

MEETING OF THE PARLIAMENT

Wednesday 24 May 2006

Session 2

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Scottish Parliament

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

Time for Reflection

The Deputy Presiding Officer (Trish Godman): Good afternoon. The time for reflection leader today is Ms Neelam Bakshi from Glasgow's Hindu community.

Ms Neelam Bakshi (Glasgow's Hindu Community): Thank you for this opportunity to share some thoughts with the Scottish Parliament.

One of my joys in life is living in a democracy with freedom of speech. It gives me the opportunity to challenge and to work in areas that may seem controversial or not well evidenced in modern terms, such as complementary therapies and working with energy. Yet they are entirely consistent with Hinduism—a very old philosophical tradition that keeps managing to be entirely up to date with leading-edge discoveries in, for example, quantum physics and the nature of the reality we create.

Living in a fast-changing world requires stability and an internal guiding compass. Fortunately, my faith has always provided that. As a Hindu, I am guided strongly by the philosophy of karma—what you sow you will reap in this lifetime or another—which is a law of action and reaction that is inevitable and inescapable for ordinary mortals like you and me. It lives hand in hand with dharma—the duty to be morally upright, to serve others and to act in the interests of justice and truth—though at times they may seem obscured. At such times, my compass must be an inner light—the light that reflects the divinity of humanity. That light has to be kept clean and shining brightly if it is to light the way, so I must try to live my life honestly and be true to my inner self, my beliefs, my dreams and my principles. Spirituality, like any seed, requires nurturing and attention if it is to grow and flourish.

That sits uneasily in a world where we are expected to compromise on the big things as well as the little ones, where a little white lie is okay and doing the right thing is less important than seeing what the press reaction is—and sometimes the right thing may be unpopular. Life is not compartmentalised: what happens in one area affects all other areas. Mahatma Gandhi said:

"You cannot do right in one department of life while occupied doing wrong in any other department. Life is one indivisible whole."

So let us take time to reflect. Is your life lived in separate compartments or as an integrated whole? Do you have to search for your inner compass or is it always at hand to guide you? How do you nourish it? And how do you keep your light true and shining brightly?

Bankruptcy and Diligence etc (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S2M-4269, in the name of Allan Wilson, on the general principles of the Bankruptcy and Diligence etc (Scotland) Bill.

14:33

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): Credit, as members will know, is essential in our modern economy. In the past 20 years, credit markets have been opened up and getting credit is easier and, indeed, cheaper than it used to be. That is a good thing in many ways. It has supported economic growth by helping businesses to grow at considerably less cost and it has helped people to improve their standard of living.

Most of us, of course, use credit wisely, whether as businesses or as consumers. Unfortunately, for some of us, good credit can turn into bad debt. That can happen for a variety of reasons. It can be simple bad luck, but it could be bad judgment or, indeed, bad behaviour. Whatever the cause of the bad debt, it has a cost. For business, bad debt that is not paid can lead to underinvestment, low growth or business failure. That is bad for the people who drive our economy forward—the risk takers—and, of course, for the people whom they employ. For the man or woman in the street, bad debt can lead to illness, unemployment or even to families breaking up. We know that the problems caused by debt unfortunately fall most harshly on our more vulnerable communities.

The bill is therefore about debt and dealing with debt, but it is also about hope and helping people to restart after their debt has been dealt with. It does other things, but debt and restart are at the core of our proposals.

Dealing with debt raises many issues, some of which are complex and challenging to resolve. The bill has two main objectives: to help business to grow and to encourage responsible risk taking. It will ensure that those who can pay should pay, because it will be tough on the won't payers. It will also help the could payers to get back on their feet by paying their debt, and it will offer humane ways out of debt for those who cannot pay.

Many parts of the bill strike a balance. I was struck by what was said during time for reflection, which we all listened to. A balance has to be struck between competing interests. I am not sure that Gandhi would necessarily approve, but we have made every effort to ensure that the balance has been struck in the right place.

The bill has been many years in preparation. For example, we have considered the recommendations made by the Scottish Law Commission over a 20-year period, and many of them will be implemented by the bill. Expert advice is, of course, essential, but that is not the whole story. The bill strikes the right balance because we have listened to people, parliamentary colleagues included. We have consulted widely and often. We have held meetings across Scotland and we have set up working groups as required, for example on debt relief—about which I will say something later—and on regulatory reform. We have learned much and I remain—as colleagues know—willing to learn. In that way, we can build on the consensus that I suspect is already emerging. That is good, and it is recognition of the need for reform.

This is a good point at which to thank the Enterprise and Culture Committee and its clerks for their clear and thorough report on the bill. I strongly welcome the committee's endorsement of the bill's general principles. It is clear that all the committees that fed into the report worked hard to cover an unusually wide range of issues. I hope that they will take the same approach during stage 2. I know that I will. This is a large and complex piece of legislation. The report has given me food for thought in a number of areas. I look forward to the policy discussions that will ensue.

The bill, like many bills, does more than one thing. The four main elements are linked by a theme of debt. Each offers something for business and something for consumers. The four elements are bankruptcy, floating charges, enforcement and diligence, which is debt recovery or debt enforcement, for those who are unfamiliar with the term.

I will take a quick look at bankruptcy first. Some people can manage their way out of debt by themselves, others require help and some cannot manage at all—they are the can't pay debtors who need to find a way out of the debt trap that they find themselves in. Bankruptcy, whether through sequestration or a protected trust deed, is the way out for can't pay debtors. It lets them cancel the debts that they cannot pay, after a trustee is satisfied that they have paid as much as they can. As I have already said, can't pay debtors also need a fair chance to start again, perhaps after learning a hard lesson. Members should make no mistake about it—bankruptcy is a very hard lesson for some. Although it can be the right way out, it is certainly not an easy way out. It is a very tough way out indeed. It is irrefutable that bankruptcy is tougher than any other type of debt enforcement in the bill or elsewhere. That is an important message.

Bankruptcy needs to be tough. People who can pay should pay, even when bankrupt. People who do not pay their debts when they can are a clear problem for business and others—they are a problem for everybody. The public need to be protected from those few who will not pay and who abuse the system. Of course, not many people set out to abuse the system. Most people who go bankrupt really cannot pay, for one reason or another. Some have suffered ill health, have lost their job or have found themselves in other sad circumstances. Bankruptcy needs to be fair. We all agree that people who have fallen down need to be able to restart. That is good for them, good for the rest of us and good for the economy more generally.

The fair and the tough are tricky things to balance, as I think members agree, but I hope that the bill manages it. I will give members a couple of examples. The bill will help debtors by reducing the discharge period from three years to one, thus giving people a chance to restart more quickly. It will also help business by bringing in stronger protections. For those few who do not deserve a quick restart there will still be a flexible system of two-year to 15-year bankruptcy restrictions—tough but fair.

Murdo Fraser (Mid Scotland and Fife) (Con): One issue that the Enterprise and Culture Committee considered is the rising trend of personal bankruptcies. Reflecting on what has happened south of the border gives rise to the concern that the trend may accelerate if it is perceived that the bill makes bankruptcy easier for those who are in debt. Will the minister comment on the Executive's policy thinking on that issue and say whether he anticipates an increase in the number of bankruptcies as a result of the bill?

Allan Wilson: As Murdo Fraser knows, we have deliberated that issue and listened to that claim. I put it to the member that no direct evidence exists that the claim is true, whereas indirect evidence suggests strongly that it is wrong. The number of sequestrations in Scotland has increased by 54 per cent, which is in part because of an increase in creditor applications. However, in England, where the one-year discharge measure has been in place since 1 April 2004, the number of bankruptcies has not gone up so quickly. The figures have increased north and south of the border but, although the one-year discharge is in place down south, the number of sequestrations here has increased more quickly. No direct evidence exists to link the one-year discharge with a possible increase in the number of sequestrations. I refute some of the claims that are made about that. I emphasise that it is not our intention to increase the number of sequestrations. However, some of the diligence provisions that I

will talk about have the potential to do that, if they are not successful.

John Swinburne (Central Scotland) (SSCUP): Does the bill contain any measures to tackle what I call junk mail debt? Everyone is inundated with junk mail that promises instant access to £3,000 or £5,000, which can be attractive to people who are at the bottom end of the financial scale. Will the Executive stop financial organisations from sending such mail?

Allan Wilson: The short answer is no. The member is talking about the credit side of the credit-debt coin. As I have said, access to credit is good for individuals and the economy, although it can lead some people into difficulties. We are trying to address the issues for people who get into difficulty.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP) rose—

Allan Wilson: Sorry, but I have a lot to get through.

I will make a quick comment about floating charges, although perhaps they are not on everybody's agenda. We are working to make Scotland a better place to do business. The bill will help borrowers and lenders by giving lenders a better understanding of how much debt a company has and, by doing so, it will help businesses to raise working capital more easily.

I turn to enforcement. Modern laws require a modern structure to enforce them. We are reviewing the framework and sweeping away the cobweb of existing regulation—we have 10 or so regulators. The bill will bring the existing citation and enforcement professions into one new profession, called messengers of court. We will replace a toothless advisory council with a strong independent body—the Scottish civil enforcement commission—which will be the single regulator for the new profession.

Parts 4 to 15 will reform diligence. The new law should help businesses to recover unpaid debts quickly and effectively and help people to sort out debt problems. Giving people the right debt tools will lead them to the right solutions, even in the difficult situation in which equal but competing interests must be balanced. Parts 4 to 15 will give debtors and creditors a range of new and updated tools. The bill contains a lot of detail on diligence, which I will not go into now, although I am happy to reflect on points that are raised during the debate. The measures are about sharing better-quality information, modernising debt tools and removing barriers to business.

The tool of land attachment will fill a hole in our enforcement system. People will no longer suffer the worst fate of bankruptcy, which, at present, is

the only way in which creditors can get payment through the value of land and buildings. In some cases, land attachment may lead to a sale order, although the English experience of the similar charging order system is that sale orders are not often used.

As the recent figures, including those for mortgage repossession orders, show, getting a sale order in a land attachment will not, in many cases, mean an eviction. Few creditors want to force people out of their homes. That is an important point to make. They are happy that the land attachment means that they have a security that they can use when the debtor comes to sell.

Fergus Ewing: Will the minister take an intervention?

Allan Wilson: I think that I am about to move to my conclusion.

The Deputy Presiding Officer: You have some time in hand, minister.

Fergus Ewing: I accept a great deal of what the minister is saying. However, the new land attachment will be a radical, new and powerful weapon in the hands of creditors. Adjudication was an imperfect tool because of the 10-year period that was required to perfect it.

Has the Executive anticipated the extent to which land attachment will be used? In particular, will local authorities and agencies of the state use it to recover taxes and public debts? If so, tens of thousands of land attachments could result with the possibility of a high number of evictions. What information has the minister gleaned from public agencies? Has he asked them how they anticipate they will use this new and powerful tool?

Allan Wilson: I am sure that Fergus Ewing's intention is not to scaremonger. However, I take his point. I am sure that, as with private creditors, public creditors will welcome the provisions that we seek to make on land attachment. An important point to make is that the alternative route for creditors to secure access to land values would be to force sequestration and bankruptcy. That would automatically lead to the debtor losing ownership of their property and, potentially, to repossession and resale.

Christine Grahame (South of Scotland) (SNP): Will the minister give way?

Allan Wilson: If the member does not mind, I will develop the point, which is important. We are aware of the issue. I say to Fergus Ewing that we want to ensure not only that our proposal for land attachment is fair to creditors—whether public or private—but that it reflects the circumstances in which debtors find themselves. Appropriate safeguards should be built into the process to

ensure that no unnecessary repossessions and evictions take place.

Tommy Sheridan (Glasgow) (SSP): Will the minister give way?

Allan Wilson: I will give way in a minute.

Of course, the bill includes safeguards with regard to the length of time that the process will take and, importantly, to the access to debt relief that will be made available to the debtor during the period. I give way to Tommy Sheridan.

The Deputy Presiding Officer: Very briefly please, Mr Sheridan.

Tommy Sheridan: Can the minister tell the chamber what safeguard will be put in place to prevent creditors using land attachment to scare the living daylights out of debtors, to the extent that they seek to pay off their debt using any means possible, which could put them into even worse debt? I am thinking of how poindings were used in relation to warrant sales.

The Deputy Presiding Officer: You should be winding up, minister.

Allan Wilson: I am sure that Tommy Sheridan has no intention of scaring the living daylights out of the population by suggesting that the Executive would suggest such a thing. It is important that debtors have access to information and to the important help and advice that they can get through Money Advice Scotland and other organisations to ensure that nobody is scared as a consequence of the process of diligence.

As I have said, it is important to ensure that proper safeguards are in place throughout the process to protect the interests of debtors and to ensure that creditors have access to the land assets of people who could pay their debts but who do not pay them. I am conscious of the need to strike the appropriate balance in that regard, which is one reason why we will address some of the issues at stage 2.

In conclusion—is that okay, Presiding Officer?

The Deputy Presiding Officer: Yes.

Allan Wilson: I thought that I should ask. I could go on but, to be fair, there is a time limit. I am happy to respond to members' questions throughout the debate.

I take an inclusive approach to the subject. I hope that we can continue to debate it using the non-partisan and non-party-political approach that we have taken to date.

In conclusion, it is right that creditors can recover their debts quickly and effectively. It is also right that people in debt are treated in a humane and fair way and that they can restart

their lives. The bill is designed to do those things. The fact that we have listened carefully and that we will continue to listen has helped and will help to ensure that the bill gets the balance right. Ultimately, members will decide whether that is the case.

I move,

That the Parliament agrees to the general principles of the Bankruptcy and Diligence etc. (Scotland) Bill.

14:49

Mr Kenny MacAskill (Lothians) (SNP): I welcome the minister's speech, his view that the bill should be dealt with consensually and his statement that he will deal with it inclusively. I am also grateful for his commitment to address a variety of matters at stage 2.

The Parliament must reach a consensus on the bill. It is not the most exciting of bills, but it is important that we address bankruptcy and diligence. We are in the 21st century and the ground has changed under our feet. We must make Scotland more entrepreneurial and ensure that those who try and sometimes fail in business are supported in their efforts to try and try again until such time as they succeed.

We need to strike a balance. That important point has already been made. Society has changed: debt and credit are much more readily available and are used much more. We need to be extremely sympathetic to those who get into debt and towards the problems that affect them and their families, but we must also be aware that creditors suffer. If a bill is not paid to a small joinery firm it can go out of business, jobs can be lost and people can lose their livelihoods. We must strike a balance between debtors' needs and the needs of those who, through no fault of their own, have lost out because of the debts that others have incurred.

The Scottish National Party broadly welcomes the bill's thrust and ethos. A great deal of credit must go to the Enterprise and Culture Committee, which has identified many of the fault lines. I hope that the minister will take those on board, as he has said he will, and that we will be able to discuss them and reach a consensus on how to deal with them. The committee correctly flagged up issues of significant concern where change must take place. We hope to work not only with it but with the minister to reach a consensus that will enable us—as the Government has set out to do—to deal with bankruptcy, diligence and other matters not for five or 10 years but for the early part of this century. That is important for all—debtors and businesses alike.

We must accept that circumstances have changed. We have a property-owning democracy,

as Mrs Thatcher wanted. Whether or not we like it, that is the circumstance that we face and we must address it. In our world, not only is credit more available but consumption is much more possible. Rather than condemn people for seeking more in this materialistic society we must try to protect them. We are where we are whether or not we like it and we must ensure that the law acknowledges that.

The SNP adds the caveat that it is important to address the consequences of debt, which are severe in Scotland. The Parliament and the Executive have to pick up the pieces of not only the problems that go with debt or the bankruptcies and sequestrations that follow but the personal hardships—broken marriages, depression and alcoholism—that can be fuelled by the debt into which people fall. The difficulty is that we are able to address the consequences of debt but we are unable to address its causes. Until such time as those who represent the people of Scotland in this Parliament have the opportunity to address consumer credit as well as deal with the consequences of consumer debt, we will be hidebound. The Enterprise Act 2002 did not go far enough in protecting our people from outrageous interest rates or advertisements that are designed to lure them in and sucker them. We must have the powers to address that. That will be a battle for another day but, if we are to address debt in Scotland, we must be able to tackle its causes every bit as much as its consequences.

Although it is important that we legislate, people must take personal responsibility. That has to be brought home to them. In Scotland, we perhaps dine out on the image of the thrifty Scot. That image certainly used to apply, but more and more people are getting into personal debt. It ill behoves people in my generation and those who are older to be too condemnatory, because we created the society in which credit is readily available and consumer goods are punted in television advertisements and an array of other media. However, people must acknowledge that, if they borrow or use credit, they have a responsibility to pay it back. Perhaps we have to consider not only education, which falls within the Executive's and the Parliament's domain, but greater cultural change to achieve an element of individual responsibility.

