

MEETING OF THE PARLIAMENT

Thursday 30 November 2006

Session 2

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Scottish Parliament

Thursday 30 November 2006

[THE DEPUTY PRESIDING OFFICER *opened the meeting at 09:15*]

Business Motion

The Deputy Presiding Officer (Trish Godman): Good morning. The first item of business is consideration of business motion S2M-5251, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Bankruptcy and Diligence etc (Scotland) Bill.

Motion moved,

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

Groups 1 to 9: 40 minutes

Groups 10 to 13: 1 hour 20 minutes

Groups 14 to 16: 2 hours

Groups 17 to 19: 2 hours 50 minutes

Groups 20 to 31: 3 hours 20 minutes.—[*Ms Margaret Curran.*]

Motion agreed to.

Bankruptcy and Diligence etc (Scotland) Bill: Stage 3

09:15

The Deputy Presiding Officer (Trish Godman): We move to stage 3 proceedings on the Bankruptcy and Diligence etc (Scotland) Bill.

Members should have the bill as amended at stage 2, which is SP bill 50A; the marshalled list, which contains all the amendments that have been selected for debate; the supplement to the marshalled list, which contains five manuscript amendments; and the revised groupings that I have agreed, which are printed on pink paper to differentiate them from the groupings that were printed on 29 November.

The division bell will sound and proceedings will be suspended for five minutes for the first division on an amendment. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate. All other divisions will last 30 seconds.

Section 1—Discharge of debtor

The Deputy Presiding Officer: Group 1 is on the bankruptcy discharge period. Amendment 12, in the name of the minister, is the only amendment in the group.

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): I seek members' approval for amendment 12, which will update section 1(2). The Enterprise and Culture Committee and the Subordinate Legislation Committee agreed that the period of time for which a sequestration should last should be changed only in the primary legislation. At stage 2, amendment 90 removed the reference to the affirmative procedure for changing the discharge period. Amendment 12 will remove the power itself.

I move amendment 12.

Murdo Fraser (Mid Scotland and Fife) (Con): As the minister said, amendment 12 will remove the ministerial power to vary the bankruptcy period, which the bill will reduce from three years to one year. It would be unusual for Conservative members to oppose measures to restrict ministerial powers, but we make an exception in this case.

The central policy intent behind the bankruptcy part of the bill is to reduce the bankruptcy period from three years to one year, but the case for doing so has not yet been proven. The Enterprise and Culture Committee received no convincing

evidence as to why that policy intent should be followed through in legislation. Indeed, the only reason that seems to have been given for the proposal is that it will bring the legislation into line with the legislation down south. That is an insufficient policy reason to convince us that the proposal is the right way to proceed. Since a similar change was introduced south of the border, the number of personal bankruptcies has surged.

I do not know whether one year is the correct bankruptcy period, but it might be useful to have available to ministers a subordinate legislation power to increase the period from one year to two years, three years or whatever, in the light of experience, without members having to come back to the chamber to pass primary legislation.

We oppose amendment 12.

Allan Wilson: I reaffirm that my proposal has the support of the Enterprise and Culture Committee and the Subordinate Legislation Committee and that we have agreed that the proposed process is the proper one by which the Parliament should return to matters in future if there is a requirement to do so. I argue that such a requirement will not arise in any event.

The Deputy Presiding Officer: The question is, that amendment 12 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

As this is the first vote, I suspend the meeting for five minutes while the division bell is rung.

09:19

Meeting suspended.

09:24

On resuming—

The Deputy Presiding Officer: We will now proceed with the division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 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)

Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Rob (Highlands and Islands) (SNP)
 Glen, Marlyn (North East Scotland) (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)
 Hyslop, Fiona (Lothians) (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)
 Kerr, Mr Andy (East Kilbride) (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)
 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)
 McCabe, Mr Tom (Hamilton South) (Lab)
 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)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 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)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 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)

Johnstone, Alex (North East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Petrie, Dave (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Deputy Presiding Officer: The result of the division is: For 77, Against 12, Abstentions 0.

Amendment 12 agreed to.

Section 2—Bankruptcy restrictions orders and undertakings

The Deputy Presiding Officer: Group 2 is on bankruptcy and minor and technical amendments. Amendment 90, in the name of the minister, is grouped with amendments 91, 13 to 16, 35, 36, 25, 37 and 194 to 202.

Allan Wilson: The 19 amendments in group 2 are all minor technical amendments relating to sequestrations, and make drafting improvements or changes that are consequential on changes that were made at stage 2. Members will be pleased to hear that I do not intend to speak to each amendment in detail.

Amendments 90 and 91 clarify the period during which a debtor's gambling may be considered when deciding whether their conduct should mean that a bankruptcy restrictions order is made against them.

Amendments 13 to 15 update provisions on bankruptcy restrictions undertakings so that they more closely mirror the same provisions relating to bankruptcy restrictions orders.

Amendment 16 is simply a drafting amendment that inserts an "or" that was missing from an amendment that was agreed to at stage 2.

Under the bill, the Accountant in Bankruptcy will administer debtor applications for sequestration and will be required to update the register of inhibitions when an application is refused or when appeal against such a refusal is unsuccessful. That requirement is not necessary, as there will be no prior entry on the register. Amendments 35 and 36 remove that unnecessary duty.

Amendment 25 corrects a reference in proposed new section 53A of the Bankruptcy (Scotland) Act 1985. In proposed new section 53A(5A), the reference to "subsection (6) above" should read "subsection (4) above".

Amendment 37 removes the reference to receiving orders in section 7 of the Bankruptcy (Scotland) Act 1985. Receiving orders were abolished by the Insolvency Act 1985, so they are no longer able to be used as a ground to establish apparent insolvency.

Amendments 194 to 202 remove the word "permanent" from references to "permanent trustee" in the Bankruptcy (Scotland) Act 1985.

I move amendment 90.

Amendment 90 agreed to.

Amendments 91 and 13 to 15 moved—[Allan Wilson]—and agreed to.

Section 8—Duties of trustee

Amendment 16 moved—[Allan Wilson]—and agreed to.

After section 15

09:30

The Deputy Presiding Officer: Group 3 is on bankruptcy and vesting of estate in trustee and effect on dealings. Amendment 64, in the name of the minister, is grouped with amendments 86 and 88.

Allan Wilson: I apologise in advance for the fact that I will need to start in 1997 to explain the amendments, which need a bit of explaining. I ask for the patience and forbearance of colleagues as I explain why reform is needed.

In 1997, the courts made a decision in the controversial case of *Sharp v Thomson*. In that case, when the selling company became insolvent, the buyers of a property lost out, because the receiver of the company kept both their new home and the money that they had paid for it. That was—I am sure everyone would agree—clearly wrong. The courts eventually found a way to give the buyers justice, but to do so they had to tie the law into a knot.

The Minister for Justice in 2000 asked the Scottish Law Commission to look into the issues that had been raised by that case. In doing so, the commission also took into account the 2004 decision of the courts in the case of *Burnett's trustee v Grainger*, which dealt with a similar problem in a sequestration. The commission identified a short gap during which a buyer in good faith can lose out if the debtor is bankrupted between the date on which the price is paid and the date on which the new title is registered. In Scotland, a person buying a house or land pays the price against delivery of a title deed, but he or she does not become owner until the disposition is registered in the land register. That may take up to three weeks, mainly because of the delays involved in the payment of stamp duty land tax.

