Law Society of Scotland. We know from experience that, unfortunately, we must plan for incapacity. Amendment 29 seeks to include in the bill a requirement that the judges of the inner house consider, as appropriate, the terms of a certified medical report before they declare that they are satisfied that the Lord President or Lord Justice Clerk is incapacitated or has recovered from incapacity. Under the bill as drafted, they are not required to do so: surely natural justice demands that in respect of any proposal to deprive a person of their position and livelihood, clear independent evidence should be presented to the First Minister.

We have great faith in our judiciary's ability to do their job; after all, they are very well trained for the task and will, I hope—given that we have agreed amendment 25—be better trained. However, they are not medical practitioners and it is prudent to ensure that, in making judgments on a person's capacity or otherwise, they are able to refer to an independent certified medical report.

Amendment 33 seeks to broaden the definition of incapacity to cover situations in which the Lord President or the Lord Justice Clerk is unable to carry out the functions of office. The Law Society of Scotland, for one, feels that incapacity has been too narrowly defined and should not be restricted to ill health. In its report, the committee also asked the cabinet secretary to reconsider the definition.

The cabinet secretary is no doubt waiting for me to highlight some examples of what I mean. Clearly, ill health is the most common reason for incapacity, but the Lord President might be overtaken by certain unforeseen circumstances: he might, for example, be kidnapped and held against his will or he might go missing for a time. I am not saying that such things will happen every day, but we should at least try to ensure that the legislation covers all the bases.

In any case, we feel that amendments 29 to 32, which seek to ensure that the judiciary sees certified medical reports before decisions on such matters are taken, are reasonable.

I move amendment 29.

The Convener: The amendments in the group might appear to be far-fetched, but they have some merit. Like the rest of us around this table, Margaret Smith obviously realises that, sometimes, the strangest circumstances can prevail.

In my historical research on the subject, I have found only one instance of a judge being incapacitated—the late Lord Cooper in the early 1960s—but he resigned under his own initiative when his health precluded his carrying on. Obviously, such things are not everyday events. Certainly if the Lord President or another judicial office holder were to become ill through a physical condition, the information would be forthcoming and fairly apparent on a medical certificate. However, if an office holder is suffering from a mental ailment and refuses for whatever reason to submit to medical examination, we will find ourselves in a bit of difficulty with the provisions in the amendments. I am interested to hear Mr MacAskill on this matter and to find out whether he has come up with a definition of incapacity that might obviate these difficulties.

Kenny MacAskill: I have listened to the comments that the convener and Margaret Smith have made and have taken cognisance of the Law Society of Scotland's suggestions. However, I urge the committee to reject the amendments. They are at best unclear and at worst might lead to confusion and delay in situations in which clarity and speed are absolutely necessary.

Margaret Smith wants the judges of the Court of Session to have

"regard, as appropriate, to a certified medical report"

when declaring the Lord President or the Lord Justice Clerk to be incapacitated. However, such safeguards already exist; under sections 4(3)(a) and 5(3)(a), judges of the inner house must sign a declaration that the Lord President or the Lord Justice Clerk is incapacitated. It is difficult to think of a situation in which the judges would base their decision on anything other than medical evidence.

I do not believe that we should be so prescriptive about the procedure. What, for example, would constitute "a certified medical report"? The amendments do not set out a certification process, so would they require the Lord President or the Lord Justice Clerk to undergo an additional medical examination by the certifier? Surely such a move would be inappropriate.

Moreover, when would it be appropriate for the judges to have regard to the report? What if the judges were to disagree among themselves about what is appropriate? While people were trying to sort out that situation, our courts would be left with one of the two most senior judges in Scotland unable to fulfil his duties, with no one else empowered to step in.

Under the current definition of incapacity, an office holder is incapacitated when, by reason of ill health, he is unable to exercise his functions. I have made it clear before that we must guard against interpreting incapacity as being a question of fitness for office; we have other provisions for dealing with such circumstances.

Margaret Smith wants the definition of "incapacitated" to be extended to include "or being otherwise indisposed". Again, I ask what that means. I understand that, according to the dictionary definition, someone who is merely unwilling or disinclined or unable or unfit to do something may be considered "indisposed". On that ground, we have been at pains to avoid using such terms.

Margaret Smith's amendments would add nothing meaningful to the bill. I urge her to seek to withdraw amendment 29 and not to move amendments 30 to 33.

11:15

Margaret Smith: I must declare a certain amount of disappointment at the cabinet secretary's comments. I note that he said that judges would need to sign a declaration of belief about the Lord President's incapacity, but judges are not medically qualified. He mentioned an assumption that a medical report would be presented, but I cannot honestly think of another set of circumstances in which someone could in effect be deprived of their employment on the ground of incapacity without having the right to some form of report's being set before the people who made that judgment and took that decision.

I am happy not to move amendment 33, but I will press the other amendments in my name.

The Convener: Do you wish to press amendment 29?

Margaret Smith: Yes. I will not move amendment 33, which would extend the definition of "incapacitated", but I will press amendments 29 to 32, which deal with the certification of incapacity.

The Convener: The question is, that amendment 29 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Smith, Margaret (Edinburgh West) (LD)

AGAINST

Aitken, Bill (Glasgow) (Con)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Don, Nigel (North East Scotland) (SNP)
Glen, Marlyn (North East Scotland) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
McMillan, Stuart (West of Scotland) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 29 disagreed to.

Amendment 30 not moved.

Section 4 agreed to.

Section 5—Lord Justice Clerk

Amendments 31 and 32 not moved.

Section 5 agreed to.

Sections 6 and 7 agreed to.

Section 8—Interpretation of Chapter 2

Amendment 33 not moved.

Section 8 agreed to.