We have not quite reached a pandemic in this respect, but we should consider what is being added to the fuel that already exists. On gambling, we are only at the beginning of how things might develop with casinos and internet access. We do not know how the situation will develop, but there are extraneous factors that will fuel consumer debt further.

We are happy to go along with the general principles of the bill, subject to the points that were correctly identified by the Enterprise and Culture Committee. There is a significant problem with bankruptcy. There has clearly been an issue around the proposed reduction in the discharge period from three years to one year. Our view is that the balance is probably right. The courts will have the opportunity to become involved, and we should bear in mind the desire to support entrepreneurs.

I add the caveat that the entrepreneurial spirit that we seek to engender cannot simply be brought in by legislation, as is the case with changes relating to debt and responsibility. The Deputy Minister for Enterprise and Lifelong Learning was quite right about that. Floating charges might be viewed with incredulity by the vast majority of our electorate, but they are important for businesses. Although they might be viewed with some scepticism, they are necessary if we wish Scottish businesses to be able to compete not just in the United Kingdom but on a pan-European and global basis. We need to give support in that regard.

Other matters have been highlighted by the Law Society of Scotland, which doubtless have been intimated to the minister. Despite what I said about the need to have our own distinctive consumer credit legislation, there are areas where we will now have to work with the Westminster Government. I will happily give the Executive my full support in any representations that it requires to make to the Department of Trade and Industry in England to ensure that there is some harmony on the matters that the Law Society and others have raised. It would be counterproductive not to act in that way.

Turning to enforcement, our view is that the nomenclature for sheriff officers should be whatever makes them happy. Whatever they wish to be called, it is fine by us. *[Laughter.]* We should not laugh or be too jocular about it—sheriff officers do a significant job. I was commenting to somebody from a citizens advice bureau earlier that there has been a great deal of condemnation of the sheriff officer profession, in particular with respect to what happened when the poll tax was in force. However, as an instructing lawyer, I remember how happy people were when they sought to return kids who had been abducted by errant fathers or other people. They do good work as well as sometimes having to do jobs that the rest of us might view as unhelpful.

Tommy Sheridan: Will the member take an intervention?

Mr MacAskill: Not at the moment.

We have commented on land attachment in various contexts, including outwith the chamber. We think that the proposed threshold of £1,500 for the recoverable sum is too low. I have sympathy with the minister on this matter. I will not necessarily say what I think the level should be. This is not quite the wisdom of Solomon, but I think that £1,500 is too low and we need to review it. It could be too simplistic to propose that we take a percentage of someone's debt. How would that be calculated? What would we include and exclude? I ask the minister to review that provision and to speak to the interested parties, including CABx, to establish whether a consensus can be reached, not just among political parties but in the body politic, on what we think is a fair threshold.

The Enterprise and Culture Committee got it right with respect to land attachment. It would be inappropriate to use land attachment against principal or main dwelling-houses. We accept that there are some situations—albeit very few—in which people have significant equity, live in large houses and are flagrantly at it. Aggrieved creditors should have the opportunity to go to court in such instances. We should not, however, allow land attachment to be used as a threat at that stage. That could undermine—

Tommy Sheridan: Will the member take an intervention?

Mr MacAskill: I think that I am out of time.

The Deputy Presiding Officer: Yes, the member is out of time.

Mr MacAskill: That could compound the problems of debt with the ignominy of homelessness. As well as asking the minister to review the £1,500 threshold, we ask him to ensure that land attachment is not used against principal dwelling-houses.

14:59

Murdo Fraser (Mid Scotland and Fife) (Con): As the first member of the Enterprise and Culture Committee to speak in the debate, I thank the committee clerks for all their assistance in preparing our stage 1 report and the many individuals and organisations that gave evidence to the committee. The Bankruptcy and Diligence etc (Scotland) Bill is a detailed and complex piece of proposed legislation. Given that most, if not all, committee members started with a limited background in bankruptcy, the guidance that was given to us by our adviser, Nicholas Grier, was invaluable.

The Executive introduced the bill with the stated intention of helping to create a more entrepreneurial culture and encourage personal and business restart following bankruptcy. That

ambition certainly found favour with the committee. However, having taken evidence, the general view of committee members was that the bill would do little, if anything, to achieve those objectives.

The key debate was about whether the period of bankruptcy should be reduced from three years to one year. The committee received little evidence to suggest that that measure would help to create a more entrepreneurial culture. The principal reason for reducing the period of bankruptcy to one year seemed to be that it would bring Scotland into line with England. As a unionist, I have no particular difficulty with that concept; indeed, in many ways it is desirable from the point of view of enterprise to have a level playing field on such issues throughout the United Kingdom. However, we should be clear that that, rather than consideration of the impact on enterprise, seems to be the main justification for that part of the bill.

The evidence from down south is that there has been a rise in personal bankruptcies following the introduction of similar legislation a number of years ago. We must be careful that we do not accelerate an already fast rising level of personal bankruptcy in Scotland.

Allan Wilson: As Murdo Fraser knows, I am sympathetic to the general thrust of that argument. However, does he, as a member of a party that is in favour of having a growing entrepreneurial base, acknowledge that the bill is part of the much wider European agenda—the Lisbon agenda—to encourage innovation and entrepreneurship? Although it is not the be-all and end-all in that agenda, it is an important part of it.

Murdo Fraser: The point that I was trying to make was that we heard little evidence that the bill would create an entrepreneurial culture. I appreciate that the minister's motives are altruistic, but he needs to work a little harder to persuade us of his case.

The Scottish Conservatives have a number of key concerns about aspects of the bill. Although there is much in it that we support, we will reserve judgment on its totality until we see whether changes will be made that deal with our principal concerns.

Our first concern relates to protected trust deeds, which are, in effect, a private sector administered scheme and an alternative to bankruptcy. The fundamental difficulty for the committee was that while we were considering the bill, a parallel consultation was being held on the future of protected trust deeds. It would have been helpful to the committee if we had had a conclusion from the Executive on protected trust deeds before we prepared our report.

My view is that protected trust deeds are a valuable and generally cost-effective tool, which should have a future. The Executive has proposed setting a minimum dividend of 30p in the pound, but other members of the committee shared my view that the case for that had not been made. Certainly there will be circumstances in which 30p in the pound would seem to be a fair minimum, but for many estates such an arbitrary figure would be completely inappropriate. I believe that the Executive needs to think again about the issue.

My second principal concern relates to the creation of the new Scottish civil enforcement commission, which is a quango that will be set up to regulate all matters relating to enforcement. The commission would, for example, decide on a person's competence to be an enforcement officer and would investigate complaints. In our report, we drew attention to the fact that the Finance Committee questioned seriously whether the creation of a new quango was the most cost-effective way of addressing the issue, which could have been dealt with in-house by the Executive's Justice Department or in a number of other ways. Other routes certainly require consideration.

I turn to diligence. Mr MacAskill—and other members in interventions—raised the issue of the proposed land attachment, which would, in effect, allow an unsecured creditor with a debt of £1,500 or more to obtain security over a debtor's house and in due course to sell it to realise the debt. The committee had serious difficulties with that concept.

We currently allow a creditor to attach property by means of inhibition, but the sale of a property by adjudication is a tortuous process—members can take my word for it, because I instructed one at one stage—and takes 10 years. The new diligence is much quicker, but we were not convinced that such a fundamental change would strike the right balance between the interests of the debtor and the interests of the creditor.

The committee's recommendation was that land attachment should proceed, but with a significant amendment to exclude the debtor's main dwelling. That would be coupled with a right of appeal to the sheriff for creditors, which would apply in exceptional circumstances.

Tommy Sheridan: Will Murdo Fraser confirm that the committee's view is that the main dwelling-house should be exempted and that that was not the view that was expressed by Mr MacAskill, on behalf of the SNP? He said that there should be an increase in the upper limit, which would mean that the main dwelling-house would still be up for grabs.

Murdo Fraser: I am not sure that I heard Mr MacAskill make that point. However, the

committee's view was that the main dwelling-house should be exempted.

Mr MacAskill: At no stage did I say what Mr Sheridan said that I did. Does Murdo Fraser accept that I endorsed the Enterprise and Culture Committee's position, which is that land attachment should not apply to a principal dwelling-house, except in the most exceptional circumstances, when creditors should have a right of appeal to the court?

Murdo Fraser: Mr MacAskill has his point on the record. The committee proposed that people's second properties, land or commercial properties could be attached, but that the principal dwelling-house would be exempt. From the point of view of public policy, that would get round the problem of diligence possibly creating homelessness, which cannot be in the wider interest.

The new land attachment issue was one of the most controversial areas of the bill and attracted a great deal of correspondence and written and oral evidence. The committee would want the Executive to consider amending the bill at stage 2 to ensure that it does not proceed in its current, somewhat draconian, form.

I wish to highlight a fourth point in relation to the question of diligence against earnings. Diligence against earnings is relatively straightforward for the creditor, as he simply serves a notice on the debtor's employer. However, that creates all sorts of administrative difficulties for the employer, who has to calculate how much money to deduct from a weekly or monthly salary. That can be particularly complex if, as is often the case, there is more than one creditor. I understand that the fee that is payable to creditors for earnings attachment is currently 50p per payment and will soon rise to £1 per payment. For a person who is paid monthly, that amounts to the princely sum of £12 a year. For many small businesses, the burden that is placed on them is in no way compensated for by that level of remuneration. We should consider having a more realistic level of return.

The bill touches on wider issues, such as the availability of easy credit. There is no doubt that we have a problem in society with a huge amount of personal borrowing. We need to change our culture to ensure that we can strike the right balance between debtors and creditors. However, we cannot go too far, because we need to be wary of the law of unintended consequences. If we make credit too hard to obtain, we will simply drive the poorest members of society into the arms of loan sharks.

Although the bill contains some sensible measures, it is seriously flawed and will need to be seriously amended at stage 2. For the reasons

that I have outlined, the Scottish Conservatives will not support the bill at stage 1.

15:07

Donald Gorrie (Central Scotland) (LD): Jamie Stone, who is the Liberal Democrat representative on the Enterprise and Culture Committee, will wind up for our party in the debate and give members the official party line. He will share with members his well-informed view, which has been formed by his work on the committee. However, the Procedures Committee has been agitating to ensure that more members who are not on the relevant committees should take part in stage 1 debates, so I thought that I should practise what I preach.

The issue of debt has interested me for many years. Off and on, I have visited citizens advice bureaux to find out what was happening. I would like to deal with three aspects relating to ways of preventing people from getting into debt at all, which would greatly relieve the problems that the bill tries to address.

First, we have to teach individual responsibility and ensure that individuals have the required knowledge. Most schoolchildren and a lot of adults do not understand about money at all. The system should get them to understand about money and ensure that they realise that they have to sort out their own money affairs.

Secondly, we should provide more support to people who run moral banking arrangements, such as credit unions, which do a lot of good locally. If we could put more resources into credit unions, they could use their local knowledge and give sensible loans to sensible people who will deal with them in a sensible way. There might be other arrangements, such as local banks, by which we can ensure that good credit is offered in a sensible manner.

Above all, we should attack the flogging of multiple debt and the practice of inducing people who are already hopelessly in debt to take on more debts. The loan sharks and back-street people who do that should, of course, be firmly dealt with, but there are also a lot of worthy bankers—members of the best golf clubs—whose minions repeatedly induce people who are hopelessly in debt to take on still more debt. In my view, anyone who indulges in that activity—from the director of the bank to the assistant branch manager—should be served with an antisocial behaviour order and made to do community service, possibly by digging the gardens of the people whose lives they have ruined. We must take the matter seriously; I know that many aspects of it are reserved to Westminster, but surely we can do something to sort it out.

Christine May (Central Fife) (Lab): Will Mr Gorrie confirm that the punishment of digging gardens is not general Liberal Democrat policy?

Donald Gorrie: I will have to think about that. I am not always an expert on general Liberal Democrat policy. Jamie Stone can answer the question much better than I can.

I do not claim to be an expert on the bill, but a few of its provisions are worth looking at. Other members have mentioned land attachment and the exclusion of the primary dwelling-house. That is an important matter and I will be disappointed if we do not sort it out. If we allow lenders an unreasonable grip on somebody's house for a relatively small debt, we will, in effect, turn an unsecured debt into a secured debt. That is totally immoral.

There is also the question of bank arrestments. There could be arrestment orders and suchlike. The banks say that the system would be too costly, but given that they make so much money out of debtors, they should spend a little to try to ensure that they operate in a more sensible and moral fashion.

Another issue that we need to deal with is the arrestment of benefits and tax credits.

Tommy Sheridan: Given that the banks make a profit of £4 million per day in Scotland, does the member agree that they must be able to come forward with a scheme that will protect benefits from arrestment when they are paid into accounts?

Donald Gorrie: Yes. I am not technically competent on the issue, but I agree with the principle. The banks should be made to do that.

There is the question of broadening the debt arrangement scheme, freezing the interest and agreeing with creditors about the composition of debt. Another question is what we should do about no income, no asset debtors, who are known as NINAs. I understand that a working group on the issue produced some recommendations but that they were not followed through. We should at least consider those recommendations. Perhaps the Enterprise and Culture Committee could put some of them into amendments at stage 2.

As I understand it, there are quite tight restrictions on the sheriff's discretion with regard to warrants for sale and more flexibility could be given for the sheriff to apply the "reasonable" test. We all love the word "reasonable" because we are all personally reasonable—it is the other chap who is unreasonable—so we think that it is a good word. I think that that test should be applied by the sheriffs.

We need to strike the right balance and creditors must have their say as well as debtors, but many

debtors are personally incompetent. They might not do the right things at the right time and they might need another bite at the cherry so that they can have a fair do. I do not know how we can make people personally competent if they are incompetent, but we must try to give them as much help as we can. It would be in the best interests of the commercial people if the debt business was better organised. It cannot be good for them to have lots of bad debts, although I gather that they write them off against tax so they are not worried about them.

We need to address the causes of debt and to improve the bill so that we deal with the issue better. The bill has good parts and it is well meant. The bill was in our manifesto, which I am meant to support, and in the partnership agreement. We need the bill, but we want to make it slightly better.

15:15

Alex Neil (Central Scotland) (SNP): I apologise for having left the chamber briefly to debate a completely different subject with Ken Macintosh on "Holyrood Live". Members will be glad to know that I won.

I thank all those who were involved in the fairly onerous stage 1 consideration of the bill by the Enterprise and Culture Committee. We have been at that since January, which reflects the bill's complexity and broad range. That process probably encroached on a lot of the time and resources of organisations such as Citizens Advice Scotland and Money Advice Scotland, but it has been worth while.

The bill provides a good example of why our consideration of bills before producing stage 1 reports is far superior to the system at Westminster, which goes almost straight into amendments without the detailed consideration that we afford bills in committee.

Every committee member was taken aback by the level of personal debt in Scotland and the problems that personal debt creates. As the preamble to our report says, the average consumer debt is now £13,380, which is a 64 per cent increase on the 2001 figure. We acknowledge that the bill is an important part of dealing with the consequences of that debt, but broader policy issues need to be addressed in relation to the growth of debt and how some people get themselves into financial difficulty as a result of the marketing pressures on them to take on more debt.

The bill has several objectives, which include modernising the law and striking a better balance between the interests of debtors and those of creditors. It is also intended to facilitate entrepreneurship. It is fair to say that, having

heard the evidence, the committee thinks that the impact on entrepreneurship will probably be at the margins rather than being a driving force in enterprise policy. Nevertheless, some provisions—and some of our recommendations, if they are implemented—will help entrepreneurs who are in difficult circumstances.

I will highlight four or five aspects of the bill that need to be emphasised, although the committee reported on them. Murdo Fraser briefly referred to my first point, which is that legislation is joined up and we cannot consider the bill in isolation. Two pieces of legislation are particularly important to the operation of the bill: one is the Company Law Reform Bill at Westminster and the other is the proposed legislation on protected trust deeds. One major consideration about the legislation on protected trust deeds will be its potential impact on credit unions—I am sure that Christine May will highlight that.

Allan Wilson: The member makes an important point. Does he agree that, as well as considering parallel legislation, it is important to consider the provisions in the bill—particularly those on diligence—as a package? Measures such as land attachment, for example, have implications for provisions in the bill on protected trust deeds and sequestration in bankruptcy.

Alex Neil: I agree totally with the minister. When the committee produced its report, we agreed a draft of our conclusions about part 1 of the bill, but we revisited that draft after we had considered part 4, because some of part 4 has a substantial impact on part 1. The bill needs to be considered as a package.

When we deal with amendments at stage 2, we will need to be very aware of the issue of selling a debtor's home during bankruptcy procedures, which has been mentioned several times. We think that a one-size-fits-all approach is inappropriate and that there is considerable potential for people to be made homeless if we get things wrong. The general view—almost the consensus—of those from whom we took evidence was that the bill's provisions on land attachment are draconian and need to be amended at stage 2. I think that that view has been accepted—I see the minister nodding his head.