During that gap period, the seller holds both the property and the money. If the seller becomes insolvent, right to the property and the money transfer to the trustee for the creditor. Both the

buyer and the trustee then have a legal right to the property, and the first one to register becomes the true owner. The situation is sometimes called the race to the register. I see that some members recognise that term. The buyer can be ruined if the trustee wins that race. Luckily, that is not likely to happen, but the case of *Burnett's trustee v Grainger* made it clear that there is nothing in law to prevent it happening.

Amendment 64, therefore, has four elements. First, it inserts two new subsections into section 31 of the Bankruptcy (Scotland) Act 1985, the effect of which is to handicap the trustee in the race to the register by providing that the trustee in sequestration may not register the property until 28 days after the date of sequestration. That will ensure that a prudent buyer in good faith will win the race.

Secondly, it inserts new paragraph (aa) into section 31(8) of the 1985 act, which makes it clear that the law as settled in *Burnett's trustee v Grainger* still stands, as that case turned on the nature of the diligence of adjudication and the bill abolishes adjudication. That will ensure that there will still be a race to the register and, therefore, that the new protections in amendment 64 work as intended.

Thirdly, amendment 64 makes a small change to section 32(8) of the 1985 act, the effect of which is that, where property acquired by a debtor after bankruptcy passes to the trustee under section 32, any dealings with the debtor in relation to that property are void. That will settle a point that has long been regarded as unclear. The provision was included in the bill at stage 2, but it fits best with the other changes that are made by amendment 64.

Finally, amendment 64 makes a further amendment to section 32 of the 1985 act. Section 32(9) of that act sets out the circumstances in which dealings with a sequestrated debtor are not to be treated as void, such as in the purchase of moveable goods in good faith. The protection in section 32(9) will be extended to cover the particular circumstance that is set out in proposed new section 32(9ZA). When people buy a property and the transfer is complete only when a deed is delivered, it is possible for them to buy in good faith, pay a fair price, take all reasonable steps to find out whether the debtor was sequestrated and still lose out, because it can take up to seven days before a search of the register reveals a sequestration. The new provision will protect third parties who find themselves in that situation. Such third parties will be allowed to keep the property in question and the trustee in sequestration will receive whatever was paid for the property. That is a better deal.

Amendments 86 and 88 are consequential on amendment 64, and are technical, tidying-up amendments.

I move amendment 64.

Murdo Fraser: I thank the minister for his explanation. It took me back to halcyon days spent in conveyancing tutorials when I was a law student. However, to be serious, amendments 64, 86 and 88 deal with important issues. I welcome the fact that the legal anomaly that has existed for some years will be addressed by the Executive's amendments. They will receive our support.

The Deputy Presiding Officer: Does the minister have anything further to add?

Allan Wilson: I want to put on record our thanks for the assistance of Professor George Gretton of the Scottish Law Commission in helping us to get through the legal and technical details.

Amendment 64 agreed to.

Section 16—Income received by debtor after sequestration

The Deputy Presiding Officer: Group 4 is on bankruptcy and income payment agreements. Amendment 17, in the name of the minister, is grouped with amendment 18.

Allan Wilson: I seek approval of amendments 17 and 18. People who can pay, should pay. That is as true for bankrupts as it is for everyone else. The bill, therefore, sets up a system of income payment orders and income payment agreements. Income payment orders will be imposed by the courts and come with tough sanctions. For that reason, debtors will be able to enter into voluntary income payment agreements. The bill as introduced did not provide for what would happen if a debtor breached an income payment agreement, which is not right. Amendments 17 and 18 rectify that.

Amendment 18 provides for the trustee to apply to the sheriff to convert the remaining period of an income payment agreement into an income payment order, if the debtor breaches the agreement. A debtor may stop making payments under an income payment agreement after he is discharged, even though the agreement runs beyond the date of his discharge.

Amendment 17 allows the sheriff to consider an application to convert an income payment agreement into an income payment order after the debtor has been discharged. That is the only situation in which a sheriff will be permitted to make an income payment order after the date of the debtor's discharge.

I move amendment 17.

Amendment 17 agreed to.

Amendment 18 moved—[Allan Wilson]—and agreed to.

Section 17—Debtor's home and other heritable property

The Deputy Presiding Officer: Group 5 is on bankruptcy and notice of abandonment. Amendment 29, in the name of the minister, is grouped with amendments 30 and 31.

Allan Wilson: Amendments 29 to 31 deal with the process by which a trustee in sequestration can abandon heritable property such as a house to the debtor. The bill introduces provision for the trustee to give a formal notice of abandonment of property to the debtor. No onus is placed on the trustee or the debtor to make the notice available to anyone else. When giving evidence to the Enterprise and Culture Committee at stage 1, the Law Society of Scotland said that the letter of abandonment should be registered, so that the buyer could see a complete picture in the purchase searches. That would reassure everyone that the debtor had good title to sell.

At stage 2, I lodged an amendment to introduce a duty on the trustee to register the notice of abandonment of heritable property in the property registers, as requested by the Law Society. There followed discussions between my officials and the Registers of Scotland. I have lodged these further amendments to ensure that the registration process fits better with the existing system, while still delivering the policy of giving proper notice to buyers.

The stage 2 change will make a difference only in cases where the trustee has registered his title in the property registers, which happens only in a minority of cases. Usually, the trustee relies on his appointment to give him the right to deal with property. The property register will, therefore, show the debtor as the registered owner, but a search of the register of inhibitions will reveal the appointment of the trustee, and the prospective purchaser will have doubts about the debtor's title to sell. It is more appropriate to register a certified copy of the notice of abandonment in the register of inhibitions. That will ensure that a prospective purchaser who searches the register—as all sensible buyers of land should do—will uncover both the sequestration and any abandonment notice. The amendments will, therefore, give the purchaser reassurance in even more cases than were provided for by the stage 2 amendment.

I move amendment 29.

Amendment 29 agreed to.

Amendments 30 and 31 moved—[Allan Wilson]—and agreed to.

Section 18—Modification of provisions relating to protected trust deeds

The Deputy Presiding Officer: Group 6 is on bankruptcy and the power to specify debts not discharged under protected trust deeds. Amendment 65, in the name of the minister, is the only amendment in the group.

Allan Wilson: The impact on credit unions of the current increase in the number of protected trust deeds was raised during the stage 1 debate. During stage 2, members lodged amendments to provide for credit union debt to be preferred—that is to say, paid first—in a trust deed and for the debt not to be discharged by sequestration. I said that I was happy to consider the concerns that members expressed, after which the amendments were either withdrawn or not moved.

I agree that trust deeds do not always work as they should. I have consulted on planned regulations, which when made will fix many of the problems that the credit unions have identified. I agree that credit unions play a key role in helping people who suffer from financial and social exclusion, and I want to act to help them if trust deeds are causing them a problem. For that reason, I met the credit unions, which were supported by Jackie Baillie and Christine May. I heard enough at that meeting to persuade me that there are issues that need to be explored and that it may indeed be the case that the trust deed regulations should do more to help them. I agreed, therefore, that the Executive would consult next year on a proposal to give credit unions special treatment under trust deeds. I also agreed that I would lodge an amendment at stage 3 to ensure that the trust deed regulations that are enabled by section 18 can give credit unions special treatment, if that is shown to be justified.

Under the Scotland Act 1998, providing for preferred debts in an insolvency process is a reserved matter. However, saying that debts are not cancelled by a personal insolvency process such as a trust deed is a matter for this Parliament. Section 29 of the bill does something similar for student loan debt in relation to sequestration. Amendment 65 has the effect that trust deed regulations may provide for the extent to which a debtor is discharged from his or her debts by a trust deed, and could be used to provide that a trust deed does not discharge a credit union debt.