Section 9 agreed to.

Schedule 1

THE JUDICIAL APPOINTMENTS BOARD FOR SCOTLAND

The Convener: Amendment 34, in the name of Nigel Don, is grouped with amendment 35.

Amendment 34 not moved.

The Convener: Amendment 35 is in my name. Basically, my concern is that it seems contrary to natural justice that someone could be removed from their position without being afforded the opportunity of answering various allegations. I am concerned that questions might need to be answered under the European convention on human rights if the provision goes through unamended.

I move amendment 35.

As no one else has indicated any interest in speaking, I ask the minister to respond.

Kenny MacAskill: Amendment 35 is unnecessary. It is impossible to conceive of a situation in which the Lord President or Scottish ministers would contemplate doing something as serious as removing a member from the board without having a proper investigation and discussion with the member concerned. I ask you to withdraw amendment 35, as we view these matters as fairly self-explanatory.

Amendment 35, by agreement, withdrawn.

Schedule 1 agreed to.

Section 10—Judicial offices within the Board's remit

The Convener: Amendment 3, in the name of the cabinet secretary, is grouped with amendments 4 to 6.

Kenny MacAskill: In relation to the remit of the Judicial Appointments Board for Scotland, I am pleased that the committee agreed with the proposals in the bill that are designed to strengthen the independence of the office of temporary judge and to reinforce its role within the judicial resources that are available to the Lord President. In doing so, the committee asked me to consider whether someone who has served as a judge in the European courts should be exempted from the board's procedures. In my response to the stage 1 report, I indicated that I would lodge an amendment to that effect at stage 2. The amendments extend the exemption to persons who have served as a judge in the Court of Justice of the European Communities or the European Court of Human Rights. All candidates for the office of temporary judge have to satisfy the usual requirements to hold judicial office in Scotland, regardless of their experience as judges elsewhere.

The bill provides powers for Scottish ministers and the Lord President to issue guidance to the Judicial Appointments Board on procedural matters, and for the board to have regard to that guidance. In its stage 1 report, the committee recommended that it should have a scrutiny role in the consideration of any draft guidance. As I indicated in the Government's formal response to the stage 1 report, I am happy to accommodate the committee's desire for a more active role in the consideration of any guidance in draft form.

Amendment 6, which I will move today, will require the Scottish ministers and the Lord President to consult each other and the board on the guidance, and to lay it in draft form in Parliament. To allow time for parliamentary consideration, the guidance will not be issued for 21 days. Ministers and the Lord President will be bound to have regard to any recommendations that Parliament may make.

Amendment 5 paves the way for amendment 6, which is the main amendment, by removing provisions that are now dealt with by amendment 6. I believe that the amendments fully meet the committee's recommendations.

I move amendment 3.

Amendment 3 agreed to.

Amendment 4 moved—[Kenny MacAskill]—and agreed to.

Section 10, as amended, agreed to.

Section 11—Recommendations of the Board

The Convener: Amendment 36, in my name, is grouped with amendments 37 and 38.

Amendment 36 relates to the ranking of successful candidates for judicial posts. It is essential that people who have been interviewed successfully by the Judicial Appointments Board should be told not only that they are likely to get a commission but at what stage the commission is likely to be granted to them. Not only is that an issue with regard to individuals' personal planning, but—I know that this is unlikely with Mr MacAskill in charge—the bill could theoretically result in the Government reducing the autonomy of the Judicial Appointments Board by seeking to appoint people who are further down the list. Nobody would know that that was happening, because no indication would have been given of the ranking. Those are the issues that are addressed by amendment 36, which contains the principle underlying the series of amendments.

I move amendment 36.

Kenny MacAskill: I think that you have, rightly, expressed concern that the recommendations that are made by the Judicial Appointments Board might, in some way, be engineered by Scottish ministers to the detriment of individuals who have been selected for appointment.

A couple of points need to be made. In the first place, the Judicial Appointments Board will not always be asked to appoint more than one candidate. I assume that your amendment would come into play only on occasions on which the board is asked to nominate more than one person. When it is asked to do so, most often in connection with appointments to shrieval office, I can assure the committee that successful candidates are appointed in the order in which they appear on the list, unless there is a reason to depart from that. For example, a candidate might turn down a particular position for personal reasons, in which case the next candidate on the list would be offered the position, and the individual who turned down the position would be placed next in rank. The current provisions in the bill allow that kind of flexibility, which addresses individual needs, to continue. To impose an artificial constraint, such as the one that the amendment proposes, would be unhelpful. However, it should be noted that the members of the Judicial Appointments Board are well aware of the ranking of names and are in a position to monitor the appointments that are made. I am sure that, if the board members had any reason to suspect that ministers were behaving in an unacceptable manner, they would soon make their views known.

Amendment 38 seeks to place a responsibility on the Judicial Appointments Board that belongs elsewhere. I agree that judicial specialism is becoming a more common feature of our justice system. However, specialisation in the judiciary will properly be a matter for the Lord President, as head of the Scottish judiciary. I am sure that the

board will be invited to play its part in the future, for example, by arranging specialist recruitment campaigns, but it would be quite wrong to require the board to take responsibility for something over which it will have little or no control.

I invite you to withdraw amendment 36 and not move amendments 37 and 38.

Amendment 36, by agreement, withdrawn.

Amendment 37 not moved.

Section 11 agreed to.

Sections 12 and 13 agreed to.

Section 14—Encouragement of diversity

Amendment 38 not moved.

Section 14 agreed to.

Section 15—Guidance

Amendment 5 moved—[Kenny MacAskill]—and agreed to.

Section 15, as amended, agreed to.

After section 15

Amendment 6 moved—[Kenny MacAskill]—and agreed to.