The next point that I want to drive home relates to the Finance Committee's comments on the bill, particularly on the costs that are associated with the Accountant in Bankruptcy, and whether the right way of enforcement would be through the creation of the Scottish civil enforcement commission, which we considered in detail. We asked for more details from the minister and for a copy of the evaluation of the various enforcement options. We then considered all the options that

the Executive had looked at, and I think that the unanimous view of committee members was that, on balance, creating the commission was probably the right route to go down. However, there are cost and resource issues. The additional responsibilities that will be placed on the Accountant in Bankruptcy require a reassessment of the financial requirements. I know that the Executive is engaged in that reassessment.

There are a number of issues around land attachment that relate not only to homes. Murdo Fraser mentioned the wider issues and family homes in particular. The unanimous view of committee members was that, in normal circumstances, a person's family home should not be under threat, particularly if their debt is less than the equity in that home, which is often the case. There is no point in creating a social problem by making people homeless as a result of trying to solve a financial problem. Of course, there are circumstances in which it would be legitimate for a family home to be sold. For example, if the home was worth £20 million and the person's total debt was £10 million, nobody would dispute that it would be reasonable to sell it and use half the proceeds to settle the debt. Nevertheless, the current provisions are too draconian for the vast bulk of people.

Sheriff officers and messengers-at-arms raised concerns about the practicalities of money attachment. The evidence that was given shows that there are practical problems that will have to be tackled at stage 2.

All the issues that I have mentioned are important. The bill is detailed and complex, but committee members were unanimous in supporting its general principles.

15:23

Christine May (Central Fife) (Lab): Like other members, I thank everyone who has been involved with the committee in considering the bill, and I welcome to the gallery professionals who have come to hear the debate.

When we started to consider the bill, we were—except for one member, who has already spoken—totally unfamiliar with the issues. From our constituency work, most of us knew about the debt advice stage at which constituents are passed on to professionals, after which we are kept up to date with how the case progresses, but the technicalities of bankruptcy legislation and its implementation were, by and large, new to us.

For a non-lawyer, the language that is used in the proposed legislation is difficult. For most of us, diligence means hard work—it does not mean the means by which debt collection is enforced. However, once we got into the detail of the bill, we

quickly became aware of the scale of debt that exists and the plethora of legal means of dealing with debts; some of those legal means are not currently used, but are still on the statute books—we will soon discuss the arrestment of ships, for example.

The advice agencies in particular gave us a small insight into the depths of despair that are caused in communities by debt. Money lenders are charging up to 900 per cent interest; creditors are phoning debtors at 5 and 6 o'clock in the morning on their mobile phones, seeking payments; and some people are too stunned in denial even to open the brown envelopes that come through the door.

The committee was concerned at the too-easy availability of credit and the practice of some institutions of offering loans to pay off debts, together with further credit card and borrowing opportunities. In addition, we were concerned about unsolicited loan offers and even more concerned by the new business, among some companies, of arranging debt relief and offering advice that seems quite dubious, including advice to mortgage homes on which there is no mortgage so that they cannot be attached. I believe that that has contributed to the increase in protected trust deeds, many of which pay little or no return to the creditor but involve significant payments to the arrangers.

When we finally produced our report, we were convinced that—as one panel of witnesses told us—by and large the bill is, in the immortal words of W C Sellar and R J Yeatman, “a Good Thing”. We recognised that the bill seeks to make changes to legislation that is more than 20 years old, some of which has been revised in England and Wales, and that, therefore, there is a need to examine Scottish provision to ensure that folk are not disadvantaged. One of the bill's primary purposes is, as far as it is able, to make it easier for those who have been declared bankrupt to get banking facilities again in order to start up businesses. Our report has been widely welcomed, especially the recommendation on the exemption of the primary dwelling in normal circumstances and our recommendation that the debt arrangement scheme should include a freezing of the debt. I believe that that will remove one of the main drawbacks of the debt arrangement scheme and lead to its greater use. Money Advice Scotland gave us evidence to that effect.

There are still outstanding issues, and we have picked them up in our report. On bank arrestments, we heard evidence only from the big four banks; therefore, we need to encourage dialogue with the other banks. The minister might consider it worth while to convene a meeting

involving himself and his officials, the voluntary sector and the banking sector in general to see how benefit payments might be exempted—if not now, that could be done when the banks update their systems, which they all do. We heard evidence that it might be too costly for the banks to do that at the moment. There is also the issue of those who have no income and no assets, and we will be interested to hear what the Executive comes back to the Parliament with on that.

On insolvency practitioners, we discovered in our evidence taking that although messengers-at-arms, sheriff officers and local small businesses are the norm in Scotland, we have of late seen the coming in of larger businesses—some UK-wide and some with European ties—that bring a different approach to the collection of debt, to working with advice agencies and to serving local communities. The committee therefore welcomes the fact that the bill seeks to address the issues of governance and regulation.

Karen Gillon (Clydesdale) (Lab): Does the member share my concerns about a case that I heard about this morning in which a constituent of mine was subject to a fishing expedition by a debt collector who was operating on behalf of a local council? The person was sent a bill for £650 for a debt that was not hers; she only shared the name of the person whose debt it was.

The Deputy Presiding Officer: Ms May, you should be closing now.

Christine May: I share the member's concern. Although the bill may not make direct provision for that, I hope that it will be possible to do something about it.

There were 155,000 bank arrestments last year, largely for public sector debt, and the next move is land attachment. It is, therefore, important that we agree the general principles of the bill and move to the next stage so that the bill can be put on the statute book as soon as possible. I support the general principles of the bill and I hope that other members will do so, too.

15:29

Christine Grahame (South of Scotland) (SNP): I commend the Enterprise and Culture Committee for its sharply focused report. By my reckoning, there are six former lawyers in the chamber, three on the Conservative benches and three on the Scottish National Party benches. Despite the fact that 30 per cent of the members present have been involved in the legal profession, we have so far managed to keep the language of the debate simple. I hope that things stay like that. I should also tell Christine May that although I have not yet arrested a ship, I have poinded a flock of sheep. That was a lot of fun.

The minister and other members are quite right to point out that the balance in the legislation is between the debtor in the red corner and the creditor in the blue corner. However, not all creditors are heavyweight loan sharks. As Kenny MacAskill said, they could well be tradesmen, whose own houses might well be in danger of repossession if they do not get their payments.

Moreover, not all debtors are goodies. Some are simply reckless; others work the system rather well. The bill has to tread a fine line, particularly given the current culture of buy now, pay later. After all, as Alex Neil said, average personal debt in Scotland is running at a staggering £13,000. However, I accept the minister's comment that he is aiming at the won't pays, not the can't pays.

Although much has been said about land attachments, I am interested in Citizens Advice Scotland's point that this provision will turn

"an unsecured debt into a secured loan".

When people take on a debt, they enter into a contract. For example, if the debt is secured against their property, the interest rate might be very different from that for an unsecured loan. Someone might well take out an unsecured 10-year loan that has a higher interest rate. However, because their debt might subsequently take a form that could be subject to a land attachment, they could lose their house despite the fact that they have paid over the odds for a certain type of loan. I believe that that highlights a conflict between contract and statute law.

Murdo Fraser: I have been listening with interest to Christine Grahame's speech. However, the current law of inhibition and adjudication already allows what she has just described to happen, although I appreciate that land attachment takes things a step further.

Christine Grahame: That is the very point. There is a de minimis use of the current law, whereas the provisions in the bill could be used quite easily. The committee has quite reasonably recommended that, instead of having a £1,500 threshold for sequestrating debtors, the threshold should be a percentage of the debt. However, we must address the issue of people who enter into a contract thinking that it is one thing when in fact it is something completely different.

The Law Society said:

"Once people hear how land attachment is going to work, there will be a queue."—[*Official Report, Enterprise and Culture Committee*, 21 March 2006; c 2853.]

Subject to any amendments that are lodged, I accept the minister's comment that it may be that not many sales of attached land will go ahead. However, land attachments might be used in the same way that poindings were used. Indeed, when

I was a practising lawyer, I used the threat of a poinding to put the fear of God into a debtor to pay up. Tommy Sheridan was right to say that many poindings were carried out, particularly by public bodies, but not many progressed to warrant sales. For example, in 2002, 13,500 poindings were carried out, but only 420 continued to warrant sales. With the caveat that I do not know what amendments might be lodged at stages 2 and 3, I believe that land attachments might be used in the same way.

Allan Wilson: Murdo Fraser said that, as with all diligences, land attachments turn unsecured debt into secured debt. Does Christine Grahame accept that in certain circumstances it would be preferable to use land attachments rather than sequestration or bankruptcy, which would mean that a person would lose their land and property and, perhaps, be made homeless?

Christine Grahame: I have accepted all the comments on this matter, including the fact that the presumption in the legislation is that the sole family home will be protected. Of course, what happens to the second family home is another matter. However, with all the caveats that I have set out, I simply seek to make a couple of interesting points to reinforce the point that we need to get this diligence right.

Concern about bank arrestments has been brought to my attention by Citizens Advice Scotland. Existing social security benefits and tax credits are meant to be unarrestable, but in practice, because of the way in which banking procedures operate, they can be frozen. There are ways round that, and Citizens Advice Scotland has put forward proposals that I hope the minister will consider. To put the matter into the context of my area, I am indebted to the profile prepared by the CABx for May 2006, which shows that total debt cases in the South of Scotland amounted to £24 million of personal debt.

I urge the minister to provide for more education about debt in Scotland's schools. I am deeply concerned about the swipe cards that children are being given. They are not handling real money but are simply using plastic, so they are not made aware what money actually is.

Finally, of the 300 people who trained for the debt arrangement schemes programme, only 21 were certificated, because of cuts to CABx. That must be addressed.

15:36

Jackie Baillie (Dumbarton) (Lab): We have heard much this afternoon about balance—striking a balance, maintaining a balance and a colourful illustration from Christine Grahame of the balance between the red corner and the blue corner.

Essentially, we are talking about the balance between debtors and creditors. I do not want to add to all those colourful descriptions, but I would like to share an anonymous quote: "The only person who sticks closer to you in adversity than a friend is a creditor." My concern is less about striking a balance and much more about protecting the most vulnerable in society—the can't pay rather than the won't pay.

Like other members, I acknowledge the hard work of the Enterprise and Culture Committee. Diligence is an arcane and complex area of law and one that is, I confess, at times impenetrable, yet members of the committee have got to grips with it and made it easier for us lesser mortals to understand, and for that I thank them. I also commend the Executive, and the minister in particular, for listening to the cross-party group on tackling debt and to the credit unions, which raised valid concerns about protected trust deeds, and, I hope, for taking on board some of their concerns.

I want to highlight four areas and to focus predominantly on one. I begin, as other members did, with land attachment. I do not support the Executive's proposals. It is quite draconian for a debtor to be able to lose their home for a debt of as little as £1,500. I echo Christine Grahame's point about the Law Society, which is not given to overly colourful or dramatic statements, in my experience. We should sit up and pay attention when the Law Society says:

"Once people hear how land attachment is going to work, there will be a queue."—[*Official Report, Enterprise and Culture Committee*, 21 March 2006; c 2853.]

I am genuinely concerned about that.

Allan Wilson: Does Jackie Baillie agree that part of the problem in the debate is about the correlation between the debt threshold and the bankruptcy threshold and that, if we are to maintain parity between the two, there will be implications for the level at which diligences such as land attachment might kick in?

Jackie Baillie: I understand that and I do not pretend that it is not a complex area, but I am persuaded by the committee's approach to the matter, which is essentially to say that, if the primary dwelling-house is exempted from sale, that will deal with those who are most vulnerable and who would feel the impact of that provision. I therefore ask the minister to consider that proposal in more detail, because it could prevent the threat of homelessness, never mind the actuality of homelessness.

Secondly, I turn to bank arrestments. I welcome the Executive's positive proposal to have a minimum balance of £370 that cannot be touched, but I am concerned that benefits in general are not protected. I am thinking of housing benefit,

although there are other examples. Increasingly, benefits such as housing benefit are paid into bank accounts. If there was an arrestment, the fact that rent would not be paid to the landlord could lead to homelessness. I do not find credible the argument that the banks cannot identify or earmark funds in that way. I suggest that members look at their bank statement. Child benefit clearly has a separate identifier. I am certain that banks could earmark funds in that way. The question is whether they are willing to do it. I ask the minister to look again at the matter.

Thirdly, I would like the minister to consider what we do to protect people who have no income and no assets. Like Donald Gorrie, I believe that we should not lose the recommendations of the working group and the opportunity afforded by the bill.

There is a continuing debate about broadening the debt arrangement scheme to include many more low-income debtors. Simple measures such as freezing interest and the composition of debts would be extremely helpful. I urge the minister to consider those matters, as the committee has done.

I will deal with the issue of credit unions and protected trust deeds, which Christine May has pursued on the committee. The issue was raised with me first by the Vale of Leven Credit Union and shortly thereafter by Dumbarton Credit Union.

I will highlight some of the problems that the sharp increase in the use of protected trust deeds has caused. No credit union is large enough to support the continuous losses that are incurred through the non-recovery of loans that results from protected trust deeds. The system lumps credit unions together with massive creditors such as the Royal Bank of Scotland, HBOS, Visa and Mastercard, all of which are major global players that charge much higher fees and—some would argue—much higher interest rates than credit unions do.

It is interesting to note that some trustees charge about £200 an hour to administer trust deeds and that their expenses are paid before creditors are paid a penny. There are also credibility issues. Although I am sure that such cases do not reflect common practice, I will share with members some examples that I find quite interesting. Some trust deeds allow, as a legitimate expense, £200 a month for a primary school child to have school lunches. I am interested to know what school the child attends. Another example is a trust deed that allows as a legitimate expense £100 a month for dog food—that dog must be taken care of very well. A final example is that cars of substantial value have been excluded entirely from a trust deed.

Credit unions suffer disproportionately from losses as a result of protected trust deeds. I will be helpful to the minister and suggest three possible solutions, which I have mentioned before. First, could we not treat credit unions as we treat the Student Loans Company, in which case the loan is exempt? We already have a derogation from European Union competition law that might enable the Executive to consider the issue differently. Secondly, small community-based credit unions could be ranked above the mass of creditors. Finally, if we were to extend the debt arrangement scheme to include more people, we could reduce the need for protected trust deeds in the first place.

15:42

David McLetchie (Edinburgh Pentlands)

(Con): It is interesting to consider the background to the bill and in particular the explosive growth of personal insolvency and the use of diligences such as arrestment to recover debts. Members will recall that the Chancellor of the Exchequer pledged to put an end to boom and bust and frequently expressed his commitment to a lady called Prudence. The figures that are disclosed in the Scottish Executive's policy memorandum suggest that the chancellor has achieved his objective. He has brought an end to boom and bust but, unfortunately, it is now all bust. For example, in 1997 there were 2,534 sequestrations in Scotland, but the figure had risen to 3,521 by 2005 and the projected figure for this year is a staggering 5,401. The 1997 figure for protected trust deeds was 532, but by 2005 it had risen to 6,141 and the projected figure for this year is 7,148. When this year's figures are published, the level of personal insolvencies in Scotland will be four times what it was in 1997.

It is the same story when we consider arrestments of bank accounts and wages for private debts. That is without taking into consideration the staggering number of arrestments—more than 237,000—that are necessary to recover council tax. However we look at the figures, it is all bust, bust, bust. This chancellor is not committed to Prudence—he is more like a man who is obsessed with Jordan. The spend, spend, spend philosophy has resulted in a rising tide of consumer debt, a decline in savings, for which the chancellor bears a heavy responsibility—particularly in relation to pensions—and the encouragement of irresponsible financial behaviour, which can have grave consequences. Against that background, I am wary of any measure of reform that makes bankruptcy seem like a soft or an easy option.

The continued uncertainty about the position of protected trust deeds and the Executive's failure to

present its full proposals in that regard prior to our consideration of the bill are deeply regrettable. The minister said that the bill should be judged as a package. He is right but, unfortunately, what we have today is a package with some of the contents missing.

I will also comment on the proposed new diligence of land attachment. I note the Enterprise and Culture Committee's concerns, which other speakers have raised, and those of organisations that have lobbied for the exclusion of the sole or main residence from land attachment. Although I appreciate that the proposed new diligence would go beyond what is available under the current law of inhibition and adjudication, we must bear it in mind that the process of sequestration will lead to the loss of the debtor's home. Accordingly, from the standpoint of a creditor, if there is equity in the house that could satisfy debt and he is unable to use the diligence of land attachment, it is more and not less likely that he will go for the nuclear option of sequestration. That does not seem to me to be an outcome that we want to encourage.

Jackie Baillie: Can the member comment on the modernised form of inhibition that might be used instead of the Executive's proposal in the bill?