I move amendment 65.

Murdo Fraser: The issue of credit unions was raised by the Enterprise and Culture Committee and debated at stage 2. The minister has lodged amendment 65 to address some of the committee's concerns, which we welcome, but there is a wider concern about protected trust

deeds. The committee considered the way in which the bill deals with them, and there is a concern that the Executive has not properly joined up its thinking on the future of protected trust deeds with the other reforms in the bill. Protected trust deeds are valuable, not least because they are administered by the private sector, not by the Accountant in Bankruptcy. We need to address the future of protected trust deeds in a comprehensive manner, working with the insolvency profession. That approach is required, and it is regrettable that it is not happening in tandem with the bill. However, we are happy to support amendment 65.

Christine May (Central Fife) (Lab): I thank the minister both for the productive meetings that he, Jackie Baillie and I have had with the credit union movement and for the efforts that he has made to address the movement's concerns.

The whole chamber knows how important the credit union movement is to ensuring that there is responsible credit and responsible saving in some of our poorer communities. However, the extension in provision of financial products for which credit unions allow has meant a consequential increase in bad debts. The fear that being able to recover no more than 10p in the pound, which could lead to the insolvency of credit unions, has been the real driver behind the efforts that have been made on the issue.

I am more than happy to support what the minister is doing and I hope that he, Jackie Baillie, the credit unions and I can continue our dialogue and extend it to our colleagues down south in respect of their responsibilities.

Allan Wilson: At all times in this process, I have sought to engage with all partners, from whatever sector of the industry they originate, including insolvency practitioners and their representative organisations, which this morning indicated their support for amendment 65. The consultation that I propose as part of the process will provide different stakeholders with a welcome opportunity to have their say. I have firm views on how I would like the process to evolve, but I remain open-minded about it and will happily take on board the views of others, especially those of professional organisations and the individuals concerned.

It will be possible to consult on the student loan option and it might be possible to consult on the preferred debt option, if the United Kingdom Government is willing to give us the green light. My officials are due to meet the credit unions on 7 December to consider what further evidence can be provided. More detailed advice on the scope of the consultation will follow. The chamber should welcome that, as well as the opportunity that it will afford to all stakeholders to ensure that credit unions—which do a valuable job in promoting

financial inclusion and giving access to loans for some of the more financially excluded of our fellow citizens—can do their job properly and help to promote financial inclusion in its widest sense. I ask members to support amendment 65.

Amendment 65 agreed to.

Before section 23

09:45

The Deputy Presiding Officer: Group 7 is on bankruptcy and the minimum debt limit. Amendment 19, in the name of the minister, is grouped with amendment 22.

Allan Wilson: The Bankruptcy (Scotland) Act 1985 set the debt threshold above which someone can be sequestrated at £1,500. The bill as introduced set the same threshold for the attachment of land and the sale of attached land. There was concern both in the chamber and among some external stakeholders that the threshold for land attachment was too low. I listened to those concerns and lodged an amendment at stage 2 to raise the lower limit to £3,000, which meant that it would be possible to bankrupt a debtor for a smaller debt than is needed to attach their land. That would create an incentive for creditors to use bankruptcy to get at the value in said land—a theme to which I will return later in the debate.

The point that I emphasise now is that bankruptcy is worse in many ways for the debtor than land attachment. In particular, it affects all of the debtor's property, including land, and can easily lead to the loss of their home. It makes sense, therefore, to raise the debt threshold for sequestration to at least the same level as that for land attachment, which is what amendment 19 does. The qualifying debt limit of £1,500 for creditor petitions could be changed by regulations, but the Bankruptcy (Scotland) Act 1985 does not provide a similar power for the limit that relates to debtor applications. It makes sense to enable both limits to be varied by regulations, if required. As well as raising the limits to £3,000, amendment 19 gives the Scottish ministers the power to vary the limit for debtor applications by regulations.

I appreciate the importance of the debt limit. Amendment 22 will ensure that regulations to change the thresholds will be subject to affirmative procedure and will, therefore, be appropriately scrutinised by the Parliament.

I move amendment 19.

Mr Kenny MacAskill (Lothians) (SNP): We welcome the Executive amendments. Concerns were raised about the minimum debt limit by members of many parties and people outwith the

chamber. We will debate land attachment at a later stage. There is some difficulty with the limit that we set. Do we need the wisdom of Solomon to decide whether it should be £15,000, £3,000 or £3,100? There was general acceptance that £1,500 was far too low. Whether someone has a household debt or has to take an emergency flight, a debt of £1,500 can easily be racked up on a credit card or elsewhere.

Time will tell whether £3,000 is an appropriate threshold, which is why we welcome not only the increased threshold but the opportunity to vary it. The appropriate limit is a fluid matter: what is appropriate at this juncture might not be appropriate in a year or several years' time. However, amendment 19 is an advance on the threshold of £1,500, which is far too low.

Allan Wilson: I welcome the member's support. It will be important to return to the limits, not simply in this debate but in the fullness of time. The regulation-making power that we propose is the right one in such circumstances.

Amendment 19 agreed to.

Section 23A—Continuation of sequestration proceedings pending approval of debt payment programme

The Deputy Presiding Officer: Group 8 is on bankruptcy and the power to continue petition for sequestration pending payment of debts. Amendment 20, in the name of the minister, is grouped with amendments 21, 23 and 24.

Allan Wilson: At stage 2 I lodged an amendment that will allow sheriffs to continue proceedings in sequestrations if a debt payment programme under the debt arrangement scheme is applied for. Karen Gillon lodged an amendment that went much further and sought to give sheriffs discretion to continue petitions for sequestration more or less indefinitely and to grant only if reasonable. That amendment could have led to long delays in the sequestration process: such delays in making decisions would have harmed the interests of debtors and creditors, so the amendment was withdrawn and I gave a commitment to consider the matter further. I am not in favour of giving sheriffs open-ended discretion to continue cases, but I can see the sense in giving them a bit more leeway.

A debtor might be able to arrange to pay off, or otherwise satisfy, his or her debts given a little time. Amendment 21 will allow sheriffs to continue a petition for up to 42 days if debtors can satisfy them that they are likely to be able to pay their debts within that period. Although the amendment will allow some extra time for the debtor, it still provides for a definite period, which will give creditors a clear end date for proceedings and

prevent unnecessary and lengthy delays where there is no realistic prospect that a debt will be paid off.

Amendment 20 is consequential on the introduction of the provision in amendment 21. To allow continuation of a petition will have implications for the duties on trustees in particular. A trustee must offer to hold a statutory meeting at which the creditors can take decisions about the estate that is to be administered. The 1985 act states that notification is to be issued within 60 days of the date of sequestration. Many people take that to be the day on which sequestration is awarded, but the Bankruptcy (Scotland) Act 1985 makes it clear that in a creditor petition, the application date for bankruptcy is registered by the court. That can have implications for the trustee, who cannot send a notification until the hearing about the award of sequestration is settled.

If a hearing is continued for more than a few days, as can happen, the 60-day time limit will run out quickly. The trustee would have to go to court and ask for more time, which would be a waste of money and the resources of the court. It is necessary to clarify that the notification is to be issued within 60 days of the date of the award of sequestration, for which amendment 23 provides.

I move amendment 20.

The Deputy Presiding Officer: I ask Murdo Fraser and Karen Gillon to be brief.