Section 16—Confidentiality of information

Amendment 39 not moved.

Section 16 agreed to.

Sections 17 and 18 agreed to.

Schedule 2 agreed to.

Sections 19 to 22 agreed to.

Section 23—Appointment of temporary sheriffs principal

Amendment 40 not moved.

Section 23 agreed to.

Section 24—Re-employment of retired sheriffs principal and sheriffs

The Convener: Amendment 41, in the name of Cathie Craigie, is grouped with amendments 47, 63 and 65 to 84.

11:30

Cathie Craigie: As I have previously mentioned, I have fundamental concerns about certain parts of the bill. Like my committee colleagues, I have no objection to enshrining in legislation the independence of the judiciary, but I have serious concerns about the transfer of responsibility for the administration of the courts and administrative support for the judiciary to a judicially led statutory body—some might call it a quango. If the bill is not amended, ministers will not be directly accountable to the Parliament, because the Scottish Court Service will be what the minister called an "institutionally separate non-Ministerial entity". That is wrong. Ministers are in effect relinquishing our democratic power to a non-elected body.

As it stands, the bill does not provide for the Lord President to give evidence to the committee. Our difficulty with section 23 of the Scotland Act 1998, which prevents the Lord President from being required to do so, has been mentioned. Amendment 66, in the name of Margaret Smith, recognises the problem that exists. The Lord President has said that he would expect to appear in front of parliamentary committees to respond to any serious concerns or doubts that they have. I have no doubt that he would honour that commitment, but who would decide what is serious? The status quo allows the Parliament to question ministers on the operation of the Scottish Court Service, and that is how things should remain. The minister should be accountable to the Parliament for the administration of the Scottish Court Service. He has such a responsibility at the moment. The amendments in my name would maintain the accountability that the minister already has.

I move amendment 41.

The Convener: I draw members' attention to the pre-emption information on the correction slip to the marshalled list of amendments.

Margaret Smith: Cathie Craigie is right to say that there have been concerns about accountability. We largely accept that the Scottish Court Service would be accountable to the Parliament as a result of its chief executive being a compellable witness before committees such as the Justice Committee and the Audit Committee, but concerns remain, given that the Lord President is not compellable to come before us under the Scotland Act 1998. We have welcomed the Lord President's willingness to give evidence to us, and I accept that if he thought that a certain amount of concern about something existed, it would be almost unthinkable, in light of his comments, that he would not come before the Parliament to address our concerns. However, amendment 66 would include in the bill the Parliament's entitlement to request that the Lord President attend its proceedings or produce documents. Over the past few months, the Justice Committee has welcomed the Lord President's approach, but nobody remains in a post for ever, and it is not good enough for us to build legislation on the attitude of an individual who happens to be in a post at a given time.

Amendment 66 is reasonable. It would simply add this statement:

"The Parliament is entitled to request that the Lord President, as chair of the SCS, attend its proceedings for the purpose of giving evidence, or produce documents that are in the custody or under the control of the Lord President."

It is worth reiterating that a request would be made to the Lord President as chair of the Scottish Court Service and that the amendment does not cover in any way the Lord President's other, judicial business. We would be right to think that that business would be covered to a much greater extent by the principle of judicial independence.

It is reasonable for the bill to provide that the Scottish Parliament is entitled to request that the Lord President come before us to give evidence or produce documents. Whether the Lord President assents to that is in their hands but, bearing in mind that the office-holder will change over time, I think that the provision that amendment 66 seeks to include is reasonable. We are trying to balance an effective service and a new way of courts doing business with accountability. Amendment 66 would go some way towards achieving that.

Paul Martin: What has been said on the amendments in the name of Cathie Craigie has been said in relation to a previous section, but I also support amendment 66, in the name of Margaret Smith, to ensure that we include in the bill the statement that the Lord President is a compellable witness. Is the cabinet secretary or any of his officials aware of other agencies that could not be compelled to appear before a committee of the Parliament? Whether they are from a non-departmental public body, as Cathie Craigie referred to, or an agency for which the Parliament has devolved responsibility, are there witnesses whom we could not compel to appear?

This is where the argument has to be developed further: the unique position—the cabinet secretary may wish to enlighten me if it is not unique—in which we cannot compel witnesses to appear. There will also be issues of budget scrutiny, which is a crucial element of the Parliament's work. We should be able to ensure that we can scrutinise those who are responsible at the highest level.

Pauline McNeill: My concerns about the transfer of the Scottish Court Service are similar to my concerns about the powers in section 3. The Parliament must consider the implications seriously. Ministers have been held to account for the running of the service, but that responsibility will transfer to judges, who will not be directly accountable to the Parliament unless we can find ways of making that so. Our constituents would not thank us for handing complete powers to judges without questioning which elements of decision making should be matters for the elected Parliament.

Let me thank the cabinet secretary for responding to the issues that I raised at stage 1 about parliamentary questions. There is an important test: members can currently lodge parliamentary questions about the running of the Scottish Court Service, but will we be able to ask the same questions if the powers are transferred to judges? It is clear that the transfer will limit the scope of the questions that we can ask directly of ministers, as they will no longer be responsible for the running of the service. I acknowledge that, as the cabinet secretary said in his response to me, he would expect the Scottish Court Service to respond directly and promptly to members, but there is no statutory provision to that effect. If something goes wrong, how will we hold the service to account? I am not satisfied that the provisions are strong enough—the transfer will downgrade Parliament's role in holding the Scottish Court Service to account.