David McLetchie: Essentially, I regard land attachment as a modernised form of inhibition in that the previous adjunct to inhibition—adjudication—was a hopelessly useless measure for recovering debt in Scotland. I regard land attachment as a measure for recovering debt.

The potential impact of land attachment on homelessness has been seriously overstated. I say so not least because the bill's proposals would not create a situation in which a sale would automatically follow on from an attachment. An application would still have to be made to a sheriff for authority to sell and he would be required to take into account the debtor's personal and financial circumstances, and the availability of reasonable alternative accommodation. In that respect, the protections that are built into the bill mirror those in the Mortgage Rights (Scotland) Act 2001 on sales that follow the calling up of a standard security, or mortgage deed, over a dwelling-house.

In this context, I also note that those who want an exemption for a main residence accept that there should be a procedure whereby the creditor could petition the court in exceptional circumstances for the house to be included precisely because it may have a significant value and a substantial amount of equity, which should be available to creditors and which would be available if the debtor was sequestrated in the first place. Accordingly, we are not talking about absolute positions on either side of the argument.

The debate is between, on the one hand, those who would include main residences, subject to a discretion given to the sheriff to refuse a sale in order to mitigate undue hardship, and, on the other hand, those who want to exclude main residences, subject to a discretion given to the sheriff to include the house where it would be unfair to the creditor not to do so.

I have always found it odd that our consumer protection laws for mortgages and other forms of secured borrowing require lenders to inform borrowers that their homes are at risk if they do not keep up payments, but people do not understand that if they run up tens of thousands of pounds of credit card debts, their homes are equally at risk if that results in bankruptcy and sequestration. I think that we as a Parliament would send out entirely the wrong message to people in Scotland if we in any way gave the impression that people can spend as much as they like on their credit cards but their homes will always be safe. That is not the case.

For the reasons that I have stated, I think that main residences should not be exempt from the proposed land attachment. However, the Executive may wish to consider whether the factors to be considered by the sheriff before granting an order of sale could be adjusted to accommodate some of the concerns that have been raised. I welcome the minister's remarks in that respect.

15:49

Tommy Sheridan (Glasgow) (SSP): I hope that the fact that David McLetchie from the Conservatives has just supported the Executive will sound enough of an alarm bell for the Executive to lodge significant amendments to the bill at stage 2. The bill in its current state is unsupportable for those who genuinely wish to see real balance between creditors and debtors. If there were some form of Hippocratic oath for politicians in relation to introducing legislation, we would have failed with this bill. The actions that are intended to follow the new powers that will be given to debtors will make matters worse, not better.

We need look no further than the words of a witness from the Law Society on the subject of land attachments:

"Once people hear how land attachment is going to work, there will be a queue."—[*Official Report, Enterprise and Culture Committee*, 21 March 2006; c 2853.]

The Law Society is certainly not known for being down at the coalface on the side of the debtors, but it is willing to acknowledge that land attachments as proposed in the bill will lead to a queue of creditors. The Law Society made the

point that the creditors would come from England in particular, because creditors there already have an equivalent in the form of charging orders. Among England-based creditors pursuing debtors, there has been a 178 per cent increase in the use of charging orders over the past five years. Those creditors will be waiting to use the land attachment procedure.

David McLetchie says that we overstate the degree to which the bill will cause homelessness. He misses the point that both Christine Grahame and I have made. In 2002, the last year in which poindings were allowed, there were 13,500 poindings. That means that 13,500 people had to go through the embarrassment of having their goods priced and valued, under the threat that if they did not pay up, their goods would be sold. There were only 420 warrant sales that year. Why? Because the poindings acted—to use the words of sheriff officers and others—as a "spur to payment". The fact that that spur to payment led people to spiral even deeper into debt, because of their desire to get the poinding action removed, was of no consequence to those who were interested only in pursuing the debt.

In a similar way, land attachment will cause fear and alarm. Let us remember what we are talking about. In effect, we are talking about giving assistance to some of the most disreputable credit agencies in the whole of Britain—agencies that encourage people to take out unsecured loans. They throw unsecured loans at people, making the loans as attractive as possible. The land attachment process will turn an unsecured loan into a secured loan, thus helping the disreputable operators in the credit agency business. When, much later, people realise that their very home is on the line, they will go to whoever can give them the money to pay off that particular debt. That will not solve the problem; it will get people into even deeper problems. That is why the current proposals in the bill cannot be supported.

The minister must be much firmer and must tell us that the land attachment provision will go. He must not tell us that some value will be attached to it, or that it will be amended; he must tell us that it will be removed. Scottish Churches Housing Action says:

"At precisely the time when the Communities Minister is looking for innovative ways of preventing homelessness, here is an Executive Bill introducing a new way of making people less secure in their homes."

Allan Wilson: I take the point that is being made and I understand the importance of debt relief in the process. However, does the member agree with the argument that land attachment as such would make some debtors less likely to be made homeless than would be the case if

creditors pursued the obvious alternatives of sequestration or bankruptcy?

Tommy Sheridan: The problem with that argument is that there is not a shred of evidence to back it up. That is the difficulty. The Executive is throwing in the measure on a wing and a prayer and hoping that people will support it. Scottish Churches Housing Action also stated:

"A store card can easily take you over £1,500; we're not saying people shouldn't pay off their debts, but this measure is way out of proportion."

That is the point—the measure is way out of proportion.

The minister must do a lot more to get the bankers round the table. They make £7,000 million profit a year—£4 million a day—but they tell us that they cannot devise a system to identify whether money that goes into accounts comes from benefits. Pull the other one. Those people are happy to take maximum profit from accounts, so it is about time that they ensured that no one who is on benefit and in debt has their account arrested.

15:55

Richard Baker (North East Scotland) (Lab): The bill is a major and highly technical one. The Enterprise and Culture Committee was even more grateful than usual for the presence of an adviser to provide us with the necessary context and information on some of the more complex and detailed points of the bill. As we have heard, the bill is driven by important fundamental principles, which are to modernise our bankruptcy and diligence laws; to strike a better balance between the rights of creditors and debtors; and, as with other legislation from the Parliament, to uphold the can pay, should pay principle, while helping those who, for whatever reason, genuinely struggle to meet the financial demands of their debts. That issue particularly exercised the committee.

The committee could not go into the background of the growing culture of debt, which several members have, understandably, mentioned; instead, we focused our report on the extensive provisions in the bill. However, all the committee members were conscious of the importance of a wider approach—not only legislation, but education, advice and support—to encourage people not to get into debt and to help themselves out of it. Of course, the Executive works continually on those issues.

The fact that the number of bankruptcies is increasing and that the law has already been changed in England puts us in a situation that demands that our laws be modernised. Another reason why the Executive has introduced the bill is to encourage a more entrepreneurial culture in

Scotland. However, as has been said, the committee received conflicting views on that and believes that the bill will be most effective in that regard in creating a uniform law throughout the United Kingdom. A level playing field makes sense for the business community. However, the bill was never just about the climate for business; it also seeks to modernise enforcement procedures. Therefore, we have the proposals to change the titles of messengers-at-arms and sheriff officers and to establish a Scottish civil enforcement commission. Despite the general climate of considering which quangos we can bonfire, the committee nevertheless thinks that that is the best approach, with the caveat that the Executive should respond fully to the issues that the Finance Committee rightly raised about the costs of the new commission.

The key issue for the committee was the way in which the bill will affect individuals who are in the predicament of bankruptcy or who face bankruptcy. That perspective led to important conclusions in our report. We received strong representations from organisations such as Citizens Advice Scotland on issues such as land attachment; bank arrestment; no income, no assets clients; and the debt arrangement scheme.

A particular controversy has arisen over the proposals for land attachment. As several members have said, that is the major issue of contention, which is why the committee asked the Executive to consider amending the bill to exclude debtors' main dwelling from the scope of land attachment, with the possibility of an appeal to the sheriff. Earlier, the minister gave assurances about the safeguards that are already in the bill. Further information on those safeguards would be useful, so that we can be confident that the balance is right. It is crucial that that balance is achieved in the bill, however that is done. The committee was exercised by a concern that forced sales of homes might lead to homelessness. We do not see that as sensible in any circumstance and we seek further reassurances from the Executive on the impact of the proposals and their relationship with our general approach in homelessness and housing legislation.

Another key aspect of the bill from the point of view of the debtor is the relationship with the debt arrangement and attachment scheme, which was established in the previous session of Parliament. The Executive wants to ensure that the scheme makes an important contribution to enabling people to deal with their debts. During the committee's evidence taking, a great deal was said about the changes that are required for the scheme to become a realistic option for debtors to use. If we are to have more advisers to manage schemes, they should receive the appropriate training. That is needed if debt arrangement is to

prove a real alternative to the measures that the Executive is proposing in the bill.

Other members raised important issues such as the proposed reform of protected trust deeds and the impact that that could have on credit unions. Like other members, I urge the Executive to look into the issue carefully and to engage in further dialogue on it.

The committee raised a number of areas to which we want the Executive to give further thought so that it can return with amended proposals at stage 2. I stress that the bill was given a general welcome not only by the committee but by the organisations from which we took evidence. The proposals are widely seen as positive. I welcome the committee's endorsement of the general principles of the bill and I commend the report to the Executive and the Parliament.

16:00

Euan Robson (Roxburgh and Berwickshire)

(LD): I am grateful for the opportunity to make a few remarks on five points that relate to the bill. The remarks come from some years of experience in handling debt cases not as a solicitor, but in the energy industry. That experience is fading a bit into the past now, as is the work that I did on the working group that considered the replacement for poindings and warrant sales, on which David McLetchie also sat.

As I said, I will concentrate my speech on five points, the first of which is the matter of land attachment, which a number of members have raised in the debate. I am not clear why the Executive considers the measure to be necessary in addition to, or as a replacement for, inhibition. In my experience, inhibition is a particularly powerful means of ensuring that the debtor concentrates on his or her obligations. Clearly, as the Executive says in the policy memorandum,

"Inhibition is a freeze diligence."

However, it was and is an effective measure. Land attachment seems to take the position very much further in the creditor's favour.

Perhaps in the light of day the Executive will reconsider the figure of £1,500, which is the bottom threshold. The figure may be consistent with the ordinary cause threshold, which is currently £1,500. For a long time, my view has been that the small claims threshold should rise from the current £750 to about £1,500. If that were to happen, the summary cause threshold would also be raised from £1,500 to about £5,000. If the upper threshold of ordinary cause was at £5,000, it might be sensible to consider the use of the same figure for the threshold for land attachment. That would require some reform—some overdue

reform—to the threshold for ordinary and summary cause small claims. The minister will reflect on what is said in the debate today. There is a balance to be struck, which perhaps lies in the threshold and not in the new proposal for land attachment.

From the days of the working group that looked into the replacement for poindings and warrant sales, I recall that there was considerable discussion of the messengers of court. I therefore particularly welcome the fact that section 55 seeks to regulate their activities in a proper manner. That development is welcome and I hope that it secures the future of messengers of court. They should not be associated only with activities that they have been associated with in the past, including poindings and warrant sales because, as Kenny MacAskill rightly said, messengers of court deliver a wider service than that. Clearly, regulation will be helpful in this regard.

I turn to the difficult area of arrestment of benefits. Some helpful schemes operated in the past, one example of which was the Department of Social Security 519 fuel direct scheme, which allowed benefits to be paid directly to energy companies where there was a debt on a domestic account. That was done with the agreement of the recipient of the benefit: it is important that the recipient should give agreement if payment is to be taken from benefits, because the securing of agreement is in itself important in bringing about in the individual concerned a greater understanding of the nature of the debts that they have incurred. As members have said, it is rare for debt to be related to only one aspect of a person's personal or financial affairs. Debtors usually have multiple debts, some of which might be composite but others of which remain extant. Therefore, it is extremely important that those debts are discussed with them to enable them to understand their circumstances and to help them to find a way through the debts.

We still need to invest more in money advice services. Money Advice Scotland does a good job, but its role could be expanded. It is also important that local authorities properly fund citizens advice bureaux, which, as has been stated, do an excellent job. For example, in my constituency, which has fewer than 50,000 residents, the citizens advice bureaux have handled debt cases worth a total of more than £2 million. Consumer debt represents 72.5 per cent of all debt issues that are raised with the CABx. If we do not invest in the CAB network and in money advice, we will miss the opportunity to help people to escape debt, to ensure that creditors are paid and to manage some of the explosion in debt that has taken place in recent months.

16:07

Mark Ballard (Lothians) (Green): I am not a member of the Enterprise and Culture Committee, but I speak in the debate in place of my colleague, Shiona Baird. I am sure that other members will join me in wishing her all the best following the sad news of her family bereavement.

It is clear that the Enterprise and Culture Committee conducted a comprehensive inquiry into an exceptionally complex issue. I was slightly surprised that the bill went to that committee in the first place, given that the overwhelming bulk of bankrupts in Scotland are not entrepreneurs but private individuals who are saddled with consumer debt. However, I pay tribute to Alex Neil and the other committee members for getting their heads round the technicalities of bankruptcy and diligence and for considering all the aspects and producing a strong and thorough report.

One theme in this surprisingly consensual debate has been the need for a balance between the rights of debtors and those of creditors. That is perfectly correct; we must take care that the pendulum does not swing too far in either direction. Although I echo the concerns that have been voiced about how credit is offered in Scotland and about wider issues of financial exclusion, those are not the issues on which we are legislating, so it is important that we acknowledge that the bill can go only so far in dealing with them.

There are several major areas of concern about the bill. For example, there has been much discussion of land attachment. Organisations such as Citizens Advice Scotland discussed land attachment with the Scottish Executive far in advance of the drafting of the bill and pointed out the concerns about individuals possibly facing the loss of their primary dwellings—their homes—over relatively small debts that had not originally been secured on their homes. There is regret in all parties in Parliament that the bill appears still to allow that. I am glad that the committee's stage 1 report has taken issue with that provision and I hope that the Scottish ministers will take on board all the comments that have been made on that. It makes no sense for bankruptcy proceedings to have the potential to cause homelessness.

While we are on the subject of homelessness, I must say that I share the concern that benefits—in particular, housing benefit—do not appear to be protected effectively from bank arrestment. The new limit of £370 is welcome, but for people in the private rented sector in cities—especially Edinburgh—the amount of housing benefit that is paid is likely to be well in excess of £370. People who face bank arrestment of their housing benefit could experience major problems. I am concerned that there seems to be a major misconnection

between social security policy at a UK level, which aims to protect benefits, and the provisions in the bill. I hope that that will be addressed at stage 2.

We have heard a lot about the so-called NINAs—people who have no income and no assets. The balance in this aspect of the current bankruptcy system is perhaps wrong. Creditors rarely see much benefit in initiating bankruptcy proceedings against such individuals; they know that there is very little in it for them. NINAs can face a lifetime of debt without any prospect of the release that bankruptcy can, paradoxically, bring. It is not clear to me how the bill will help such people. I add my voice to the organisations that are calling for provisions to be made to help people in that situation out of what can be described only as a complete financial impasse.

I echo the calls that are made in the committee report for the Scottish Executive to publish the results of its working party on debt relief. It is important for the different pieces of work in this area to take place in parallel. It makes no sense for a bill on bankruptcy not to be fully informed by provisions that are intended for members of society who are most at risk from unpayable debt.

I draw the minister's attention to the concerns that were expressed during the recent members' business debate on credit unions—which have been raised again by Christine May and Jackie Baillie—about the impact of protected trust deeds on credit unions. Credit unions are a vital part of the solution for people who face crippling debt, but including them with commercial debt in a protected trust deed seems to wrap up the solution of credit unions with the problem of the commercial debt, which will often have been offered in an inappropriate fashion. I would like the minister to consider the issues that Jackie Baillie raised. In particular, if there is an exemption for student loan debt, there is perhaps a possibility of having a parallel exemption for credit unions from the terms of protected trust deeds, so that they can continue to offer a financial lifeline.

Shiona Baird specifically asked me to thank the committee's adviser for the assistance and guidance that he provided during stage 1 of the bill—Nicholas Grier was invaluable to her and to other committee members as he helped them to navigate the pitfalls and intricacies of bankruptcy. The committee and Parliament are indebted to him.

Like other members, I welcome the updating of the law on bankruptcy and diligence, but there is a need for a thorough round of amendments at stage 2 to fill the holes that have been identified by members of various parties and to get a decent bill before we get to stage 3.

16:13

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): We are here to modernise the law of bankruptcy, in particular the Bankruptcy (Scotland) Act 1985 and the Bankruptcy (Scotland) Act 1993.