Murdo Fraser: I notice that the minister did not mention amendment 24 in his remarks. I ask him to clarify his intentions in that amendment because I find it to be completely incomprehensible. I am not sure whether it is badly drafted or its intention is mistaken.

Although I will not oppose amendment 21, I draw the minister's attention to concerns that have been expressed by the Law Society of Scotland, of which I am a member, although not a practising member. The Law Society is concerned that a continuation of sequestration proceedings could have a number of negative effects. First, it would allow the debtor to continue trading and dealing with others, which would give them the potential to run up more debts. Secondly, it would delay the vesting in the trustee of the estate the assets of the debtor for the benefit of all creditors. Thirdly, it ignores the many interconnected time limits that are set down in bankruptcy legislation and would therefore jeopardise the proper operation of the sequestration process. The Law Society says that if the measure is to be passed, there must be proper analysis of the impact on sequestration and a proper review of time limits. I ask the minister to address those points when he winds up.

Karen Gillon (Clydesdale) (Lab): I thank the minister for lodging amendment 21. Although I

appreciate Murdo Fraser's comments, it is important to get right the balance between the creditor and the debtor. It was clear in evidence that the committee received that sometimes the petition to court is the key that the debtor needs to take action to find alternative means of payment. The continuation that is offered by amendment 21 will allow people who can make alternative arrangements to pay their debts without proceeding to sequestration and bankruptcy. Those can be difficult steps for people to take, so I welcome the amendments in the group and hope that Parliament will support them.

Allan Wilson: I will speak first to Murdo Fraser's point. The significance of the changes that will be made by amendments 23 and 24 is that the time limits will run from the date on which sequestration is awarded. In a creditor petition, that date is different from the date of sequestration. The date of sequestration in those cases is the date on which the sheriff grants a warrant to cite the debtor to appear at a hearing to determine whether or not to award sequestration. The award of the sequestration might happen days—or, in some cases, weeks—after the date of sequestration. That will happen if the sheriff continues a sequestration under proposed new sections 12(3AA) and 12(3B) of the 1985 act, which will be inserted by the bill. In such cases, the sequestration could be awarded up to 42 days after the date on which the warrant to cite is granted. The time could possibly be longer under proposed new section 12(3B).

It makes sense to set those time limits in relation to the date of the award being granted rather than to the date of the sequestration. Otherwise, the trustee could be put in the position of having to do things with unreasonable haste after the award of sequestration is made. That is the relevance of amendment 24.

Karen Gillon asked about amendment 21. We have gone some way towards the position in the amendment that Karen withdrew at stage 2. The sheriff can continue a case when the debtor can demonstrate that he or she has a reasonable chance of paying off, or otherwise satisfying, the debt within six weeks. Six weeks is the defining period. I ask colleagues to support amendment 20.

Amendment 20 agreed to.

Amendment 21 moved—[Allan Wilson]—and agreed to.

Section 29A—Certain regulations under the 1985 Act: procedure

Amendment 22 moved—[Allan Wilson]—and agreed to.

Section 31—Register of Floating Charges

The Deputy Presiding Officer: Before I move to the next group of amendments, I intend to use my power under rule 9.8.4A to extend the time limit for that group only. The debate must finish by 10.05.

The ninth group of amendments is on floating charges. Amendment 38, in the name of the minister, is grouped with amendments 39 to 48.

Allan Wilson: The amendments all relate to part 2 of the bill, which deals with floating charges. Some of the amendments in the group are more substantial than others; I will deal with those first and then with the technical amendments.

Amendment 39 will give Scottish ministers the power to make regulations as to the form of documents and notices, the particulars that they are to contain and the manner in which they are to be delivered to the keeper. Amendment 41 is consequential on amendment 39. Taken together, they will extend the power so that it will be possible for the register to be operated electronically.

In lodging amendments 42, 43, 44 and 45, we have again listened to stakeholders. Amendment 42 will clarify the alterations to the terms of the document that have to be registered. They include alterations to do with the ranking of the charge with any other floating charge or fixed security, or the specification of property that is subject to the charge, or the obligations that are secured by the charge.

The new provision is subject to the existing minor exception in section 36(2), which will enable an agreement between the secured creditors in which the debtor is not a participant to be registered, provided that the debtor will not thereby be adversely affected. In that case, the document of alteration will not have to be subscribed by the company that is granting the charge.

Amendments 43 and 44 are consequential on amendment 42. Amendment 45 will clarify for the purposes of section 36(3)—which covers the granting by the floating charge holder of consent to release the property from the scope of the charge—that property is not to be regarded as released from the scope of the floating charge because it has ceased to be the property of the company that granted the charge.

Amendment 46 will remedy a problem that was identified by my good friend and colleague Murdo Fraser at stage 2. It provides that, if there is an insolvency in another European Union state that is the company's main centre of interest, that will trigger the crystallisation of a Scottish floating charge, which will mean that any searcher of the

register, on seeing such a notice, will be aware that foreign insolvency has triggered crystallisation of the floating charge. Amendment 38 is consequential on amendment 46.

Part 2 is exceedingly complex but it is important, so we will continue to work with our stakeholders to ensure that the provisions work well. In fact, we were doing that right up to this morning. If necessary, we may need to adjust the provisions using our ancillary and transitional powers.

I turn now to the technical amendments. Amendment 40 will clarify the meaning of a document granting a floating charge to reflect the fact that it is a company that grants a floating charge, albeit by means of a document.

Amendment 47 will repeal section 140 of the Companies Act 1989, which is consequential on the repeal of part 18 of the Companies Act 1985 by section 39(1) of the Bankruptcy and Diligence etc (Scotland) Bill.

Amendment 48 will ensure that industrial and provident societies are subject to the ranking sections of the bill in the same ways that companies are.

I move amendment 38.

Murdo Fraser: I want to thank the minister for addressing the concerns that I expressed at stage 2 on the impact of floating charges.

Amendment 38 agreed to.

Amendment 39 moved—[Allan Wilson]—and agreed to.

Section 32—Creation of floating charges

Amendment 40 moved—[Allan Wilson]—and agreed to.

Section 33—Advance notice of floating charges

Amendment 41 moved—[Allan Wilson]—and agreed to.

Section 36—Alteration of floating charges

Amendments 42 to 45 moved—[Allan Wilson]—and agreed to.

Section 38—Effect of floating charges on winding up

Amendment 46 moved—[Allan Wilson]—and agreed to.

Section 39—Repeals, savings and transitional arrangements

Amendment 47 moved—[Allan Wilson]—and agreed to.

Section 42—Industrial and provident societies

Amendment 48 moved—[Allan Wilson]—and agreed to.

Section 43—Scottish Civil Enforcement Commission

10:00

The Deputy Presiding Officer: Group 10 is on replacement of the Scottish civil enforcement commission with the advisory commission. Amendment 93, in the name of Kenny MacAskill, is grouped with amendments 94, 96, 98 to 110, 112 to 116, 118 to 120, 122 to 129, 131 to 147, 176, 207, 180, 189 to 193 and 203 to 205.

Mr MacAskill: Amendment 93 is the principal amendment in the group—the others are consequential. I thank the clerks of the Enterprise and Culture Committee, who worked to ensure that the amendments were ready. The work was complicated by the number of amendments that were consequential on the principal amendment. It was not just that the clerks did their job; they worked long into the night to ensure that Parliament would be able to debate the amendments. Members will soon decide whether to agree to them.

The principal question is this: do we wish to create yet another commission—a Scottish civil enforcement commission—to supplant what is currently a well-regulated and well-run profession? Why are we seeking to do that? If it ain't broke, why are we seeking to fix it?