I asked earlier about the Lord President's ability to lay an order before Parliament, and the question arises again. How is it possible for the Lord President, who is not a member of the Parliament, to lay an order when there is some confusion about whether he can be compelled to appear as head of the Scottish Court Service rather than in his capacity as a judge? It is clear that, under the Scotland Act 1998, Parliament cannot compel any judge to appear, but we are talking about transferring responsibilities to the Lord President. As head of the Scottish Court Service, he would be responsible for running the service, its efficiency and all the decisions that go with that. The general public may rightly have concerns about those decisions, and we as elected members would have the responsibility to respond. We must ensure that there are accountability mechanisms throughout the system.

I hope that we have the discussion again at stage 3. It is fundamental that we build in elements of accountability to the running of the service. I will certainly not support the watering down of accountability in the running of our courts. I appreciate that with some of the amendments the Scottish ministers would retain powers over the Scottish Court Service. I am willing to consider other ways in which we can hold the service to account but, so far, there has been no indication that ministers are willing to budge on that.

Kenny MacAskill: I will deal with the matters that Paul Martin and Pauline McNeill have raised. Some of Pauline McNeill's comments showed why Paul Martin's comments were ill considered. As Pauline McNeill correctly said, the Lord President is the independent head of the judiciary. Mr Martin seemed to compare the Lord President with the head of the Scottish Environment Protection Agency or Scottish Natural Heritage. We are talking about the fundamental separation of

powers in a democracy. It is fundamental that we have the trident of the legislature, the executive and an independent judiciary. Accordingly, the judiciary has a specific role and cannot be compared and contrasted with other organisations, no matter how important they are in Scotland.

I express my surprise that any Labour member should choose to lodge an amendment to reverse a policy that the previous Administration proposed as recently as last February. I am sure that I need not remind members that the proposed creation of the Scottish Court Service under judicially led governance was included in the February 2007 consultation paper "Proposals for a Judiciary (Scotland) Bill". None of us at that time thought that the proposal was a matter of party-political controversy. The previous Administration had good reasons, which I agree with, for proposing a judicially led governance model for the SCS. The core business of the SCS is the administration of the courts. The judiciary is utterly dependent on the SCS's services to enable it to do its job. It is common sense, as well as right in principle, that the judiciary should have a leading governance role in the administrative service on which it depends. It is also right and necessary that the administrative support for the Lord President's functions in relation to welfare, training and guidance of the judiciary and the investigation of complaints must be undertaken separately from the Scottish Government.

There is a potential for mischief if ministers retain control over the SCS. The status quo has operated satisfactorily through good will, but it has always contained the potential for conflict. In the existing situation, ministers could decide to set up the administration of the courts in a way that prejudiced the judiciary's ability to do its job. For instance, ministers could decide to reduce court staff numbers in a way that restricted the judiciary's ability to function, or to rearrange the court estate in a way that made little sense for the administration of justice. Those are real-world possibilities that would prejudice the independence of the judiciary in administering justice.

In a bill about judicial independence, it would be odd if we did not make provision to create the SCS as a new body with judicially led governance. That is an important safeguard of judicial independence. There is no sense in creating an entity that sits uncomfortably between judicially led governance and ministerial responsibility. We must either create the SCS as a separate statutory entity with accountability to Parliament, or retain it as a ministerial entity in which the judiciary can have no more than an informal advisory role—anything else would be a fudge.

We have built the new model for the governance of the SCS carefully. It will give the SCS substantial authority, but that will be subject to safeguards. There will be a strong element of independent and non-judicial membership. The SCS will be under a specific statutory duty to take account of the needs of the public and of court users and to co-operate with the rest of the justice system. The SCS will operate within a plan that is agreed with ministers and a budget that is voted on by Parliament and it will have to account directly to Parliament for its actions. Not a single court will be closed without Parliament's agreement. In the highly unlikely event that the SCS's actions put the administration of justice at risk, ministers can seek parliamentary agreement to an order providing for control over the SCS's functions to be taken back by the Government.

Members are aware of the outcome of the independent review of the bill's consequences for judicial administrative workload. It is important that Douglas Osler recognised not only that having control of the SCS would impose a perfectly manageable administrative workload on the judiciary, but that the new governance arrangements have a strong potential to improve the judiciary's ability to work effectively.

11:45

On amendment 66, the Scottish Court Service will, as a body corporate, be responsible for using resources that are voted for by the Parliament for the administration of the courts. The chief executive, as accountable officer, is responsible for the SCS's proper and efficient use of those resources and can be required to attend committees, which is the normal route of accountability for public bodies.

The Lord President has offered an assurance that it would be appropriate for the Parliament to invite him to give evidence if it had significant concerns about the SCS's governance or performance. The Lord President may lay an order before the Parliament, but he cannot be compelled to appear before the Parliament, although it is likely that he would do so if he did not want the Parliament to vote against the order. Amendment 66 is unnecessary. Its intention is to ensure that the Parliament is

"entitled to request that the Lord President, as chair of the SCS, attend its proceedings for the purpose of giving evidence, or produce documents".

The Parliament can already request that the Lord President or any other judge attend its proceedings. However, by virtue of section 23(7) of the Scotland Act 1998, it cannot require a judge to attend. Amendment 66 would not change that position and would not impose on judges a duty to attend. No express provision is required to allow the Parliament to request that a judge attend its proceedings. I ask Margaret Smith not to move

amendment 66 and I ask her and Cathie Craigie not to move other amendments that would prevent the establishment of the SCS under judicially led governance.