The 1993 act has a rather unusual provenance and it is a little-known fact that *The Herald* diarist, Tom Shields, can claim a significant degree of credit for the passage of that legislation. The 1985 act made provision for insolvency practitioners to be paid rather large amounts of money for putting people through the bankruptcy process. The Scottish Law Commission estimated the cost per annum at between £12,500 and £50,000 but, by the early 1990s, the actual cost was nearly £20 million. My wife—with a bit of offstage prompting from her spouse—had the answer to a parliamentary question that she had obtained publicised in Tom Shield's diary one day. That parliamentary answer listed a hit parade of IPs in Scotland, ranked by order of income received according to the insolvency work that they undertook. The incomes were very substantial indeed. That did not make Tom Shields, me or George Kerr, the accountant in bankruptcy, especially popular with some insolvency practitioners at the time, one of whom described the 1993 act as a socialist plot between the Ewings, George Kerr and Tom Shields. That was the last time I was accused of being involved in a socialist plot. That is the story of Tom Shields's responsibility for the Bankruptcy (Scotland) Act 1993.

Mr MacAskill and Mr Neil referred to the fact that we in Parliament have time for a proper debate on the issue. My wife took part in the proceedings of the standing committee that considered the Bankruptcy (Scotland) Bill on 14 July 1992. It is interesting that, 14 years ago, her amendment 113 called for a much wider exemption of assets from bankruptcy proceedings.

We have mentioned houses, to which I will return. If we really want to encourage entrepreneurship and allow people who are down and out through debt the chance to come back, we have to consider what they might need. They might, for example, need a car to get a job and to get about, particularly if they live in rural Scotland. Is not there a case for saying that a motor car up to a certain value should be exempt, which happens elsewhere? I am not suggesting that—to take a hypothetical example—a politician who has two Jags and gets into a debt problem with, perhaps, grace and favour homes through which there were undeclared taxable emoluments, should be able to avail him or herself of such an exemption. However, in the case of the ordinary

Joe who finds him or herself in difficulty through debt, there is a case for the car to be exempt.

Equally, given that the debtor's family are usually innocent victims, there is a strong case for life policies to be exempt. There is also a case for solatium for personal injuries compensation to be exempt. If a person is injured and sustains brain damage, should his compensation be attachable by his creditors at all? I think not. Those strong arguments were put by Margaret Ewing in 1992. They were not accepted then although, to be fair, Donald Dewar performed a magnificent impromptu rebuttal of them, which I thought was extremely effective at the time. Ian Lang and various others also rebutted them.

We now have the chance to modernise our law in a wider way than has been considered at stage 1. I apologise for not having contributed more to the proceedings thus far to put forward some of the ideas. I hope that the minister, who has said that he is open to suggestions, will hear further representations from me.

The central issue in the debate is land attachment, which we should not consider in isolation. If we have parallel systems with one set of rules for pre-sequestration land attachment, one set for post-sequestration land attachment and a third set for repossession for secure creditors under the Mortgage Rights (Scotland) Act 2001, of which I have not had much experience, we will create anomalies and complexities.

The committee needs to do more work on the recommendations that it made, on which the Executive has to follow up. Paragraph 62 of the committee's report states only that the Executive must bring about changes; it does not say what the changes should be or how they should be brought about. Paragraph 173 refers to providing a right of appeal, which is one way to proceed, and says that houses of significantly high value should not be exempt, which is absolutely right. I really did not understand Mr Sheridan's desire to exempt people who own houses worth £20 million. I would not have expected a millionaires charter to be drawn up by the Scottish Socialist Party.

We have to acknowledge that the democratic system that we have requires protection for property rights. However, given that in the United States of America—the home of capitalism—the system exempts the family home, it would not be a catastrophe for enterprise if we did likewise. There is welcome consensus—the Tories agreed with the committee's somewhat opaque conclusions about land attachment.

There can be a way forward. I suggest that the minister consider the procedure in section 40 of the Bankruptcy (Scotland) Act 1985, which sets out the factors that the court must consider before

there is a sale. They form a comprehensive range of factors. As someone who has tried to prevent the evictions of a great many people—sometimes successfully and sometimes not—I can say that section 40 provides the minister with a means by which he might flesh out the proposals of the committee.

16:20

Mr Kenneth Macintosh (Eastwood) (Lab): I thank the Executive for introducing this bill to modernise the law on bankruptcy and to address the growing problem of excessive consumer debt, which is overwhelming too many families. Like Donald Gorrie, I am not on the Enterprise and Culture Committee, but I am grateful to colleagues on the committee for the work that they have done on this complex matter.

I am aware that I run the risk not of sharing my remarkable insight but of revealing the extent of my ignorance—a trap that Alex Neil fell into during his television interview with me earlier today—but I would like to describe, from the limited experience that I have from my constituency work, the impacts and benefits of the new legislation. I am aware of two cases of businessmen who have lost everything through sequestration—they lost their businesses, their homes and their pensions. Furthermore, because their wives relied on their husbands' income, their wives' retirement incomes were also lost. Those cases go back to the 1990s, and the law has already been changed to offer such individuals and their families greater protection. However, no one should be in any doubt about the impact that bankruptcy had on their lives. To my mind, those individuals are prime examples of people who have been unfairly penalised for entrepreneurial effort and for over extending their businesses.

I accept, however, that the bulk of debt that affects people in Scotland and which is reflected in my constituency work is consumer debt. I am grateful to my local citizens advice bureau, which supports many residents of East Renfrewshire through what can be a traumatic personal experience. I want to endorse some of the suggestions that the CAB has made on amendment of the bill at stage 2.

In my area, consumer debt varies widely, from well over £30,000 in some of the wealthier areas to around £3,000 or £5,000 in lower-income households. We are all aware of the range of cases that that can include. The range will go from little old ladies or widows who have been unable to manage a credit card or credit cards and have been overwhelmed, to families who have good incomes and property but who have been overtaken by credit because of a death or an illness.

How should we deal with those debts? I believe that we need to do more to make the debt arrangement scheme work. I endorse suggestions that we have heard on the composition or consolidation of debt at the outset, the freezing of interest rates and the discharge of outstanding debt after, perhaps, 10 years. No matter what form it takes, there needs to be the inducement of some form of debt relief.

The possibility of a person losing their home over a debt of as little as £1,500 has attracted a huge amount of attention. Rightly or wrongly, many of us place a great deal of emotional importance on the idea of owning our homes while acknowledging the practical reality of living in them. In many cases, all that a debtor requires is time. Some people have equity in their property—they need merely to realise that equity. I wholeheartedly endorse the committee's recommendation that the Executive ensure that the bill be amended to reflect its policy on homelessness.

On protected trust deeds, I listened carefully to the comments of my colleague and friend, Jackie Baillie. As she knows, I am a big supporter of credit unions—in fact, I am a member of two—and I am sympathetic to the arguments that have been put forward on their behalf. However, I do not believe that all insolvency practitioners are overly harsh or are insensitive to the needs of their clients. Although protected trust deeds are not the only route out of debt, they are an important one. I suggest that the current proposal for a minimum 30p in the pound dividend on protected trust deeds would effectively end the use of that vehicle.

Although we are paralleling the situation in England and Wales by reducing the period of sequestration to one year, I must point out that England and Wales do not have a similar compulsory dividend. It is also worrying that some of the figures that have been used to support the proposals might be in doubt. I believe that the Accountant in Bankruptcy has suggested that the average dividend from protected trust deeds might be around 18p in the pound but that because that average ignores people who made no payment, the real average is around 6p in the pound. That should be considered at stage 2.

There are questions about the bill's perhaps overly bureaucratic approach to the supervision of insolvency practitioners. One of my constituents who is an insolvency practitioner made what strikes me as being a sensible proposal. He pointed out that there are already standards that govern insolvency practitioners. A standard called SIP3A was introduced by the Institute of Chartered Accountants of Scotland in 2004. Rather than introduce a new bureaucratic mechanism that

would be supervised by the Accountant in Bankruptcy, it might be preferable to make standard SIP3A statutory and to make supervision of compliance with it the duty of the Accountant in Bankruptcy. I should say that I have had several dealings with the Accountant in Bankruptcy and I am a fan. I believe that it operates well. I hope that the minister will consider the proposal.

Finally, I turn to the reform of apparent insolvency. Donald Gorrie and others talked about NINAs who have no way out of debt. They have no assets, so there is no incentive for credit companies to take them to court or to ask for sequestration. There is nothing for the credit companies to recover, so they would rather continue to pursue people for payment at the rate of perhaps £5 or £10 per week. A person who is on jobseekers allowance, who lives in a council house and who has debts of £2,000 might be paying £5 or £10 per week and that just goes on and on. They might have a store card with an interest rate of 28 per cent. They pay something each week but the interest keeps on mounting so the debt actually increases each year. One way of approaching the matter would be to reform apparent insolvency to give such people a way out of debt. I believe that the Executive is considering that and I look forward to amendments at stage 2.

The Executive has shown that it is open to suggestions. The bill will not make it easier for people to become bankrupt. There are some people—perhaps 1 or 2 per cent—who are chancers.

The Deputy Presiding Officer (Murray Tosh): You really should be closing.

Mr Macintosh: I do not believe that such people are the majority. The system that is proposed in the bill will be better, but I look forward to amendments being lodged at stage 2.

16:27

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I will share something with the chamber. When I left my home in the Highlands yesterday in my car, I came up the wee track that leads up to our croft house. As I pulled away up the single-track road, some constituents in a red car waved cheerily at me; in fact, they waved an enormous amount. I looked out of my rear window and I saw that they were waving even more vigorously, with their arms out of the car, so I pulled up. They reversed back towards me. I got out of the car, as one does to greet one's constituents. A gentleman leapt out of the car and said, "Mr Stone, we recognise you from the television. We are sheriff officers." At that point, I was served with a summons to appear in court. I will share the detail of the story with members at

another time rather than during the debate. These matters are sub judice, as members know.

As the final member of the Enterprise and Culture Committee to speak in the debate, I take the opportunity to thank the clerks, our adviser, Nicholas Grier, and the minister and his civil servants for the courteous way in which they listened and helped and, as Christine May rightly said, took us through a difficult subject. It was a steep learning curve for all members of the committee.

I will touch briefly on members' contributions to the debate—I am sorry that I cannot go more into more detail because time does not permit. In his opening speech, the minister said that the bill is about hope and about debt. That shows the laudable ideal behind the bill. He then cut to some of the main details of the bill. Fergus Ewing, in his intervention, was the first member to raise the question of how frequently land attachment will be used. We heard about the view of the Law Society of Scotland, which is not known for hysterical, poorly thought-out contributions.

Tommy Sheridan raised one of the core issues when he talked about people being scared into hands of loan sharks and others. That takes us to the point, which my colleague Euan Robson made eloquently, that people's ability to avoid the pitfalls depends on the quality of advice.

Kenny MacAskill argued that the bill does not mean an awful lot without independence. That is a coherent position. I happen not to agree with it, but he put the point eloquently. He introduced the interesting concept of decent and caring sheriff officers. They were polite to me, but yesterday's events were nevertheless food for thought.

I am not sure whether Murdo Fraser was at odds with David McLetchie. Murdo Fraser conceded that we must at stage 2 look particularly hard at the £1,500 threshold for land attachment, whereas David McLetchie made much more vigorous comments that gave me the impression that he thinks that if people are in debt, their home should be taken from them.

When David McLetchie referred to Prudence and Jordan, I was at a loss and had to ask my colleague Christine May for advice. I thought that he was referring to the River Jordan, but the reference has been explained to me.

Donald Gorrie's speech was something of a triumph of hope over expectation. He laid out interesting new strands of Liberal Democrat policy of which I had hitherto been unaware. He and Kenny Macintosh talked about the value of credit unions. I regret that we have been unable to start credit unions north of Inverness. That is a great pity, because they could make a big difference in some of our communities.

Alex Neil was correct to talk about the amount of work that remains for stage 2, as was Christine May, who gave an interesting reflection on the committee's work.

I pay particular tribute to Citizens Advice Scotland, which has, along with the Law Society, correctly pointed us in directions and been unflagging in giving us detailed evidence. Credit should be given where it is due.

I wish to make a point that Christine May and Karen Gillon referred to. I hope that the minister has noted the committee's recommendation in paragraph 276, which is on standards in the enforcement industry. The committee is

"not necessarily convinced that the proposal that owners, managers, members and partners in an enforcement company must be qualified sheriff officers is the best way to proceed."

That is a matter for stage 2 that I hope the minister will at least consider. I have pursued that issue at committee meetings.

It is important to note that the committee's report was agreed unanimously. Notwithstanding what Murdo Fraser said about the Conservative party's position, I am not sure how I marry that with the unanimity on the report. Perhaps Murdo Fraser or his colleague Derek Brownlee will return to that issue.

Murdo Fraser: If Mr Stone listened to my speech, he will have heard that we have serious concerns about several details in the bill. Without a commitment from the minister to lodge stage 2 amendments to address those concerns, we will have difficulty in supporting the bill. We therefore intend to abstain—I see no confusion about our stance.

Mr Stone: I note what Murdo Fraser says, but I am not sure how that squares with his support for the report, which all committee members supported.

I thank members for their generous contributions. The report is good and the bill has been thoroughly gone into.

On behalf of the Liberal Democrats, I express my condolences to Shiona Baird, who put in much work at committee. The circumstances of her bereavement are particularly sad.

Considering the bill has been hard work and much work must be done at stage 2, as Alex Neil said. That work will be worth while if we get the bill right, because we will have a great prize that is worth fighting for. That will be a prize for enterprise and will deal with the horror of debt, which Kenny MacAskill was correct to highlight.

The report is good. For Donald Gorrie's information, my party's official position is to

commend the report to Parliament, which I have pleasure in doing.

16:34

Derek Brownlee (South of Scotland) (Con): Several members referred to their professional experience of the law of bankruptcy. I managed to study law and practise accountancy without ever being involved in insolvency, and I was always grateful for that achievement. The law of bankruptcy has always struck me as particularly complex. I was not aware that the Bankruptcy (Scotland) Act 1993 was just a socialist front, but there we go—the previous Conservative Government is accused of many things.

The bill is complex largely because the area of law in general is complex. I suspect that if a person went to any other jurisdiction in the world, they would find equally complex legislation that governs the complicated area of economic activity that we are discussing.

Kenny MacAskill made a valid point about getting things right for the long term. I presume that the Parliament will not return to bankruptcy reform for some time. Therefore, it is important that, rather than accelerating the bill through the parliamentary process, we get the structure of the law absolutely right now so that it lasts for a generation. I hope that all parties will take that point on board. The tone of the debate—which has shown the Parliament at its best—has been measured and considered so far, and I hope that the minister will take seriously the points that have been made in his response and that he will come back later with his views on the substantive points that have been made.

Christine May and many other members have discussed the social consequences of debt, which most members are probably familiar with as a result of their day-to-day experiences. It is important to recognise that a significant number of Scots across the social spectrum are suffering as a result of crippling levels of debt, but the matter is complex and cannot be resolved simply by legislation. We must be careful not to oversimplify matters and suggest that legislation might solve the whole problem.

It has been suggested that the driving force behind the bill is the need to encourage a more entrepreneurial society. Fergus Ewing made valid observations about how the regime in the United States works. All of us would agree that we should make any changes that we can to encourage entrepreneurialism and to encourage people to get back on their feet if their business has failed. [Interruption.]

Christine Grahame: I commend the member for continuing his speech while a ringing mobile

phone is being located. The last thing that he had to suffer was a beam almost falling on his head.

Derek Brownlee: I am rather more relaxed about a mobile phone ringing, as long as the call is not from engineers phoning to warn us of impending disaster.

We must be sceptical about whether the bill will do anything to encourage entrepreneurial activity in Scotland and consider issues such as the low start-up rate of businesses here. Is there a low start-up rate because people are frightened of going bankrupt or because there is a fundamental cultural reluctance to take risks? I suspect that there is a deep-seated cultural issue.

Many members have talked about the debt situation in Scotland. I have been struck by a change in people's attitudes to debt across the generations. Perhaps my generation is instinctively much more comfortable running up large amounts of debt than my parents' generation and the generation before that were. A cultural change has taken place that will not be easily reversed, if indeed it can be reversed. We must be realistic and consider house prices in today's society, for example. For many people, increasing levels of secured and unsecured debt are a fact of life that we must work around rather than simply bemoan and wish away.

Many members have made valid points about issues that are reserved to Westminster, such as consumer credit. Financial education is a key issue that the Executive can address in order to deal with the supply of bankruptcy problems—as opposed to people's problems as they run up debts. One often meets well-educated people who have a very simplistic attitude to dealing with finance, which is astonishing. There is a deep-seated cultural issue that would not be addressed entirely by schools giving money advice, but ensuring that there is greater emphasis in the core curriculum on how to manage money would help. There are a number of initiatives, but it—

Christine May: Does the member accept that lessons on managing money are now built into the curriculum, particularly in what is now called civics, I think, which forms an element of the core curriculum for all high school and some primary school pupils?

Derek Brownlee: As I was saying, I accept that there are initiatives. However, the difficulty is that we will not know about the impact of those initiatives until some years in the future, when it will perhaps be too late to correct things. It is important that we take the issue seriously.