To be fair to the Executive, the proposal did have some logic at the outset. The intention behind creating the Scottish civil enforcement commission was to ensure that there would be regulation not only of sheriff officers and messengers-at-arms—or judicial officers, as they will be called—but of debt-collecting agencies. There is merit in that idea and I commend the Executive for it. However, difficulties came to light because many matters relating to debt collection are reserved; for example, matters relating to consumer credit cannot be dealt with by this Parliament. We were then left with the idea of the Scottish civil enforcement commission, but such a commission would not address the problem for which it was to be created at significant cost. All it would do was replicate what we already have. At that juncture, the Executive should have seen the error of its ways and, rather than press on, withdraw and leave the profession to run itself.

If the amendments in the group are not accepted, we will be creating yet another commission—Mr Swinney is the man who usually comments on such things. According to the Finance Committee, the set-up cost will be £1

million and the annual running cost will be £650,000. That money will be spent, even though we already have a self-regulated system that costs the state and the taxpayer not one penny. Will taxpayers get any added advantage? No—not unless we regulate additional debt-collecting agencies that currently come within the ambit and jurisdiction of Parliament. There will be a huge cost but no additional benefit.

At the same time, the ethos and integrity of a group of individuals will be undermined. Those people will come together as judicial officers—or whatever name we will call them by. They have done a good job serving the people of Scotland and the judicial system of Scotland, of which they are a vital part.

Those are the circumstances that led me to lodge amendment 93. We should not create yet another commission at huge cost and we should not seek to undermine the ethos and integrity of a profession that has served the people of Scotland well for centuries.

I move amendment 93.

Derek Brownlee (South of Scotland) (Con): I am sympathetic to Mr MacAskill's amendments, not least because—as Mr MacAskill said—a Scottish civil enforcement commission appears to be the single most expensive way of tackling the problem that was identified by the Executive in relation to regulating officers of court. From a value-for-money perspective, it is rather worrying to read in the policy options paper, which was considered prior to the Executive's arrival at the decision to create another quango, the explicit recognition that such a commission was the most expensive option on the table. It was suggested that costs might be reduced by imposing new functions at a later date to increase economies of scale. It is rather bad policy not only to choose the most expensive option but to use a throwaway line that suggests that the commission might take on other functions.

There is another reason to support Mr MacAskill's amendments: the Executive, having talked about a bonfire of the quangos and a moratorium on the creation of new non-departmental public bodies, has not really been able to explain why it is appropriate in this instance to create another NDPB, at significant expense, as Mr MacAskill said. I understand that the cost of running the commission would be about 10 times the cost that is currently borne by the profession itself. The policy that underlies the sections to which Mr MacAskill's amendments apply has not been thought through properly.

Mark Ballard (Lothians) (Green): I, too, speak in support of Kenny MacAskill's amendments. The Finance Committee, of which I am a member,

discussed the issue in its stage 1 report and said that it is not convinced that the option of creating an NDPB is the correct one. That opinion was informed by the committee's inquiry into accountability and governance issues, which considered not only commissioners and ombudspersons but wider issues relating to NDPBs and other arms-length public bodies. The committee found major problems in the accountability, governance, oversight and scrutiny of NDPBs.

I wish that all members had had a chance to read Linda Costelloe Baker's evidence to the committee, in which the former legal services ombudsman set out in great detail the problems that she had had with her arm's-length body, including a lack of monitoring and financial scrutiny and, underneath it all, a lack of accountability. That is why the Finance Committee recommended that the Executive consider whether implementation of bills, including the Bankruptcy and Diligence etc (Scotland) Bill, which will establish the Scottish civil enforcement commission, should be deferred until the Executive has completed its review of the scrutiny of public bodies. That suggestion was supported by the whole committee. I am disappointed that the Executive did not respond positively to the committee's suggestion.

I have heard, anecdotally, negative things about messengers-at-arms, particularly in relation to poinding. However, as Derek Brownlee said, the evidence is convincing that a job that is currently being carried out for £60,000 a year would be done by a Government body at a cost of £650,000 a year, plus £1 million in set-up costs. We do not need another NDPB doing a task that is already being performed perfectly adequately. That is why I urge Parliament to support Kenny MacAskill's amendments.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I recall a lengthy discussion on this issue in the Enterprise and Culture Committee. A great weight of evidence was considered in a thoughtful manner by the committee. I do not recall divisions on the matter; nor do I recall contributions along the same lines from Mr MacAskill's and Mr Brownlee's colleagues in the Conservatives and the Scottish National Party. I suggest to members that if they were to support Kenny MacAskill's amendments they would be flying in the face of the carefully weighed-up deliberations of a committee of this Parliament—[*Laughter.*]

Allan Wilson: Mr Stone is absolutely correct, because the amendments have been lodged at the very last moment, with no discussion and no notice to anyone with an interest, including, I understand, the Court of Session.

Murdo Fraser: Will the minister give way on that point?

Allan Wilson: Let me make the point.

The amendments seek to take the Scottish civil enforcement commission out of the bill and replace it with some kind of advisory commission. As Jamie Stone said, to date—ever since it was first consulted on in 2002—there has been strong support for the creation of a Scottish civil enforcement commission including, dare I say it, from the Society of Messengers-at-Arms and Sheriff Officers. The principle of having a Scottish civil enforcement commission was agreed at stage 1, and no one lodged amendments on the matter at stage 2.

Mark Ballard: Does the minister accept the genuine concerns of the Finance Committee, and the committee's suggestion that there should be no commission until the conclusion of the review of scrutiny of public services?

Allan Wilson: The Executive recognised that in its discussions and deliberations with the Finance Committee on the financial memorandum. The principle of the Scottish civil enforcement commission was never in doubt. The Society of Messengers-at-Arms and Sheriff Officers supported the principle, but we are now told that it considers it to be a bad idea. It has changed its tune. With all due respect to my good friend and colleague Kenny MacAskill, he had no clear explanation for why that might be the case, although he did hint at it. Perhaps I can help him with that. Could it be that the society is unhappy that I have not guaranteed that court officers will be able to form partnerships only with other court officers? That might explain the late amendments. I will have more to say about that when I oppose Kenny MacAskill's amendments 52 and 206, which will be debated later.

To introduce proposals on this scale, at this stage, without any proper consultation—[*Laughter.*] Members may laugh—if that is what we can expect from a putative SNP Executive, I despair.

Since Kenny MacAskill is determined to take us down that road, the amendments are in front of us and we must deal with them. They propose to set up a new advisory commission on judicial officers and, in a very unclear way, to divide up the functions of the Scottish civil enforcement commission. Mr Ballard mentioned the financial memorandum; Kenny MacAskill's proposals are accompanied by no financial memorandum. They will not be much cheaper—if they are cheaper at all. Not unusually for a nationalist member, Mr MacAskill is asking us to write him a blank cheque.

Despite what Mr MacAskill says, the amendments, if agreed to, are almost certain to

lead to a public body of sorts, which would cost as much as the commission but would have none of its advantages. For example, they would remove any role for the commissioner of public appointments in Scotland or the Scottish public services ombudsman. They would lead to public money being spent with no direct accountability to Scottish ministers or to Parliament. The amendments would remove the requirement for an annual report—something that I thought members would generally feel was a good thing. The amendments would not create a coherent new scheme, although that is no surprise, given the lack of notice, consultation or a financial memorandum, never mind anything else.