I wrote to Pauline McNeill and committee members last Tuesday to set out the arrangements for parliamentary questions about the SCS. In brief, I said that ministers should be accountable to the Parliament for the use of their powers in relation to the SCS and that the SCS should be openly accountable to the Parliament for its decisions and actions. It is clearly right that members of the Scottish Parliament should be able to put PQs to ministers about the Scottish Government's interaction with the SCS. For instance, members might ask what strategic priorities we intend to set for the SCS, what use we intend to make of our power to give guidance to the SCS, what level of court fees we intend to set, what level of resourcing for the SCS we intend to propose in budget bills and whether we intend to use our default power to take over the functions of the SCS in response to a perceived failing in its administration of justice. MSPs will continue to be able to ask ministers about the overall operation of the justice system and to use PQs to seek statistical information that the SCS holds.

MSPs should also hold the SCS to account directly for its decisions and operation. I will ensure that the framework agreement that specifies the details of the relationship between the Scottish Government and the SCS makes it clear that the SCS has a duty to respond promptly and fully to questions that MSPs raise directly with it. Such correspondence should normally be a matter of public record, to ensure the openness that is assured by the publication of responses to parliamentary written questions in the *Official Report.* For example, the correspondence could be published on the SCS website. Of course, the SCS will be subject to the Freedom of Information (Scotland) Act 2002.

The Convener: I invite Cathie Craigie to wind up the debate and to say whether she will press or withdraw amendment 41.

Cathie Craigie: The minister referred to party-political controversy in the context of the amendments that I lodged. It is not and never would be my intention to scrutinise proposed legislation in a party-political way. I lodged the amendments because I think that the constituents whom I represent would expect a minister in the Scottish Government to be responsible for the smooth running of the Court Service. I do not know how things work in your party, minister, but members who represent the Labour Party on committees have their own minds and can scrutinise legislation and put forward their position. That is what currently happens, but we took the same approach when the Labour Party was in government: when a minister in the previous Scottish Executive proposed legislation, committee and back-bench members would consider the ideas in detail and assess how the proposed changes would affect the people whom they represent.

The debate indicates that much concern remains about section 24 and the SCS's potential lack of accountability. Minister, I am sure that you are aware of and understand that concern. You represent a minority Government, and there should be further discussion with committee members and the Parliament to allay our fears; I have made the same point in relation to previous amendments. The letter that you sent to Pauline McNeill and quoted this morning has done nothing to address my concerns. However, if I can be assured that you will hold discussions with me between now and stage 3, I will be happy to withdraw or not move my amendments. I do not know when stage 3 proceedings will take place.

The Convener: In September.

Cathie Craigie: We will have considerable time to discuss the matter over the holiday period.

Pauline McNeill: Get a life.

Cathie Craigie: If the minister can provide me with the assurance that I seek, I will be happy to withdraw or not move my amendments.

Kenny MacAskill: I am happy to give that assurance. As I said earlier, I will be happy to meet Ms Craigie or any other member of the committee or the Parliament to discuss the matter.

Amendment 41, by agreement, withdrawn.

Section 24 agreed to.

Section 25 agreed to.

After section 25

The Convener: Amendment 7, in the name of the minister, is in a group on its own.

Kenny MacAskill: The amendment provides for sheriffs and part-time sheriffs to take the oath of allegiance to the Queen and the judicial oath on appointment. That already happens in practice, but the amendment will make it a statutory requirement. The Promissory Oaths Act 1868 requires the Lord President, the Lord Justice Clerk, judges, temporary judges, sheriffs principal and justices of the peace to take the oath of allegiance and the judicial oath on appointment. As Her Majesty's judges, sheriffs and part-time sheriffs should, like other judges, be subject to a statutory requirement to take their oaths, instead of the matter being left to practice.

I move amendment 7.

The Convener: No member is making the obvious comment—who would have thought that we would see the day that Mr MacAskill ensured that people took the oath of allegiance to the Crown? Cabinet secretary, do you wish to wind up?

Kenny MacAskill: No. I am content to have moved the amendment.

Amendment 7 agreed to.

Section 26—Rules about investigations etc

The Convener: Amendment 42, in the name of Margaret Smith, is grouped with amendments 43 and 44.

Margaret Smith: Amendments 42 and 43 are inspired by concerns that were raised with us by the Law Society of Scotland. The amendments seek to distinguish between mandatory and discretionary provisions relating to judicial conduct inquiries. It has been put to us that it is only right that any judicial office holder who is being investigated should know exactly what form judicial conduct investigations will take. It is also only fair that members of the public who come forward as complainants should know exactly what the arrangements for dealing with such issues will be.

I move amendment 42.

The Convener: Amendment 44 in my name is quite simple and asks whether informal arrangements should be included in the bill. In the past, I have raised the issue under various headings; I look forward to hearing the current justice minister's views on that.

Kenny MacAskill: I appreciate the concerns that Margaret Smith has expressed, but I urge the committee not to agree to amendments 42 and 43, which are both unnecessary and overly prescriptive. Rightly, the bill makes provision for a scheme for dealing with matters related to the conduct of members of the judiciary. Responsibility for those matters is conferred on the Lord President, as head of the Scottish judiciary. Section 26 of the bill provides a framework of powers, leaving the Lord President to determine the detailed rules that will be published.

It is right to expect a high standard of personal conduct, on or off the bench, from judges. There should be a robust process that is open, transparent and easily accessible by members of the public and others, so that they can express concerns. However, when considering these arrangements, we must bear it in mind that judges are not employees; they are public office holders appointed by or under the authority of the Queen and constitutionally independent of both the Parliament and the Government. Any arrangements that we introduce must fully respect judicial independence. I believe that the provisions in the bill strike the right balance between the Parliament requiring the judiciary to address an important issue and put in place a robust conduct scheme, and respecting its independence by leaving the detail of how the scheme will work for the Lord President to determine.