I turn to probably the only aspect of the bill that has made the headlines—the reduction in the period of sequestration. The minister said that there is no evidence that that will increase the

number of bankruptcies. On the basis of what the committee heard, I accept that there might be no evidence for that; however, the fact that it might not increase the number of bankruptcies is the best that could be said about the measure. I do not think that it could be suggested that it will reduce their number.

Part of the reason for reducing the sequestration period to one year, as has been suggested, is the fact that that will align the situation in Scotland with the situation in the rest of the UK. As Murdo Fraser says, on some occasions that can be a valid motive; however, I am not sure that, in this case, there is some great problem that we need to address. Therefore, the desire to align the situation here with the situation in England and Wales does not seem a terribly strong rationale for going down that route. That is in contrast to the point that the committee made about floating charges, in respect of which there is a strong case for alignment across the UK, mainly because of the importance of those measures to business.

There are some good measures in the bill that are welcome. For example, the bankruptcy restriction orders are innovative and could be successful, although we must bear in mind the experience of similar measures in England and Wales. Nevertheless, I suspect that the bill is not as comprehensive as it might be, and there is a lot of detail on which we expect the minister to respond. That is why we reserve our position at this stage, although we hope that the minister will lodge amendments at stage 2 and provide some clarification in his winding-up speech.

The Deputy Presiding Officer: I remind members that mobile telephones, pagers and hand-held computers are supposed to be switched off in the chamber. Since I am in lecturing mode, I point out that we have reached the penultimate speech in the closing round and we are missing five members who took part in the debate. That is particularly poor form.

16:41

Brian Adam (Aberdeen North) (SNP): The minister has been very open today. I hope that his openness will be translated into some significant changes to the bill at stage 2. I am confident that that will be the case.

We have heard a wide range of views expressed today. I pick up on a point that was made by Derek Brownlee in relation to what happens next. Paragraph 239 of the committee's report states:

"the Committee agrees that it will be important to agree upon a sensitive and appropriate timetable for the remaining stages of the Bill ... to avoid the potential pitfalls that can come from a large number of amendments to be considered at stage 3."

Donald Gorrie might have contributed that recommendation, given the fact that he is keen on ensuring that all bills are given appropriate consideration—especially in his new role as the convener of the Procedures Committee.

A range of views have been expressed about what should happen in relation to protected trust deeds. We have heard views on how they currently impinge negatively on credit unions, and the view was expressed by Murdo Fraser that the proposed minimum dividend of 30 per cent has been set too high. That is an area in which the Executive would be well advised to have a close look at getting the balance right. There is no doubt that protected trust deeds work and save the public purse money. If all that we do is transfer the work to the Accountant in Bankruptcy, we will pick up substantial costs. As other members said, the Finance Committee's deliberations on the matter showed that there are concerns around the costs and the mechanisms that will be introduced by the bill. That area needs to be revisited.

The minister began his speech by saying that access to credit is important, especially for those who have traditionally found credit difficult to get. The consequence has been the fourfold increase in personal insolvency that David McLetchie highlighted. Although the measure will address business difficulties, it will apply primarily to people's personal lives. Although we must do all that we can to alleviate difficult circumstances, we should not simply write off folk's debts. If people incur debt, they ought to have a desire—and to be given every opportunity—to repay it. Instead of having sequestration, which simply wipes out people's debt after a year, I believe that protected trust deeds, with their three-year period, probably offer people more of an opportunity to feel good about themselves for addressing their difficulties and clearing their debts.

Christine May: Does the member acknowledge that much of the evidence that we received from CABx and advice agencies suggested that the majority of debtors want to, but cannot, pay and that the bill seeks to strike a balance between them and the won't pays?

Brian Adam: I accept that. However, early in the debate, John Swinburne intervened on the minister to highlight the explosion in junk mail advertising loans and credit cards—[*Interruption.*]

The Deputy Presiding Officer: Mr Adam, I ask you to speak into your microphone. I do not think that people in the gallery can hear you when you turn away from it.

Brian Adam: The problem is not just that we receive so much of that junk mail but that much of it is targeted at certain groups and that the interest rates associated with such loans and credit cards

are horrendously high. Now that our economy is fuelled by the high interest rates on personal debt, the caricature of the canny Scot, in which we might once have taken a certain pride, is certainly no longer true. We are the most debt-ridden nation in Europe.

Christine Grahame: Does the member share my concerns about companies that advertise consolidated loans on afternoon television? Although such loans seem like an easy way of resolving debts to the very vulnerable people at whom they are targeted, they are most certainly not.

Brian Adam: I accept that point.

We must address the problem of irresponsible access to credit. Although we cannot have a society that does not have access to credit, we need for the sake of our economy to ensure that debt levels are sustainable. I do not think that current personal debt levels are sustainable. The crisis will hit not only our economy but the economies of other western democracies in the not-too-distant future.

Although the bill represents a significant step forward in dealing with debt issues, I again endorse the committee's recommendation in paragraph 239 that it must be handled with sensitivity. After all, it would be much better to take a consensual rather than confrontational approach to the bill. Even if it means taking our time and referring certain matters back to the Executive, we need to find an appropriate mechanism and timescale to address a number of issues that have not yet been fully teased out.

The Deputy Presiding Officer: I call Allan Wilson. Minister, you have 10 minutes.

16:49

Allan Wilson: That is two minutes more than I expected to get. That welcome bonus will give me time to expand on some of the points that have been raised.

Most members will agree that the debate has been remarkably good and free of the usual political rancour that so often accompanies these occasions. I, too, noticed the dichotomy between Murdo Fraser's comments and those of David McLetchie. Mr McLetchie's speech was much more balanced, although I cannot possibly agree with his description of the Chancellor of the Exchequer's astute and prudent stewardship of the national economy.

I do not think that there is much in principle between the parties, unless the nationalists' call for a tartan credit scheme is to be taken seriously. Of course, I would be a wee bit more impressed if such a proposal were underpinned in any way by

a fiscal, monetary or even interest-rate policy to give it some credibility, or even if we knew whether the interest rates would be set here or by a European central bank. It is a debate for another day, perhaps. *[Interruption.]* The matter was raised during the debate, and members are keen that the right balance should be struck. I believe that these matters need to be addressed on a UK basis and consensus has built up around the need for the reforms in the bill, so that it is compatible and so that both sides of the coin—credit and debit—are dealt with equitably. Striking that balance means making the correct judgment, and in matters of judgment fair-minded people can have the best of intentions and still disagree. Nevertheless, the debate has been remarkably free of that level of disagreement.

I said that I wanted to listen and I believe that I have done so. I hope that Brian Adam will acknowledge that there are some parts of the bill on which I have already indicated that there is a need to take a different approach. On the point made by Kenny MacAskill, I accept that the proposed new title “messenger of court” for the single court officer profession has not found favour with the existing sheriff officer and messenger-at-arms professions, and I am happy to agree with the committee that the name should change. I will lodge an amendment at stage 2 to change “messenger of court” to “judicial officer”. I have also listened to the argument that the new judicial officers should be appointed by a judicial figure, and I will lodge an amendment to the effect that judicial officers will be appointed by the Lord President on the recommendation of the Scottish civil enforcement commission.

To respond to the point that John Swinburne made, I think that the Scottish civil enforcement commission would be able to look into the prevalence of junk mail in the Royal Mail—something that would be welcomed by members of all parties.

Karen Gillon: Does the minister agree that, regardless of what those people are called, it is totally inappropriate for any sheriff officer in Scotland to indulge in a fishing expedition such as the one that my constituent suffered this morning, which could have caused considerable distress to an elderly person being faced with the threat of a £650 bill relating to a debt that was in no way incurred by her?

Allan Wilson: I agree, and I will come to the serious issues that that case raises about the regulation of those professions.

Part of that is to do with reform of the debt arrangement scheme. I accept the argument made by Citizens Advice Scotland, Money Advice Scotland and others that the debt arrangement scheme should include, as an important part of the

package, debt relief. I am therefore happy to accept the committee's recommendation to that effect and I will lodge an amendment at stage 2 to enable debt relief in the scheme. As Ken Macintosh, Jackie Baillie and others mentioned, there are different ways of providing debt relief, but it seems clear to me that the greatest need is for interest freezing at the start of a debt payment programme, and I am ready to discuss with colleagues exactly how we should progress from here.

Some people have said, in this debate and in others, that the debt arrangement scheme has not worked. I disagree. I would obviously welcome more take-up by money advisers, and I hope that introducing debt relief will bring home to them how the scheme will work for their clients. Money advice will be a key part of the DAS but, if need be, I will consider ways in which people can get the benefit of a debt payment programme. That is a critical measure that will improve the scheme and will address some of the points raised by many members, including Tommy Sheridan.

We will make other, minor changes in response to other recommendations in the committee's stage 1 report. Time is short and I cannot go into them here, but I am happy to discuss them with colleagues. I have been impressed by some of the arguments that have been made, although I do not agree with them all. All the same, it is right for the Executive to look again at some of the reforms in the bill. If the balance is in the right place, that is well and good. If not, we will have a chance to make changes at stage 2.

Looking first at land attachment, I am pleased that the committee has endorsed the principle behind the new diligence, although I understand the concerns of some members that attaching people's homes could cause an increase in homelessness. That is an area where striking the right balance is a particular challenge, but it is one that we need to get right, given how important homelessness is. The sad truth is that people with debt problems sometimes lose their homes, whether that is through bankruptcy or some other cause. The committee, Mr MacAskill and others accepted that in some cases it may be right to attach and sell a debtor's main home.

Tommy Sheridan: Does the minister accept that in the cases to which he refers there is a difference between a secured loan and an unsecured loan? Land attachments could lead to an unsecured loan unwittingly becoming a secured loan. Is that not the problem?

Allan Wilson: I have made the point, which I will repeat, that all forms of diligence turn unsecured loans into secured loans.

I also made the point to Tommy Sheridan during the debate that there is an argument that land attachment will help some debtors, as they will be less likely to be made homeless than they would be if the creditor decided to bankrupt them for the same debt. It is interesting that, in response to that point, Tommy Sheridan suggested that there was no evidence base to back that up. That suggests to me that there is not a difference between us in principle, but that we require to work up the evidence base to convince him. I am perfectly prepared to do that. It is crucial that we ensure that we have done as much as we can do to help people in such a difficult position. I hope that Tommy Sheridan will come along with me in that effort.

Fergus Ewing: I will give a brief example of a situation in which land attachment might prove to be a more benign option than sequestration. Unfortunately, many debtors bury their heads in the sand, leave it until it is too late to deal with the problem and are sequestrated, at which point it is almost impossible to protect the family home. Land attachment will focus some people's minds without sequestration and thus allow the family to rally round the debtor to protect the family home. Thereby, sequestration might be avoided.

Allan Wilson: It has taken seven years, but I have to say that I could not agree more.

The important announcement that I made today on introducing debt relief into the debt arrangement scheme gives any debtor in that situation the opportunity to stop the land attachment, enter into a new arrangement to have their debt relieved and thus avoid the possibility of the repossession or sale of their home.

I was interested in the points that Fergus Ewing made about sequestration. The trustee will consider the individual circumstances of debtors. For example, a car may not be sold if it is necessary for the pursuit of the business.

We heard a lot of evidence from Fergus Ewing and others about the problem that some debtors have in using debt relief because they are not apparently insolvent—it is sometimes called the no income, no asset issue. The Executive set up a working group in November to explore the problem. I have made it clear that people who are genuinely unable to pay their debts should not be stopped from getting debt relief by laws that are no longer fit for purpose. The committee agrees and has recommended that the Executive completes its consideration of the working group's proposals sooner rather than later. I share that determination and am already talking to interested stakeholders. For example, I have had a useful discussion with the Institute of Chartered Accountants of Scotland, which is the main regulatory body for Scottish insolvency practitioners.

I have read with interest the committee's discussion of the planned reform of protected trust deeds. We are still examining the responses to our recent consultation. I take on board the points made by Jackie Baillie, Christine May and Christine Grahame. I am clear that protected trust deeds must be better for all creditors including, of course, credit unions and I will consider whether there are better ways to deliver that policy. I will do so at a joint meeting with credit unions. *[Applause.]* I thank the one member who clapped for that warm endorsement.

In conclusion, the bill makes necessary changes to ensure that personal insolvency law strikes the right balance between debtors and creditors and protects the public interest. I take much pleasure in commending the bill to Parliament at stage 1.

Bankruptcy and Diligence etc (Scotland) Bill: Financial Resolution

17:00

The Presiding Officer (Mr George Reid): The next item of business is a financial resolution. I ask Allan Wilson to move motion S2M-4383, in the name of Tom McCabe, on the financial resolution in respect of the Bankruptcy and Diligence etc (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Bankruptcy and Diligence etc. (Scotland) Bill, agrees—

- (a) to any—
 - (i) increase in expenditure charged on; and
 - (ii) expenditure for new purposes or increase in expenditure for existing purposes payable out of, the Scottish Consolidated Fund in consequence of the Act; and
- (b) to any charge imposed, and any payment required to be made, in consequence of the Act.—[*Allan Wilson.*]

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

Business Motions

17:00

The Presiding Officer (Mr George Reid): The next item of business is consideration of business motion S2M-4439, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a revision to the business programme.

Motion moved,

That the Parliament agrees the following revision to the programme of business for Thursday 25 May 2006—

after,

2.55 pm

Continuation of Stage 3 Proceedings: Police, Public Order and Criminal Justice (Scotland) Bill

delete,

followed by

Parliamentary Bureau Motions

followed by

Continuation of Stage 3 Proceedings: Interests of Members of the Scottish Parliament Bill.—[*Ms Margaret Curran.*]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S2M-4440, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees the following programme of business—

Wednesday 31 May 2006

2.30 pm

Time for Reflection

followed by

Parliamentary Bureau Motions

followed by

Stage 3 Proceedings: Animal Health and Welfare (Scotland) Bill

followed by

Business Motion

followed by

Parliamentary Bureau Motions

5.00 pm

Decision Time

followed by

Members' Business

Thursday 1 June 2006

9.15 am

Parliamentary Bureau Motions

followed by

Scottish Conservative and Unionist Party Business

11.40 am

General Question Time

12 noon

First Minister's Question Time

2.15 pm

Themed Question Time—
Education and Young People,
Tourism, Culture and Sport;
Finance and Public Services and
Communities

2.55 pm

Executive Debate: Architecture

followed by Parliamentary Bureau Motions
 5.00 pm Decision Time
followed by Members' Business
 Wednesday 7 June 2006
 2.30 pm Time for Reflection
followed by Parliamentary Bureau Motions
followed by Finance Committee Debate: 5th Report 2006, Cross-cutting Expenditure Review of Deprivation
followed by Business Motion
followed by Parliamentary Bureau Motions
 5.00 pm Decision Time
followed by Members' Business
 Thursday 8 June 2006
 9.15 am Parliamentary Bureau Motions
followed by Subordinate Legislation Committee Debate: 21st Report 2006, Inquiry into the Regulatory Framework in Scotland – Draft Report
followed by Parliamentary Bureau Motions
followed by Continuation of Stage 3 Proceedings: Interests of Members of the Scottish Parliament Bill
 11.40 am General Question Time
 12 noon First Minister's Question Time
 2.15 pm Themed Question Time—Environment and Rural Development; Health and Community Care
 2.55 pm Executive Business
followed by Parliamentary Bureau Motions
 5.00 pm Decision Time
followed by Members' Business.—[*Ms Margaret Curran.*]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S2M-4438, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for legislation.

Motion moved,

That the Parliament agrees that consideration of the Planning etc. (Scotland) Bill at Stage 2 be completed by 6 October 2006.—[*Ms Margaret Curran.*]

Motion agreed to.

Parliamentary Bureau Motions

The Presiding Officer (Mr George Reid): The next item of business is consideration of two Parliamentary Bureau motions. I ask Margaret Curran to move motions S2M-4436 and S2M-4437, on the approval of Scottish statutory instruments.

Motions moved,

That the Parliament agrees that the draft Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Treatment of Office or Body as Specified Authority) Order 2006 be approved.

That the Parliament agrees that the draft Private Water Supplies (Notices) (Scotland) Regulations 2006 be approved.—[*Ms Margaret Curran.*]

17:01

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): The Conservative group will oppose the draft Private Water Supplies (Notices) (Scotland) Regulations 2006. Around 150,000 people in rural Scotland rely on private water supplies. We fully support the Executive's ambition to improve the quality of water obtained from private sources, which can be variable, as members will know. However, to us, this SSI seems like the Executive using a massively expensive hammer to crack a relatively small nut. The SSI will be particularly onerous for small local businesses, including bed and breakfast establishments and other tourism-related enterprises, which could face quarterly testing of their private water supplies, with each test costing as much as £630.