I will give members examples of the technical problems. There would be no scrutiny by Parliament of regulations that are made by the Court of Session and the amendments would have the effect that Court of Session orders would be enforced as if they were sheriff court decrees. How would that work? A new advisory commission on judicial officers would do nothing that the Scottish civil enforcement commission could not, but what it would do, it would not do as well. Importantly, it would not do something that the commission will do, in that it lacks the wider remit to actively develop the enforcement system towards greater effectiveness, efficiency, fairness and transparency. I argue strongly that that is not in the public interest. Contrary to what Mr MacAskill said, the commission will consider debt collection. That will be part of its functions and is covered in section 99 of the bill.

If I stand for any interest in this debate, it is the public interest that comes with an NDPB and which we would miss under Kenny MacAskill's proposal. Our proposal is about appointment processes, ethical standards and complaints to the Scottish public services ombudsman, all of which are in the public interest. I do not stand for any sectoral interest and am surprised to see the Greens, nationalists and Tories all standing for it. We stand for the public interest. I ask members to reject the amendments.

10:15

Mr MacAskill: The guffaws with which Jamie Stone's intervention was met say it all. There is no requirement to comment on that.

I agreed with a great deal of what Mark Ballard said, and I am sympathetic to it, but he is in danger of perpetuating a myth about sheriff officers that has persisted since the days of the poll tax.

Mr Stone: What about Alex Neil's silence in committee?

Mr MacAskill: I have always felt that we should in debates focus on fundamental principles,

especially at stage 3. However, if Mr Stone wishes to get into gratuitous insults, what about parties that have flip-flopped and which gave commitments to the electorate but have reneged on them? We need go back only to the single transferable vote in local government and the abolition of tuition fees. On and on go the Lib Dem promises.

I think Mr Ballard's comments on sheriff officers were made unintentionally. Sheriff officers and messengers-at-arms do an excellent job in Scotland. They impose interdicts upon husbands who are battering their wives and they get back children who have been abducted by errant fathers. There were difficulties during the time of poindings and warrant sales, but the sheriff officers and messengers-at-arms were simply imposing the law that legislators created. They implement what parliamentarians create and they do so effectively and efficiently.

Tommy Sheridan (Glasgow) (Sol): Will Kenny MacAskill give way?

Mr MacAskill: Not at the moment.

There may have been instances during enforcement of the poll tax in which sheriff officers and messengers-at-arms acted unacceptably but, in the main, they did so—

Allan Wilson: Would the existence of a Scottish civil enforcement commission have been a good thing or a bad thing in those dark days of poll tax debt enforcement?

Mr MacAskill: It would not have made any difference. As a practising agent who was involved in the poll tax campaign—along with Mr Sheridan—I remember doing what was appropriate, which was to write to the sheriff principal objecting to various methods. When we did that, the sheriff principal called the sheriff officers in and dealt with it. We did not need a civil enforcement commission with a start-up cost of £1 million and annual running costs of £650,000 thereafter; we had a sheriff principal who dealt with the problem as part of his job.

Christine May: Will Kenny MacAskill give way?

Mr MacAskill: No—I have taken enough interventions for the moment.

Mr Wilson made the legitimate point that there are problems in respect of the amendments being lodged at a late stage. However, today's manuscript amendments are in Mr Wilson's name and were lodged as a result of understandable political pressure in respect of land attachment—which we will debate later—from broad areas of civic Scotland including, I think, an editorial in today's edition of *The Herald* that castigates what Mr Wilson seeks to impose on Scotland. He lodged manuscript amendments because of

Cabinet discussions yesterday lunchtime, so for him to criticise amendments that were lodged timeously is breathtaking and puts even Mr Stone to shame.

The amendments in the group are not ideal, but that is because Mr Wilson has reneged on various undertakings that he gave when he met sheriff officers. Thereafter, the Society of Messengers-at-Arms and Sheriff Officers sought to speak to Executive civil servants and to negotiate with them, but the civil servants refused to enter discussions. They refused to discuss and debate the matter, not with some outraged citizen who was acting errantly and abhorrently, but with an organised body that is part of the judicial process in Scotland. To be frank, they dealt with the Society of Messengers-at-Arms and Sheriff Officers in a contemptuous manner that is unbecoming of an Executive. Thankfully, that will change next May.

If there are consequential problems with the amendments in the group, they were brought about by the Executive's failing to listen, discuss and act reasonably, never mind its going back on clear commitments that the minister gave to sheriff officers.

Allan Wilson: Does Kenny MacAskill have evidence for that latter charge?

Mr MacAskill: We certainly have. The Society of Messengers-at-Arms and Sheriff Officers has made freedom of information requests to see minutes of its meetings with the Executive. Perhaps the minister is not releasing them or perhaps, in civil service speak, notes were not kept. However, the evidence is clear and, if Mr Wilson feels that the people in the Society of Messengers-at-Arms and Sheriff Officers who are advising me are telling lies, he should say so.

The fact is that Mr Wilson gave commitments upon which he reneged and, thereafter, civil servants acting on his behalf failed even to meet the Society of Messengers-at-Arms and Sheriff Officers to discuss the matter and negotiate on it. That is unacceptable and shameful and it is why we need to allow sheriff officers and messengers-at-arms to continue to do the good job that they have done to date and do away with the provisions for an unnecessary commission—a new quango that the Executive seeks to introduce at huge cost to the taxpayer.

The Deputy Presiding Officer (Murray Tosh): The question is, that amendment 93 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 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)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 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)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)

Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 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)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 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)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (Sol)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Wallace, Mr Jim (Orkney) (LD)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Gorrie, Donald (Central Scotland) (LD)

The Deputy Presiding Officer: The result of the division is: For 39, Against 65, Abstentions 1.

Amendment 93 disagreed to.

Section 44—Information and annual report

Amendment 94 not moved.

Section 45—Publication of guidance and other information

The Deputy Presiding Officer: Group 11 consists of minor and technical amendments with regard to judicial officers. Amendment 95, in the name of the minister, is grouped with amendments 97, 1, 66, 2, 3, 117, 121, 130, 51, 67 to 69, 9 to 11, 178 and 179.

Allan Wilson: The amendments in the group, which are all minor and consequential, relate to the Scottish civil enforcement commission and judicial officers. Most of them simply clarify and improve the language of the provisions that they amend; others are consequential on amendments that we made at stage 2.

Two amendments in the group merit particular explanation. Regulation of the new profession of judicial officer will be a central function of the new commission, and amendment 51 expands the range of powers that will be given to the commission's disciplinary committee for cases in which a judicial officer has been convicted of an offence. The amendment will enable the disciplinary committee to make an order restricting a judicial officer's functions or activities for a period of time.

As we are all aware, the use of personal information must be closely regulated. Amendment 97 endorses that by amending section 46 to provide that information that is published by the commission and which relates to informal debt collection must not be in a form that enables the identification of judicial officers or persons against whom diligence has been executed.

I do not propose to take up the Parliament's time by explaining the minor amendments, but if any member has questions I will endeavour to answer them.

I move amendment 95.

Amendment 95 agreed to.

Section 46—Published information not to enable identification

Amendment 96 not moved.

Amendment 97 moved—[Allan Wilson]—and agreed to.

Section 50—Electronic publication

The Deputy Presiding Officer: Group 12 concerns electronic communications. Amendment 49, in the name of the minister, is grouped with amendments 50, 53 to 56 and 58 to 60.

Allan Wilson: There should be no barriers to using electronic communications for the various processes that are created in the bill unless there is a particularly good reason for using paper, and the amendments in the group make some necessary changes that arise from that principle.