On amendment 44, I believe that section 27(3), which makes it clear that the bill does not restrict what the Lord President may do informally, adds a welcome element of openness about the informal mechanisms that the Lord President can and should continue to use as appropriate, alongside the framework that the bill sets out. Most disciplinary processes have an informal stage. There might be occasions when a strong word in someone's ear is all that is necessary to resolve a conduct matter. I therefore urge Margaret Smith to withdraw amendment 42 and not to move amendment 43 and I ask the convener not to move amendment 44.

Margaret Smith: I am happy to withdraw amendment 42.

Amendment 42, by agreement, withdrawn.

Amendment 43 not moved.

Section 26 agreed to.

Section 27—Powers of Lord President

Amendment 44 not moved.

Section 27 agreed to.

Sections 28 to 34 agreed to.

Section 35—Further provision about tribunals

The Convener: Amendment 8, in the name of the minister, is grouped with amendments 9 to 12.

Kenny MacAskill: As the committee knows, chapter 5 of part 2 of the bill contains provisions on the removal of judges and sheriffs. The chapter provides for tribunals to consider fitness for judicial office. In doing so, section 35, which deals with judges, and section 38, which deals with sheriffs, provide that a tribunal may require any person to attend its proceedings for the purpose of giving evidence and to produce documents that are in the person's custody or under the person's control. We considered whether provision should be made to make that requirement enforceable and concluded that it should. That is what amendments 8 and 9 do: they provide that the tribunal may apply to the Court of Session, which, in turn, may make an order for enforcing compliance or deal with the matter as if it were contempt of court. It is clearly important that a tribunal that is tasked with recommending whether

a judicial office holder is fit for office has the power to ensure that it hears from all witnesses and sees all the necessary documentation to enable it to come to the correct conclusion.

Amendments 10 and 11 make the arrangements for the removal of part-time sheriffs consistent with the arrangements for the removal of temporary judges. Section 37 provides that temporary judges can be removed by the First Minister if a tribunal has reported that a person is unfit to hold office and the First Minister has laid the report in the Scottish Parliament. Section 38 inserts new sections 12A to 12F in the Sheriff Courts (Scotland) Act 1971. New section 12E of the 1971 act will provide that sheriffs principal, sheriffs and part-time sheriffs may be removed only by order made by Scottish statutory instrument. The existing provisions in the 1971 act provide that the removal of sheriffs principal and sheriffs is to be done by order made by statutory instrument and that the removal of part-time sheriffs is to be done by order of a tribunal constituted to consider their fitness. Amendments 10 and 11 mean that part-time sheriffs, like temporary judges, can be removed from office if a tribunal has reported to the First Minister that a person is unfit to hold office and the First Minister has laid the report before the Scottish Parliament.

Finally, amendment 12 is about the arrangements for the removal of justices of the peace. Section 71 of the Criminal Proceedings etc (Reform) (Scotland) Act 2007 makes provision for the removal of justices of the peace. Scottish ministers have the power to make provision in relation to the tribunal's procedures by order. However, sections 35 and 38 of the bill provide that the Court of Session is to make provision for the procedure to be followed by tribunals to consider the fitness for office of judges and sheriffs by act of sederunt. It is appropriate that the procedure for tribunals investigating the fitness for office of judges, sheriffs and justices of the peace should all be made in the same manner and by the Court of Session by act of sederunt, which reflects the policy on the independence of the judiciary and self-regulation.

I move amendment 8.

Amendment 8 agreed to.

Section 35, as amended, agreed to.

Sections 36 and 37 agreed to.

Section 38—Consideration of fitness for, and removal from, shrieval office

12:00

Amendments 9 to 11 moved—[Kenny MacAskill]—and agreed to.

Section 38, as amended, agreed to.

After section 38

Amendments 12 and 13 moved—[Kenny MacAskill]—and agreed to.

Sections 39 to 41 agreed to.

Section 42—Divisions of the Inner House

The Convener: Amendment 45, in the name of Cathie Craigie, is grouped with amendment 46.

Cathie Craigie: Section 2(4) of the Court of Session Act 1988 states:

"The quorum for a Division of the Inner House shall be three judges."

I accept that it is not always necessary to have three judges, but I believe that the bill goes too far in seeking to repeal section 2(4). The policy intention is to provide the Court of Session with a flexible power to adjust the quorum of judges to fit the demands of court business. The bill's explanatory notes state:

"For example the quorum may be reduced to 1 judge to deal with procedural matters whilst the substance of a competent appeal may be dealt with by 3 or more judges, as happens at present."

Amendment 45 better reflects the policy intention of the bill as it was introduced to Parliament.

I move amendment 45.

Pauline McNeill: I will speak to amendment 45. This matter, which I raised at stage 1, may seem insignificant. As Cathie Craigie said, the 1988 act sets out the quorum for the inner house. No issues regarding the operation of that quorum have ever been raised with the Parliament. I would be concerned if ministers' view was that the setting of the quorum that we have had since 1988 is now a matter for judicial independence. The bill's explanatory notes say:

"This is intended to provide the Court of Session with a flexible power to adjust the quorum of judges to fit the demands of court business."

It matters how many judges sit on a particular case. I may be prepared to accept, subject to evidence, that some cases may require only a single judge. However, there are substantial cases in which having the balance of three judges makes the difference to a decision. My argument is that it would be prejudicial if there were no checks and balances on the judiciary's ability to make decisions about the quorum—we need balances in the system. I would be more sympathetic to the intention to remove the current statutory provision if ministers were demanding to see the act of sederunt. I presume that the judiciary would at least be required to publish the act of sederunt so that practitioners could see what cases would have a single judge and what cases would have

two or three judges, or a quorum that was decided by the judiciary.