The Executive is making £8 million per annum available to local authorities over the next two years to provide grants to improve private water quality, but the costs of the proposed tests will not be covered by the grants. The quarterly testing would continue until the water in question was judged "wholesome". We are told that the grants will work out at an average of £800 per applicant. However, it is estimated that, in certain cases, the remedial work to bring the water quality up to standard could cost as much as £10,000.

We believe that this SSI will come as a massive shock to many small businesses, which will be unaware of the impending legislation. Further, users of private water are usually in economically fragile areas and this latest set of proposed charges could well tip the balance for some small businesses and make them non-viable. It is our view that the legislation's provisions could be introduced much more gradually, with due recognition of the disproportionate financial impact that the charges are likely to have.

17:04

The Deputy Minister for Environment and Rural Development (Rhona Brankin): The draft Private Water Supplies (Notices) (Scotland) Regulations 2006 will implement the revised drinking water directive in respect of private water supplies. The overriding objective of the regulations is to ensure the provision of clean and wholesome drinking water and significant health benefits to those using such supplies. That basic health and safety requirement is vital for a buoyant and successful rural economy.

The quality of water from private supplies is highly variable and when it is poor it can cause significant health problems. Health Protection Scotland estimates that those served by private supplies are 10 times more likely to become ill from drinking contaminated water than those served by the public supply. It is therefore essential that rural businesses meet modern quality standards and ensure that the water that they offer the public is safe to use.

The Executive is sensitive to the impact that the regulations will have. That is why a new grant scheme, as well as information and advice, will be available alongside the new regulations. That will assist individuals and businesses who need to improve their private supplies. In each year, £8 million has been identified by the Scottish Executive for that purpose.

Mr John Swinney (North Tayside) (SNP): Will the minister repeat the assurances that she gave when this issue was considered by the Environment and Rural Development Committee: that the Executive would monitor how the regulations were implemented by local authorities in order to guarantee that there would be proportionality in their application and that there would not always be a need to have recourse to the maximum possible testing regime for individual rural businesses?

Rhona Brankin: Of course I am prepared to repeat that reassurance. It is important that the regulations are proportionate and that the requirements are the minimum necessary to protect human health, comply with the water directive and promote real and lasting improvements in the supplies from private sources.

VisitScotland recognises the importance of these measures to the tourism industry in Scotland. It is very supportive. The regulations are founded on the principles of better regulation; they are proportionate, targeted and risk based. They have been approved by the Environment and Rural Development Committee and they have the full support of health professionals. The requirements of the regulations are the minimum

necessary to protect human health and comply with the drinking water directive. They will promote real and lasting improvements in private supplies in Scotland. I commend the regulations to Parliament.

Decision Time

17:06

The Presiding Officer (Mr George Reid):

There are four questions as a result of today's business. The first question is, that motion S2M-4269, in the name of Allan Wilson, on the general principles of the Bankruptcy and Diligence etc (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)

McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Byrne, Ms Rosemary (South of Scotland) (SSP)
 Curran, Frances (West of Scotland) (SSP)
 Fox, Colin (Lothians) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Sheridan, Tommy (Glasgow) (SSP)

ABSTENTIONS

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Petrie, Dave (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Murray (West of Scotland) (Con)

The Presiding Officer: The result of the division is: For 94, Against 5, Abstentions 16.

Motion agreed to.

That the Parliament agrees to the general principles of the Bankruptcy and Diligence etc. (Scotland) Bill.

The Presiding Officer: The second question is, that motion S2M-4383, in the name of Tom McCabe, on the financial resolution in respect of the Bankruptcy and Diligence etc (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)

McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Byrne, Ms Rosemary (South of Scotland) (SSP)
 Curran, Frances (West of Scotland) (SSP)
 Fox, Colin (Lothians) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Sheridan, Tommy (Glasgow) (SSP)

ABSTENTIONS

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Petrie, Dave (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Murray (West of Scotland) (Con)

The Presiding Officer: The result of the division is: For 93, Against 5, Abstentions 16.

Motion agreed to.

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Bankruptcy and Diligence etc. (Scotland) Bill, agrees—

- (a) to any—
- (i) increase in expenditure charged on; and
 - (ii) expenditure for new purposes or increase in expenditure for existing purposes payable out of,
- the Scottish Consolidated Fund in consequence of the Act; and
- (b) to any charge imposed, and any payment required to be made, in consequence of the Act.

The Presiding Officer: The third question is, that motion S2M-4436, in the name of Margaret Curran, on the approval of a Scottish statutory instrument, be agreed to.

Motion agreed to.

That the Parliament agrees that the draft Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Treatment of Office or Body as Specified Authority) Order 2006 be approved.

The Presiding Officer: The fourth and final question is, that motion S2M-4437, in the name of Margaret Curran, on the approval of an SSI, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)

Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (SSP)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)

Johnstone, Alex (North East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Petrie, Dave (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Murray (West of Scotland) (Con)

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

Motion agreed to.

That the Parliament agrees that the draft Private Water Supplies (Notices) (Scotland) Regulations 2006 be approved.

Sectarianism

The Deputy Presiding Officer (Trish Godman): The final item of business is a members' business debate on motion S2M-3906, in the name of Bill Butler, on sectarianism in Scotland.

Motion debated,

That the Parliament welcomes the launch of the Scottish Executive's 18-point Action Plan on Tackling Sectarianism which will see the Executive support and expand the range of local and national initiatives that emerged from the National Summit on Sectarianism, held in February 2005; recognises that sectarianism is a problem throughout Scotland and that it must be confronted; realises the importance of supporting community-based projects, such as Glasgow City Council's Sense over Sectarianism campaign and the twinning of denominational and non-denominational schools, in challenging sectarian attitudes and improving young people's understanding of each others' cultural identities, and commends the efforts of the Executive, local authorities, charities such as Nil By Mouth, churches and community groups in highlighting the problems of bigotry and sectarianism which exist within communities and workplaces throughout Scotland.

17:12

Bill Butler (Glasgow Anniesland) (Lab): Until recently, the subject of sectarianism, when raised at all, provoked either an awkward silence or a denial that a problem existed. That approach was wrong, because Scotland continues to have a problem with sectarian attitudes—sectarianism has not vanished. Today, in what I understand is the first debate that has been devoted solely to discussing sectarianism, the Parliament has the opportunity to accept that there is a problem and to discuss ways and means of tackling it. I am delighted that we are joined by the moderator of the General Assembly of the Church of Scotland, the Rev Alan McDonald, and Cardinal Keith O'Brien. I welcome them to the Parliament and thank them for giving their time to listen to what we have to say. They are joined by others who represent many strands of Scotland's faith community. I am also glad that we are joined by representatives of Nil by Mouth, a charity that has been at the forefront of the anti-sectarianism campaign in recent years.

In 2004, the First Minister called sectarianism Scotland's secret shame and spoke about his personal experiences of it. That was the right thing to do, because it sent out a clear message that the subject can no longer be swept under the carpet. In February 2005, the First Minister convened an historic summit on sectarianism in Scotland, which brought together the voluntary sector, police, media, church and faith leaders, representatives of football teams and their supporters, local authorities, trade unions and business. From that summit emerged Scotland's national action plan to

tackle sectarianism, which was launched in January this year and which highlights 18 key areas on which the Executive will take action.

I will focus on some of those areas. Let us take sport. Sectarianism is of course not merely a football problem, but it is undeniable that a sectarian element has attached to football clubs, particularly, but not exclusively, to Rangers and Celtic. Unison's 2001 study into the impact of old firm games on accident and emergency units throughout Scotland showed that the worst-affected unit was in Monklands, where attendances as a result of assaults on the day of an old firm fixture were a staggering nine times the norm. However, increases were recorded at almost every accident and emergency unit the length and breadth of Scotland.

I am glad to report that the clubs are taking the problem seriously and are acknowledging their civic obligation to help to stamp out sectarian behaviour. Last year, Rangers and Celtic set up the old firm alliance to bridge the divide between communities. The alliance has brought young people together and players have participated in photo calls and awareness campaigns. Both clubs have used the Scottish Executive-funded education resource, "Sectarianism: Don't Give It, Don't Take It", in their learning centres. That is progress. However, sectarian songs can still be heard from elements of the support of both clubs. To their credit, senior figures at both clubs have spoken out against that in recent months.

There is still much work to be done. It is critical that the Executive supports the work of the football clubs, which is why I am pleased that the Executive is working in partnership with the Scottish Football Association and sportscotland to develop a strategy for tackling sectarianism in football. In addition, it has urged the local authorities to license street traders outside grounds and to prohibit the sale of sectarian paraphernalia as a condition of any such licence. It is correct that it does that.

Tommy Sheridan (Glasgow) (SSP): Although I support everything that the member has said so far, does he agree that the action on street trader licences poses a danger? For instance, Che Guevara pictures, posters and flags are also being banned. Does he not agree that that is inappropriate?

Bill Butler: I would never knowingly criticise Che Guevara and the Cuban revolution. People use their common sense. I hope that they do so in this instance.

I also welcome the proposal to introduce football banning orders, which I hope will become law tomorrow following the debate on the Police,

Public Order and Criminal Justice (Scotland) Bill. I hope that all members support that measure.

Of course, such new, practical legislative measures are welcome, but new laws alone do not offer a complete solution. If we are serious about eradicating sectarianism, education must be at the core of our strategy. For example, the Executive has encouraged the twinning of denominational and non-denominational schools, with the aim of raising awareness and understanding among young people. That is commendable.

Last year also saw the launch of a green and blue anti-sectarian wrist band in schools across Scotland, thousands of which were distributed. I was delighted to present pupils from Yoker primary school and Corpus Christi primary school in my constituency with the wristbands when they visited the Parliament last year. I was even happier when it became clear that the children understood clearly what the wristband signified. That, again, is progress. It is important that young people start to explore each other's culture, as that will help to give them a better understanding of their own culture. Real understanding of other people's cultural identity should be a positive influence and will help to correct the baleful influence of the bigoted minority.

Glasgow City Council's innovative sense over sectarianism project, which the *Evening Times* has publicised extensively, is another laudable means of helping our young people not only to ask the right questions but to answer them. Education is vital, but it cannot provide an instant solution. The challenge is great and requires a concerted, long-term approach to be taken. Anti-sectarianism must become firmly entrenched in the school curriculum.

The action plan also deals with marches and parades throughout Scotland. Work in that area must be based around the crucial need to strike the correct balance between the rights of the marchers and the rights of the communities that are affected by marches. We will have the chance to do that tomorrow, when we consider the proposals on marches and parades in the Police, Public Order and Criminal Justice (Scotland) Bill.

Members will be aware of an agreement that was signed earlier this month between march organisers, local authorities and the police to assist in weeding out the troublemakers who too often attach themselves to marches. That is progress. The actions of a mindless minority have often reflected badly on the organisations involved. I welcome that indication that parade organisers now see the benefit in identifying such individuals and want to work in conjunction with the authorities to prevent such inappropriate behaviour.

In helping to combat sectarianism, we must also continue to work with Scotland's faith community. Church and faith groups play an important role in our communities. I know that the First Minister has regular meetings with church representatives and it is important for us to maintain that involvement with Scotland's churches. The fact that so many prominent members of our faith community are present to listen to the debate shows their deep-seated commitment to moving forward together to tackle sectarianism. That is vital.

Progress is being made, but what must happen next? Government alone cannot defeat sectarianism; laws alone cannot change hearts and minds. We must start to consider what more we—all of us—can do as individuals. Are we brave enough to start questioning our own attitudes, language and behaviour? Are we willing to stop and think about the things that we say and do and to reflect on how our words and actions appear to others who do not share our experiences or background? Are we determined enough to take that first step and ask as many questions of ourselves as we do of other people? I would like to think that we are.

There is a belief in some quarters that, by talking about it and asking hard questions, we somehow sustain sectarianism and that, somehow, if we do not talk about them, sectarian attitudes will gradually wither on the vine. That is a mistaken view when it is applied to racism and it is as mistaken when it comes to sectarianism. For too long, we turned a blind eye to sectarianism, conveniently telling ourselves that it was only a football problem or that it affected only certain communities. Such an approach will not provide a solution. Let us be honest and open about it, confront it and, most important of all, defeat it.

The Executive's action plan is a good beginning. It contains legislative measures and initiatives that will help. Equally, it attempts to provoke a debate not only here at Holyrood but throughout our nation. Let us all, as citizens, take an active role in that debate and help to fashion one Scotland—a Scotland of many cultures.

17:21

Bill Aitken (Glasgow) (Con): I congratulate Bill Butler on bringing the matter before the Parliament. There is little in what he said with which I could disagree.

Sectarianism has been an insidious and malevolent influence on certain sections of Scottish life for far too long. We have seen its manifestation not only in sport—football in particular—but in employment practices and many other aspects of life. We should no longer tolerate it.

Bill Butler's motion contains some fairly positive aspects, and I will start by accentuating the positive. First, bad as it is, the problem is not nearly as bad as it was. I can remember my own childhood and the great divide that took place at the age of five, but it seems that, nowadays, children can go to separate schools and still retain the degree of social intercourse that is necessary for friendship. The schools and churches are to be congratulated on the steps that they have taken in that direction. I remember how, as a keen adolescent footballer, I was geared towards playing in a certain direction. I remember how, when I was a young man, pubs in the Maryhill area of Glasgow were referred to as Celtic bars or Rangers bars; none was referred to as a Partick Thistle bar. The message was clear: anyone who drank in a Celtic bar was a Catholic and anyone who drank in a Rangers bar was a Protestant.

We have moved on a great deal, but we still have problems that have to be confronted. Bill Butler is correct to state that the most obvious manifestation of the problem, particularly in west-central Scotland, is seen at or after football matches. Although the trouble at the games themselves pales into insignificance compared with what happened 30 or 40 years ago, when 150 or 200 arrests were commonplace, there is evidence to suggest that the level of incidents in the aftermath of games, particularly in Glasgow city centre, is much worse.

Football and religion rouse great passions in many people. In isolation, that is not harmful but, when they become interlinked, we have a heady and unhealthy mix. A great change in thought processes is required. Bill Shankly, with the wry sense of humour for which he became famous, said that football is not a matter of life and death, but much more important than that. Unfortunately, there is a significant section of the population, mainly young men, whose enthusiasm for football—or, more particularly, winning—goes beyond sensible bounds. To be frank, they are encouraged down that road by certain sections of the media that see nothing wrong with supporters' passion. In many respects, the media are quite right—it is entertainment, after all—but the combination of a fanatical will to win and religious bigotry is a poisonous, malevolent and volatile brew.

Glasgow's two principal football clubs cannot escape historical blame for what has happened. They are now clearly making genuine efforts to improve the situation, as I freely acknowledge, but they must do more. They must recognise that, when they seek to hang on to a sincerely held heritage, that can sometimes offend other people, and they perhaps need to think about moving on from that. Sometimes, the clubs tolerate actions by individual players—in the course of a game, after it

or in their private life—that simply should not be tolerated. Such actions add to the difficulty.

However, we are undoubtedly progressing. I can well recall attending football matches when attendances were around 100,000, and all of a sudden a space would open up on the terracing to be filled within seconds with perhaps 100 bodies taking part in a stand-up fight, as bottles flew. Things have changed for the better in that respect. Now, we need to take the further steps that are necessary. Once we do that, we will be able to enjoy a situation in which football and religion are completely separated and sectarianism stands in lonely isolation.

17:26

Ms Sandra White (Glasgow) (SNP): I congratulate Bill Butler on securing the debate. We have debated this subject on many occasions, and now the Executive is listening. Thankfully, it has proposed its 18-point action plan, which Bill Butler mentioned. I know that Donald Gorrie will also discuss the work that he has done to introduce legislation on sectarianism.

Bill Butler said that we should be honest. I agree that we have to be honest, as Bill Aitken was. We cannot shy away from the fact that, for years and years, Scotland—Glasgow in particular—has suffered sectarianism, violence and abuse, all because of two football teams. Things have certainly changed to an extent, but I have never for the life of me understood why the teams called Glasgow Celtic and Glasgow Rangers never seem to fly the saltire—although that is changing in some respects. We must challenge those football clubs on that. Like Bill Butler, I see a great deal of violence on Saturdays in the city centre. There is no point in hiding the fact.

The other weekend, we watched Heart of Midlothian v Gretna. The fans came out in their thousands and walked along to get their trains from and back to Glasgow Central. There was not one bit of trouble. The fans, including kids, were all joining in, singing and dancing in the streets. We must ask ourselves this: they are all football fans, so why is there such a big difference when it comes to the rivalry between two certain teams? Apparently, in Edinburgh, there is some form of bother to do with football clubs and religion, too. However, at rugby matches at Murrayfield, we never see any trouble.