Amendment 49 changes section 50 to clarify that, when something is done in writing under part 3 of the bill, which concerns enforcement, it can also be done electronically. As a result, section 50 will become a more general provision and it is therefore appropriate to move it to the end of part 3, which is what amendment 50 will do.

Amendments 53 to 56 relate to the land attachment part of the bill. Section 81 sets out which documents must accompany an application for a warrant to sell land. Amendment 53 will make it possible for those documents to be transmitted

electronically and will clarify that the requirement for a signature under section 81 can be satisfied by a certified electronic signature. Amendment 54 will ensure that it is possible for a creditor by electronic means to intimate in writing to a tenant that notice has been given of the termination of a debtor's right to occupy the land. Section 106 sets out which documents must accompany an application for foreclosure and amendment 55 will allow those to be transmitted electronically. Section 123 provides that an application for a satisfaction order under residual attachment should be accompanied by a copy of the schedule of residual attachment and may be accompanied by other documents. Amendment 56 will enable those documents to be in electronic form.

The final amendments in the group will insert new definitions into section 199. Amendment 59 defines the term "certified electronic signature" and amendment 60 defines the term "electronic communication". Both terms are defined by reference to the Electronic Communications Act 2000. Given that the definitions will apply generally to the bill, section 186(4) is no longer needed, as it provides a similar definition for the money attachment part only; amendment 58 will remove that section.

I move amendment 49.

Amendment 49 agreed to.

Amendment 50 moved—[Allan Wilson]—and agreed to.

Section 51—Judicial officers

Amendment 98 not moved.

Section 52—Appointment of judicial officer

Amendment 1 moved—[Allan Wilson]—and agreed to.

Section 53—Annual fee

Amendment 99 not moved.

Section 55—Regulation of judicial officers

The Deputy Presiding Officer: Group 13 is on ownership and control of judicial officer businesses. Amendment 206, in the name of Kenny MacAskill, is grouped with amendment 52.

Mr MacAskill: The minister made some pejorative remarks about special pleading by sheriff officers. To put the matter in context, amendments 206 and 52 seek to introduce into the bill the rules that regulated sheriff officers previously. Back in 1991, when the rules were created—in secondary, not primary legislation—it was made clear that sheriff officers and messengers-at-arms should hold a commission

and that there is an ethos that goes with being a member of the profession, which is part of our judicial system. Members who have been solicitors or advocates—there are many of them—will be aware that people in the judicial system have a responsibility not only in how they operate, but to the court. That duty surpasses any duty that they as individuals have to their clients, partners or others with whom they work. People in the system understand that there is a higher ethos because of the responsibility of the job or office that they hold. That is why, back in 1991, the rules made it clear that people had to hold a commission and could not simply be a silent partner or a limited company that was based wherever.

As I said, amendments 206 and 52 seek not to introduce new measures, but to restore the previous status quo, which was introduced in secondary legislation. What happened was that, in the wisdom of those elsewhere and perhaps even here, we acknowledged that, in the modern world, there was a need for solicitors firms to be able to become limited liability partnerships. We did not realise at the time that the consequence would be to open up an opportunity for access to be gained to sheriff officers firms. As far as I am aware, it was not envisaged or intended that firms of judicial officers, sheriff officers or messengers-at-arms would be able to become limited liability partnerships. The aim was to deal with the Law Society of Scotland and the legal profession. However, a loophole opened up, an opportunity was seen and various firms moved in. Some individuals have made substantial amounts of money and firms have acquired shares in or ownership of various other firms. That is not appropriate.

As we made an error in the introduction of limited liability partnerships, we should seek to return to the principles for the operation of judicial officers that existed not just under the 1991 regulations, but from the outset in Scotland. If amendments 206 and 52 are rejected and we go with the minister's proposals, we will compound an error and open up the opportunity for debt collection agencies to move in. We will give an opportunity not simply to those who wish to have the protection of limited liability status in operating a sheriff officers practice in Scotland; we will give it to the vultures—the predatory practices and companies that seek only to maximise the money that they make. Those companies have no ethos of support for the Scottish judicial system, but simply want a return on their investment.

10:30

It would be a retrograde step if judicial officers in Scotland did not have a commission from and a responsibility to either the Scottish civil

enforcement commission or the court under the auspices of which they operate, but instead were convinced that their responsibility was to the shareholders and the head office, whether that is in Delaware, Detroit or south of the border here. Let us not forget that a great many vultures are circling various practices and judicial officers firms in Scotland, because debt collecting agencies can make a substantial amount of money by collecting council tax or whatever. Many of those firms seek to get a share of the pie. As I said, they do not seek to do the work responsibly and effectively, as happens under the current ethos of the judicial officer system in Scotland; instead, they simply want to make a fast buck.

Amendments 206 and 52 would restore the previous status quo and would protect not only sheriff officers firms and individuals, but the ethos and integrity of the Scottish judicial system. As I said, people in the system have a responsibility to the court and not simply to shareholders, wherever they are located.

I move amendment 206.

Murdo Fraser: Mr MacAskill has a fair case, but he does himself and his case no favours in overstating it. Frankly, the use of terms such as “vultures” does nothing to persuade other members to support him. The Enterprise and Culture Committee considered the issue at stage 1. Those who have ownership of a firm of sheriff officers or judicial officers need not themselves be qualified—an argument has not been made for that. We already have firms of sheriff officers that are owned externally and I am not aware of any problems or difficulties that have arisen as a result. There is therefore no evidence to suggest that a problem is likely to be created. We should oppose unnecessary restraints on trade if we are in favour of promoting business. Therefore, we will oppose amendments 206 and 52.

Christine May: The Enterprise and Culture Committee had a lengthy debate on the issue. I recall that the convener did not have anything to say in dissent on the matter. It is important to remember the client group with which the officers deal—generally, they are not the sort of people who know how to complain to the sheriff principal. Therefore, better regulation is essential, which is why the new commission is essential.

Allan Wilson: I am grateful to the members of the Enterprise and Culture Committee for clarifying the issue. One reason why I changed direction on the matter during the summer is precisely because of representations that the Enterprise and Culture Committee and other external stakeholders made to me. To the best of my knowledge and contrary to what Mr MacAskill said, no one in the sector is saying no to limited liability partnerships.

It is usual to regulate the business arrangements of professions in one way or another, because few professionals operate as sole practitioners and it is commonplace for them to form business associations such as partnerships. Those business arrangements must not work against the public interest. There should be no split loyalties and people who profit from the business should therefore be held to account for their part in any malpractice. I therefore intend to ensure that all persons who direct judicial officers in their functions are subject to scrutiny by the civil enforcement commission, which we debated previously. That is a clear and reasonable policy that is designed to protect the public interest.

I accept that the policy could be implemented in various ways. We could say that officers must go into business only with each other in what we could call all-officer firms. Alternatively, we could say that non-officers should have to pass some kind of fitness check, such as a police check, or that non-officers could become associate members of the profession. Perhaps the right approach is a mix of all three possibilities, to allow different types of businesses to prosper in the marketplace. It is important to be flexible whatever we do. That is why I propose that Scottish ministers shall have a power, under section 55(2), to make regulations prescribing the types of business organisations that officers can form and related matters. I believe that to be clearly in the public interest.