There is an issue about transparency here. If judges have raised with ministers the issue of leave for appeal, for which the current quorum is three, and there is a case for saying that it should require only a single judge, let us adjust the quorum for the cases in which there is a problem. However, it is wrong to hand over to the judiciary such discretionary power. Furthermore, the Parliament would not get to see the act of sederunt because it would be a matter for the internal purposes of the court.

I am making a plea to ministers on this point: at the very least, give us some safeguards. Please do not put us in the position in which the judiciary may decide that an appeal will be heard by only two judges. How do we know that the judiciary will not reduce the number of judges when it is under budgetary pressure?

The provisions are too wide, so I appeal to members at the very least to ask to see the acts of sederunt so we know what we are signing up to. If we vote to allow the transfer of the power, we are voting in the dark. For judges to run the court service, it is not necessary for them to determine the quorum as and when they decide that it is appropriate. I appeal for some clarity before saying willy-nilly that, although we have had one system since 1988, the judiciary should now have the discretion to decide as it sees fit.

Kenny MacAskill: On some of the substantive remarks made by both Cathie Craigie and Pauline McNeill, we accept that flexibility and size have to be taken into account. I can also say that acts of sederunt are published as Scottish statutory instruments. They are not subject to parliamentary approval, but they are published on the Office of Public Sector Information website.

At present, section 2(4) of the Court of Session Act 1988 provides that the quorum for a division of the inner house of the Court of Session shall be three judges. That is clearly not necessary in every circumstance and it would be appropriate for business to be heard before a single judge when, for example, the court is considering the formal or interlocutory stages of a process. To have a requirement in statute that all business of a division of the inner house must be considered before three judges is both unnecessary and wasteful.

Section 42 of the bill amends the 1988 act to enable the court to settle different quorums for different types of business by act of sederunt. That allows a sensible approach to be taken according to the needs of court business, which relates to the substantive point made by both Ms Craigie and Ms McNeill.

I see no reason to limit the enabling power only to circumstances in which the court is considering procedural matters. It is right and proper to leave the management of that aspect of court business in the hands of the judges of the Court of Session, acting in a collegiate manner. I therefore invite Cathie Craigie to withdraw amendment 45 and not to move amendment 46.

Cathie Craigie: This is a really important debate. We all accept the point made by the cabinet secretary that a flexible approach needs to be taken but, before we are asked to vote on the legislation, we as committee members should have an idea of what the different types of business would be. Amendments 45 and 46 would ensure that the quorum could be reduced only when the business was of a procedural nature. I will press amendment 45.

The Convener: The question is, that amendment 45 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Glen, Marlyn (North East Scotland) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Smith, Margaret (Edinburgh West) (LD)

AGAINST

Don, Nigel (North East Scotland) (SNP)
McMillan, Stuart (West of Scotland) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 5, Against 3, Abstentions 0.

Amendment 45 agreed to.

Amendment 46 moved—[Cathie Craigie].

The Convener: The question is, that amendment 46 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Glen, Marlyn (North East Scotland) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Smith, Margaret (Edinburgh West) (LD)

AGAINST

Don, Nigel (North East Scotland) (SNP)
McMillan, Stuart (West of Scotland) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 5, Against 3, Abstentions 0.

Amendment 46 agreed to.

Section 42, as amended, agreed to.

Section 43—Lands Valuation Appeal Court

The Convener: Amendment 14, in the name of the minister, is grouped with amendment 20.

Kenny MacAskill: Section 42 provides that the Court of Session may make rules that regulate the quorum for a division of the inner house. The intention is to enable the court to set different quorums for different types of business. At present, three judges must deal with all business, including the most routine business. That is not efficient. The court should be allowed to prescribe that certain business should be heard before one or two judges.

Section 43 makes a similar enabling provision for the Lands Valuation Appeal Court, which, like the inner house, routinely sits as a bench of three. However, on further reflection, we believe that the change is not necessary. The volume of business in the court is not significant and its procedure is different from that of divisions of the inner house. To proceed with the change would create an unnecessary additional administrative burden on the Court of Session and would make rules that did not bring significant benefits.

I move amendment 14.

Amendment 14 agreed to.

Section 43, as amended, agreed to.

Section 44—Sheriff principal's responsibility

Amendments 47 to 50 not moved.

Section 44 agreed to.

Section 45—Repeal of certain responsibilities of Scottish Ministers

Amendment 51 not moved.

Section 45 agreed to.

Section 46—Sections 15 to 17 of 1971 Act: Lord President's default power

Amendment 52 not moved.

Section 46 agreed to.

Section 47—Alteration of boundaries of sheriffdoms

The Convener: Does Margaret Smith wish to move amendment 53?

Margaret Smith: No, but I wish to discuss the matter with the minister.

Amendment 53 not moved.

Section 47 agreed to.

Section 48—Sheriff court districts and places where sheriff courts are to be held

Amendment 54 not moved.

The Convener: Does Margaret Smith wish to move amendment 55?

Margaret Smith: No, on the same basis.

Amendment 55 not moved.

Section 48 agreed to.

Section 49—Repeal of power to appoint sheriff to assist Scottish Ministers

Amendment 56 not moved.

Section 49 agreed to.

Section 50—Sheriffs principal and sheriffs acting in other sheriffdoms

Amendment 57 not moved.

Section 50 agreed to.

Section 51—Residence and leave of absence of sheriffs principal

Amendment 58 not moved.

Section 51 agreed to.

Section 52—Number, residence and deployment of sheriffs

12:15

Amendment 59 not moved.

Section 52 agreed to.

Section 53—Leave of absence of sheriffs

Amendment 60 not moved.

Section 53 agreed to.

Section 54—Establishment, constitution etc

The Convener: Does Margaret Smith wish to move amendment 61?

Margaret Smith: No, on the same basis as previously.

Amendment 61 not moved.