The Executive's 18-point plan notwithstanding, we must look deeper into the problem and find out why, while some people can support football teams such as Partick Thistle without any bother at all, others cannot support teams such as Rangers and Celtic without coming to blows and engaging in violence. Offensive artefacts and

articles have been mentioned. Supposedly, their sale has now been stopped, and there was legislation to tackle that aspect of the problem, but it still goes on—I still see articles and artefacts being paraded about the streets of Glasgow and being sold quite openly outside certain football clubs. They are still there, albeit that they are now slightly underground. We should acknowledge that.

I welcome those representing the churches and other bodies who are in the public gallery. Helen Miller of Nil by Mouth has campaigned tirelessly to stop this problem happening, and Cara Henderson has also campaigned tirelessly for years.

As Bill Butler rightly said, it all comes down to education. We can do whatever we want, as long as we educate the kids. That is where the effort must come from. I have visited schools throughout Glasgow and have spoken to pupils from both sides of the divide. I have tried to understand why they have such a hatred for people who come from another area and support a different team.

Some of the kids are trying hard with the help of the 18-point plan and the £100,000 that the Executive has allocated to help to stop sectarianism in schools for 2006. Initiatives to combat sectarianism must begin at school level. We must speak to the kids and stress that it is not the be-all and end-all. The same message must come from the football fans. Sectarianism does occur in other areas of life, but the majority of it relates to those two football clubs, which, financially, seem to gain a lot from the number of fans that they attract. I often wonder whether they would profit as much without the sectarian element. They must ask themselves that question too.

Are enough changes being made? Are fans speaking to each other? It has been said that the only way to stop domestic violence against women is to have men raise the matter with each other and say that it is not acceptable. The only way that we can target and bring an end to sectarianism is to educate the kids at school and get the football fans to talk to each other and point out those who are singing sectarian chants at football matches, which has happened. The Executive, MSPs and the whole of society must be involved in education, but football fans must say to each other that sectarianism is not acceptable.

I look forward to the day when I can bring visitors to Glasgow and walk about the streets without fear of their being abused verbally or physically just because they are wearing a particular football scarf or belong to a particular religion.

We cannot get away from the fact that the vast bulk of sectarianism in Scotland affects the west of

Scotland and Glasgow in particular. We must tackle that seriously. I welcome all the work that the Executive is doing and I am glad that the Minister for Justice and Deputy Minister for Justice are here. As Bill Butler said, there is no point in our not telling the truth. We must be up front and honest about the problem. The situation has changed slightly, but it has not changed enough. There is still an element of sectarianism in our city and we must put a stop to it.

17:31

Donald Gorrie (Central Scotland) (LD): I congratulate Bill Butler on his excellent speech, which covered the ground well, and on his motion.

I will try not to cover the same ground again, given that many of us have made many speeches on the subject. It is important—I say this not only because we have distinguished visitors in the gallery—that the Executive involves all the relevant bodies in discussions and promotions of activity in relation to fighting sectarianism. There is a tendency for little groups of civil servants to go away and design what are no doubt excellent policies, but such policies are much more effective if the churches, the big football clubs, the Orange order and so on are involved and have ownership of them.

I have discussed the matter recently at a high level with the football clubs and the police, which all agree that definite progress is being made with regard to Celtic and Rangers home matches, although there is still a feeling among the police that the clubs could do more to identify individual troublemakers and remove their season tickets. There has not been such progress at away matches, where the clubs have less grip. We have to use the football banning orders that Bill Butler mentioned. We must ensure that the police co-operate throughout the country, so that they can deal better with sectarianism. There is a tendency for a small group of Celtic supporters to sing Irish Republican Army songs, which are not technically sectarian, but are still unacceptable to many people. If the Executive could help to bring together the police throughout the country and the football teams—not just Rangers and Celtic, but all the other major clubs—to deal with the problem of away fans, that would be a great step forward.

Likewise, there should be co-operation with the marching organisations to identify the troublemakers who are not usually in the march but are the drunken riff-raff who go along with it. The organisers are often aware of who those people are. The police have to be able to provide the councils with good evidence to help them to make future policies for controlling and routing marches.

I want to focus on what is for me a new issue, which I blame myself for not seeing earlier. We have had too much propaganda—I have been as guilty as anyone else of this—that suggests that the big football clubs are the problem, when they could be the solution. Whether we like it or not, Rangers, Celtic and other football clubs across Scotland generate infinitely more enthusiasm than any political party or—I fear—church does. However, that can be used as a positive motivation. If we say to a person who has been unemployed for 10 years, “Come along to a Glasgow City Council training scheme,” he will not come. However, if he is a football enthusiast and we say, “Come to a Celtic training scheme,” or “Come to a Rangers training scheme,” he will be there like a shot. In fact, the two clubs already do good work in that regard—I know that other clubs do similarly good work, but I happen to be better briefed at the moment about what Rangers and Celtic do. The clubs co-operate in the running of the old firm alliance, which achieves an 80 per cent improvement in the people whom it seeks to help. Both clubs have well-equipped learning classrooms that can be used by pupils who cause difficulties in their schools. When those pupils go back to school six weeks later, they stop creating difficulties. The clubs run anti-drugs programmes for primary pupils, retraining programmes for unemployed people, charity fundraising schemes and, as one would expect, joint coaching programmes to promote Asian football and so on.

We should be channelling more Government money directly to that sort of activity. Of course, we should ensure that any money that is sent in that direction is spent on such activity—we do not want merely to increase the ridiculously high wages of the top players. The money could go to support the work that the clubs are doing and would induce the community to provide more money as well. Obviously, there are other routes by which we can get to people, but this is a major one. It would be good if Celtic, Rangers and the clubs that are local to various areas across Scotland could promote all sorts of activities. They already support initiatives such as midnight football, which is a good scheme for keeping kids off the street.

We can use the names of the teams in a positive way. If the supporters feel that the team is being valued, they might create less trouble.

17:37

Patrick Harvie (Glasgow) (Green): When I saw the number of members who had stayed behind after decision time, I thought that we might be here until about 8 o'clock. There are fewer members here now, but Bill Butler can be congratulated on delaying the exodus until after his opening speech.

Many members would have benefited from hearing more of the debate, because we all recognise that the issue is important.

Bill Butler mentioned that this is the first debate that we have had that has been dedicated to the issue of sectarianism. Many people outwith the chamber might be astonished by that fact and I admit that I had to run three or four searches of the *Official Report* on the Parliament's website before I could quite believe it. However, we should thank Bill Butler for securing this debate on the subject.

Bill Butler said that sectarianism has been downplayed by some people, that some have argued that the subject is best not talked about and that, if we do not talk about it, it will just go away. He was right to dismiss that view. We can talk about the legislative measures that the Executive is putting in place and give the Executive credit for being willing to talk about the issue. I commend the Executive on the approach that it has taken. People from many sectors such as sport, the media, education, local authorities, the voluntary sector and the churches have been brought together in the symposium in a way that strikes me as being a positive model for facilitating dialogue and co-operation, which could be used in other areas that are not quite so contentious.

Many of the issues that members have talked about have been to do with football clubs. Several members have said that the clubs have made progress, but that there is more that they can do. Bill Aitken said that it is understandable that the clubs sometimes want to hang on to their traditions. However, we should remember that they are businesses. They are substantial commercial operations. I do not have the full answer, but we need to ask how we can make it clear to the clubs that the way for them to be profitable is to address the problem and that, if they do not do that extra work and, in two or three years' time, we are still saying, "They've done something, but they could do a bit more", they will have to face the financial consequences.

Members talked about the role of education. We cannot underestimate that. The motion mentions

"the twinning of denominational and non-denominational schools."

I have never made any secret of the fact that, for a number of reasons, I would prefer to live in a society that did not have religious education. However, although that view might be more common outside the chamber than in it, I recognise that religious education is not likely to go away soon. The twinning of schools therefore seems to me to be a positive step forward, although I have spoken to parents who are far more concerned about dilapidated schools being

repaired, renewed and rebuilt than they are about hanging on to a particular model of denominational schooling.

The motion also mentions

"challenging sectarian attitudes and improving young people's understanding of each others' cultural identities".

Of course, education is a profound opportunity to address that. I have a concern, though. We should ask ourselves why religious identity remains strong at a time when religion and faith are of decreasing importance to people in Scotland—with between a quarter and a third either declaring no religion or affirming that they have no religion—and at a time when many people who tick one of the religious boxes on the census form probably would not put their religion at the top of their priorities in life. At a time when religion itself and the practice of religion are of decreasing importance, why does religious identity, which is not about faith or belief, remain so strong? That is a difficult question to answer. Sometimes, it might be a difficult question to ask.

Education offers an opportunity not only to address religious identity and cultural identity and to challenge attitudes and discrimination, but to put those things in the context of all the other forms of discrimination that remain prevalent in our society. The Scottish social attitudes survey shows that there are other forms of discrimination that are found to be more acceptable than sectarian discrimination.

I agree with Bill Butler that it is wrong to brush the matter under the carpet, but when we discuss it, particularly with children in schools, we must break down the barriers between cultural identities rather than reinforce them.

17:43

Murdo Fraser (Mid Scotland and Fife) (Con): I congratulate Bill Butler on securing this evening's debate on an important subject. A number of excellent points have been made about the impact of sectarianism. Like Patrick Harvie, I am disappointed that the debate is not better subscribed, given the importance of the issue.

I do not wish to rehearse all the points that members have made, the great majority of which I agree with. I will use the time that is available to me to dispel what I believe are two myths about sectarianism. The first myth is that sectarianism has anything whatsoever to do with religion. I know good Christian people of all denominations, some of whom are Protestants like myself and some of whom are staunch Roman Catholics. I have yet to meet anyone who has a strong religious faith who could be accused of being guilty of sectarianism, or indeed bigotry in any form. In fact, the more pronounced the Christian

faith of individuals, regardless of their denomination, the less likely they would be to indulge in the sectarian behaviour that we hear about and of which we have seen evidence at old firm football matches and elsewhere.

I suspect that the vast majority of those who indulge in sectarian abuse or behaviour or sing the songs that we know so much about have rarely, if ever, graced the inside of a church or chapel. They might consider themselves to be followers of Jesus Christ, but little in their behaviour is Christian. That persuades me that sectarianism has nothing to do with religion but is purely a form of tribalism. Those who are truly religious, have true faith and believe in Christ's instruction to us to love one another have no truck with such behaviour.

Neither do I believe the claim that is sometimes made that the system of separate schooling in parts of our country is a root cause of sectarianism. We have only to consider that in most of northern Europe, where church schooling is the norm and Protestant and Roman Catholic children attend different schools, sectarianism is almost unknown. The phenomenon is almost unique to Scotland and Northern Ireland. Given that, there must be cultural reasons other than separate education for sectarianism in Scotland. To say that our system of Roman Catholic schools is to blame for sectarianism is a cheap and lazy accusation to hurl.

I regret to say that the second myth to which I will draw attention appears in Bill Butler's motion. I will make my point as gently as I can, because I agreed with almost everything in his speech. His motion says:

"sectarianism is a problem throughout Scotland".

If that is genuinely Bill Butler's view, he knows a different Scotland from that in which I grew up.

Bill Butler: I accept Murdo Fraser's point to an extent, but attitudinal sectarianism is prevalent in much of Scotland. How does he respond to Unison's figures in 2001 on accident and emergency admissions after derby matches?

Murdo Fraser: I am afraid that I do not know those figures. I was born in Inverness, I have lived in Aberdeen and Edinburgh and I now live in Perthshire. All that I can say is that I have never experienced sectarianism in any community in which I have lived or encountered anyone in those communities who has experienced sectarianism. I do not deny that there is a problem in some communities. In the west of Scotland and perhaps even in places such as West Lothian and parts of Fife, some communities are divided. However, if we went out and about in towns and cities such as Inverness, Aberdeen, Dundee, Perth, Stirling and Dumfries and asked people whether they

considered sectarianism to be a serious problem in their community, they would be surprised even to be asked the question.

We need to be careful. We can accept that there is a problem of sectarianism, but we should not talk as if it were a problem throughout the country, which I do not believe it is. We need to retain a sense of proportion. I do not believe that the whole of Scotland is tainted by the curse of sectarianism. We should not exaggerate the problem, as that undermines the arguments and the genuine efforts that are being made to counter the social problem.

With those important qualifications in mind, I am happy to support Bill Butler's motion.

17:48

The Deputy Minister for Justice (Hugh Henry): Bill Butler is to be congratulated on helping to stimulate an important and significant debate. The speeches have reflected the serious way in which we address the issue of sectarianism.

Most decent people throughout Scotland are sick and tired of bigoted and sectarian behaviour. They are fed up with individuals who hide behind what Patrick Harvie and others described as a warped sense of tradition that manifests itself in abusive sectarian behaviour. It does not matter whether that is associated with football, a marching tradition or a bogus affiliation to organised religion, as Murdo Fraser said. It is all unacceptable when it has a crude and callous impact on other people. Most people in Scotland want their children to grow up in a society that is based on mutual respect and care and in which we work together to make Scotland a better place and eliminate sectarianism.

Much of the debate has been devoted to football-related issues, which are important and I will return to them, but sectarianism is not just about the crude working-class manifestation of bother that results in some of the mindless, gratuitous violence that Bill Butler and others talked about, although that is still a feature. For example, in the past week or so we have read reports in the papers about someone who broke away from a march to abuse a priest who was standing on the steps of his church.

Let us not kid ourselves—such things still happen, which is why we are determined to do something about the problem. However, sectarianism is also about those who would prefer people of different religions not to be able to join their bowling club or golf club and about those who seek to use their attitudes or allegiance to a certain religion as an excuse not to employ someone of a different religion. That can overlap with racism and manifest itself in outrageous

slogans on synagogues and mosques in Scotland. Such things—which manifest themselves particularly, although not exclusively, in the west of Scotland—are unacceptable signs of intolerance in our society.

Sectarianism is sometimes associated with football, but it is often associated with marches by people of certain traditions. When alcohol is consumed on such marches it can result in minor violence or violence that scars or maims for life or—tragically—kills people. We must do something about the problem, which is why the Scottish Executive has been so determined to take action.

I recall the comments that were made when Jack McConnell first raised the issue of sectarianism. It was said that he was foolish to do so, that it was inappropriate to use his position to raise such an issue and that he was venturing into an area that he did not properly understand and over which he would have no control. I also remember the comments that were made when Cathy Jamieson convened meetings involving people from different backgrounds. It was said that such meetings were futile and that we would never solve the problems. I agree that we still have much further to go, but we should consider the strides that have been made in the past months and the past year. People from the republican and Orange traditions sat down and signed a joint declaration. They openly and honestly confronted the problem, they admitted that there is a problem and they are willing to sign up to tackle it. It was right to confront the problem in the first place and we are making progress. It would have been easier to hide away and kid on that we did not have a problem or that things would somehow improve as the years went by. Bill Aitken was right: the problem is possibly nowhere near as bad as it used to be, but the fact that it still exists is a shame on all of us. We need to be robust and courageous and say that sectarianism is an unacceptable stain on our society.

Many comments have been made about Celtic and Rangers and the contribution that people associated with those clubs unfortunately make towards encouraging sectarianism. However, both clubs have taken significant steps to try to address the problem of sectarianism. I will not pretend that they have eliminated every sectarian element from their supporters, but they have taken decisive measures. They have made public statements and banned people from their grounds. Those are the right things to do.

I welcome the way in which Celtic and Rangers fans have responded to the debate. They have approached it in a mature way. At long last, I have listened to radio programmes on which people from different perspectives and backgrounds have

talked sensibly about the problem and how to address it.

I am pleased that people see sectarianism as being not much different from xenophobia and racism and that they recognise that it must be tackled. I was pleased that Celtic Football Club and its supporters invited people from the asylum-seeker community in Glasgow to the unveiling of the statue of the founder of the club, Brother Walfrid, for which Celtic supporters got together to raise money. Because of their background and the things that they had gone through, those supporters recognised that there were still people in Scotland who were subject to the type of behaviour that I have described. It is shameful when we see people who have come to this country from whatever background—as immigrants or asylum seekers—turning on others who are less fortunate than themselves who have come here a wee bit further down the line. We recognise that things are moving on, and I am proud of the part that the Executive has played in addressing the problem.

Bill Butler spoke passionately and eloquently. Patrick Harvie raised some philosophical notions about religion and wider aspects that are worthy of further debate. The fact is that while we have a problem—however small it is and however successful we have been in tackling it—we cannot rest until it is eliminated. It is a shame on us all if our children are still growing up believing that somehow someone of a different faith is an enemy. It is a shame on us all if we encourage people to believe that that should be expressed in violence. It is a shame on us all that there are families in this country who are still mourning and grieving because their sons—and it is, in particular, sons—have been brutalised or murdered as a result of someone's distorted behaviour. We can take pride in the fact that the Parliament is, at last, confronting the issue and in the fact that we have said that we are prepared to do something about it. I hope that all of us—the churches, the fans, the football clubs and the politicians—can sign up to saying that we will not rest until sectarianism is eliminated.

Meeting closed at 17:57.

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