Amendment 15 moved—[Kenny MacAskill]—and agreed to.

Amendment 62 not moved.

Section 54, as amended, agreed to.

Section 55—Sheriff principal's responsibility

Amendments 63 and 64 not moved.

Section 55 agreed to.

After section 55

The Convener: Amendment 16, in the name of the minister, is in a group on its own.

Kenny MacAskill: It is appropriate that the staff of the SCS should benefit from the additional holiday for which the St Andrew's Day Bank Holiday (Scotland) Act 2007 provides, as is the position for other public servants. My intention is that the holiday should be celebrated on St Andrew's day or as close to it as makes operational sense. The amendment enables sheriffs principal to prescribe an additional day's court holiday for that purpose and leaves them discretion about precisely when to set it. For instance, if St Andrew's day falls on a Monday, the sheriffs principal may decide not to have the court holiday on that day, as Mondays tend to be busy days for dealing with people who were arrested and held in custody over the weekend and there would be a cost to the justice system of having to keep those people in police cells for a further night before they appeared in court.

The Lord President has the discretion to decide court holidays for the supreme courts, so no amendment is required in relation to holidays for staff who work in the High Court.

I move amendment 16.

Amendment 16 agreed to.

Section 56—The Scottish Court Service

Amendment 65 not moved.

Section 56 agreed to.

Schedule 3

THE SCOTTISH COURT SERVICE

The Convener: Does Margaret Smith wish to move amendment 66?

Margaret Smith: No, on the same basis as previously.

Amendment 66 not moved.

The Convener: Amendment 17, in the name of the minister, is in a group on its own.

Kenny MacAskill: Amendment 17 is necessary to ensure that the provisions of the Freedom of Information (Scotland) Act 2002 continue to apply to the SCS as they do to the current agency.

I move amendment 17.

Amendment 17 agreed to.

Amendment 67 not moved.

Schedule 3, as amended, agreed to.

Section 57—Administrative support for the Scottish courts and judiciary

Amendment 68 not moved.

Section 57 agreed to.

Section 58—Administrative support for other persons

Amendment 69 not moved.

Section 58 agreed to.

Section 59—Appointment etc of office holders

Amendment 70 not moved.

Section 59 agreed to.

Schedule 4

APPOINTMENT ETC OF OFFICE HOLDERS: CONSEQUENTIAL AMENDMENTS

Amendment 71 not moved.

Schedule 4 agreed to.

Section 60—Payment of remuneration etc of certain judicial office holders

Amendment 72 not moved.

Section 60 agreed to.

Section 61—Provision of advice etc to the Scottish Ministers

Amendment 73 not moved.

Section 61 agreed to.

Section 62—Corporate plans

Amendment 74 not moved.

Section 62 agreed to.

Section 63—Annual reports

Amendment 75 not moved.

Section 63 agreed to.

Section 64—Provision of information

Amendment 76 not moved.

Section 64 agreed to.

Section 65—Guidance

Amendment 77 not moved.

Section 65 agreed to.

Section 66—Default power

The Convener: Amendment 18, in the name of the minister, is grouped with amendment 19.

Kenny MacAskill: The default power is a means of addressing a worst-case scenario in which the SCS is failing so badly that the administration of justice is put at risk. Amendment 18 responds to helpful and constructive suggestions from the Subordinate Legislation Committee, for which I am grateful. It provides, in proposed new subsections (6) and (7), that an order revoking ministers' use of the default power should be made under the negative resolution procedure. Such an order may make consequential provision. The amendment also makes provision to cover the scenario in which an order is made by the Scottish ministers under section 66 and is subsequently not affirmed by Parliament. It provides, in proposed new subsection (8), that anything done under the order by the Scottish ministers remains valid.

It is possible that, during the period in which an order that is made under section 66(2) is in force, even if the default power order is quickly revoked or is not affirmed by Parliament, ministers may have renewed leases and entered into various other types of contracts, such as those for the employment of staff. It is important to clarify that any action that is taken by ministers during a period of use of the default power should remain valid. For instance, a company that had entered into a contract with the Scottish ministers during the period of use of the default power to supply paper to the courts would want to know that the contract was still valid after the SCS resumed its functions.

Amendment 18 also provides that, in that scenario, when the order is not affirmed, the Scottish ministers have an order-making power to make consequential provision. In other words, it provides for them to do the necessary tidying up when the operation of the Scottish courts is returned to the SCS. For example, they might use the consequential power to assign to the SCS contracts that they had entered into while running the Scottish courts.

I move amendment 18.

Amendment 18 agreed to.

Amendment 78 not moved.

Section 66, as amended, agreed to.

Section 67—Orders and regulations

Amendments 79 and 80 not moved.

Amendment 19 moved—[Kenny MacAskill]—and agreed to.

Section 67, as amended, agreed to.

Sections 68 and 69 agreed to.

Schedule 5

CONSEQUENTIAL AMENDMENTS AND REPEALS

Amendment 81 not moved.

Amendment 20 moved—[Kenny MacAskill]—and agreed to.

Amendment 82 not moved.

The Convener: If amendment 83 is agreed to, amendment 21 will be pre-empted.

Amendment 83 not moved.

The Convener: That solves that difficulty.

Amendment 21 moved—[Kenny MacAskill]—and agreed to.

Schedule 5, as amended, agreed to.

Sections 70 to 72 agreed to.

Long Title

Amendment 84 not moved.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill, which I thank members and the minister for dealing with professionally. I appreciate that some items have not been resolved, and I have no doubt that they will be discussed and possibly resolved before stage 3. I thank everyone for their attendance and remind members that we have a meeting next week, at which we will continue our inquiry into community policing.

Meeting closed at 12:28.

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