If the bill is agreed to today, I will consult on proposals for regulating the business activities of officers, and encourage contributions from everyone with an interest, so that we can find the best solution together. Kenny MacAskill's amendments 206 and 52 would cut across the power in section 56 and remove all the options bar one—the all-officer firm. Why? My answer to that would be special pleading. The amendments serve the interests of one group of court officers at the expense of others and are part of an attempt by traditional court officers in all-officer firms to handicap other court officer businesses that have found a way to bring in partners with other skills and other capital. Those businesses are among the most successful in the sector but would be forced to reorganise if we pursued an all-officer firm policy.

Those businesses tell me that there is room for everybody. We are keen to find a solution that means that everyone can be properly regulated, whether or not they are in an all-officer firm. Those businesses are no keener on encouraging the sharp practices that were referred to by Mr MacAskill than anyone else is. I agree with Murdo Fraser that it is highly inappropriate to describe them as vultures. I think that they deserve a say in the coming consultation in the same way as the

traditional court officers do. I want to keep an open mind with regard to that process and I hope that others would wish to do the same thing. That is the correct approach to the matter and, therefore, I ask Kenny MacAskill to withdraw amendment 206.

The Deputy Presiding Officer: I will use my power under rule 9.8.4A to extend the debate on this group by two minutes, which is the time that you have in which to respond, Mr MacAskill.

Mr MacAskill: Points were made by Mr Fraser and the minister with which I have some sympathy. To be fair, the sheriff officers were not seeking to be luddite; they have advised me that they were prepared to consider certain percentages and so on. The problem was that the minister refused to negotiate or discuss the matter with them, which meant that, accordingly, they were left with no option but to pursue the route that was offered by my lodging of amendment 206, which is a take-it-or-leave-it approach. The tragedy is that there might have been room for some compromise, to which Mr Fraser alluded. That was not on offer, however, and the Executive is to blame in that regard.

I want to make it clear that I am not referring to the existing sheriff officers firms that operate in Scotland as vultures. Having met those firms, I think that their ethos is different from that of other firms and that it is not particularly beneficial. However, when I say that the vultures are circling, they most certainly are. They are looking at the money that is made by existing firms, such as those that operate beyond the existing practices of commissioned officers only, and are aware of the money that can be made. We already have a problem with predatory lending practices in the area of consumer credit. If we create a situation in which predatory lending combines with the predatory recovery of debt, we will compound the problems of consumer credit, which is encouraged by those furth of our shores who have no interest whatsoever in the welfare of our people and who do not care about the consequences of debt, such as divorce, crime or suicide.

We will have no control over judicial officers whose responsibility is not to the Court of Session, the sheriff principal or the people of Scotland but to people who want to maximise revenue and return. Just as those companies are predatory in their lending practices, they will be predatory in their recovery practices. Unless we support amendment 206, we, as a people, will rue the day.

The Deputy Presiding Officer: The question is, that amendment 206 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 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)
 Morgan, Alasdair (South of Scotland) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 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)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 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)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 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)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 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, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (Sol)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Wallace, Mr Jim (Orkney) (LD)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 20, Against 84, Abstentions 0.

Amendment 206 disagreed to.

Amendments 100 to 104 not moved.

Amendment 66 moved—[Allan Wilson]—and agreed to.

Amendments 105 to 108 not moved.

Section 56B—Information from professional association

Amendments 109 and 110 not moved.

Section 58—Investigation of alleged misconduct by judicial officer

Amendments 2 and 3 moved—[Allan Wilson]—and agreed to.

Amendments 112 to 114 not moved.

Section 59—Suspension of judicial officer pending outcome of disciplinary or criminal proceedings

Amendments 115 and 116 not moved.

Section 60—Commission's duty in relation to offences or misconduct by judicial officer

Amendment 117 moved—[Allan Wilson]—and agreed to.

Amendment 118 not moved.

Section 60A—Commission's power in relation to judicial officer's bankruptcy etc

Amendment 119 not moved.

Section 61—Referrals to the disciplinary committee

Amendment 120 not moved.

Amendment 121 moved—[Allan Wilson]—and agreed to.

Amendments 122 to 128 not moved.

Section 62—Disciplinary committee's powers

Amendment 129 not moved.

Amendment 130 moved—[Allan Wilson]—and agreed to.

Amendments 131 to 136 not moved.

Amendment 51 moved—[Allan Wilson]—and agreed to.

Amendments 137 to 140 not moved.

Section 63—Orders under sections 59 and 62: supplementary provision

Amendments 141 to 143 not moved.

Section 64—Appeals from decisions under sections 52, 59 and 62

Amendments 144 and 145 not moved.

Section 65—Judicial officer's actions void where officer has interest

Amendments 67 to 69 moved—[Allan Wilson]—and agreed to.

After section 66

Amendment 52 moved—[Mr Kenny MacAskill].

The Deputy Presiding Officer: The question is, that amendment 52 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Frances (West of Scotland) (SSP)
Fox, Colin (Lothians) (SSP)

Gibson, Rob (Highlands and Islands) (SNP)
Grahame, Christine (South of Scotland) (SNP)
Hyslop, Fiona (Lothians) (SNP)
Leckie, Carolyn (Central Scotland) (SSP)
Lochhead, Richard (Moray) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
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)
Morgan, Alasdair (South of Scotland) (SNP)
Stevenson, Stewart (Banff and Buchan) (SNP)
Swinney, Mr John (North Tayside) (SNP)
Watt, Ms Maureen (North East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Alexander, Ms Wendy (Paisley North) (Lab)
Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
Baillie, Jackie (Dumbarton) (Lab)
Baird, Shiona (North East Scotland) (Green)
Baker, Richard (North East Scotland) (Lab)
Ballance, Chris (South of Scotland) (Green)
Ballard, Mark (Lothians) (Green)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Douglas-Hamilton, Lord James (Lothians) (Con)
Eadie, Helen (Dunfermline East) (Lab)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
Finnie, Ross (West of Scotland) (LD)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
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)
Harper, Robin (Lothians) (Green)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Johnstone, Alex (North East Scotland) (Con)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lyon, George (Argyll and Bute) (LD)
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)
May, Christine (Central Fife) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
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)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 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, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (Sol)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Wallace, Mr Jim (Orkney) (LD)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 20, Against 84, Abstentions 0.

Amendment 52 disagreed to.

Section 67—Effect of code of practice

Amendment 146 not moved.

After section 67

Amendment 147 not moved.

Section 70—Land attachment

The Deputy Presiding Officer: Group 14 is on service of the debt advice and information package. Amendment 4, in the name of the minister, is grouped with amendments 5 to 8.

Allan Wilson: The Debt Arrangement and Attachment (Scotland) Act 2002 introduced the debt advice and information package. The package contains information about enforcement as well as contact details for free local money advisers who can help sort out any debt problem. The package helps people with debt problems when they need help the most. I would argue that the package is more than just a piece of paper and that it is part of a wider effort that the Executive is engaged in to tackle problem debt, which includes funding for more than 130 new front-line money advisers.

The bill says that the new diligences of land attachment and residual attachment are

competent only if the creditor has given a copy of the package to the debtor either before, or on service of, a charge to pay the debt. A charge to pay lasts for up to two years, which could mean that the package was provided long before the immediate need. Accordingly, the time limits were changed by amending the bill at stage 2. The amendments in the group bring land attachment and residual attachment into line with changes that were made at stage 2 for other diligences. They provide that the package must be served within 12 weeks of either the registration of a notice of land attachment or an application to the court for a residual attachment order.

10:45

I lodged an amendment at stage 2 to introduce new section 73CA of the Debtors (Scotland) Act 1987, which will require the creditor to provide the debtor with the debt advice and information package before the expiry of a 48-hour period that begins either with the serving of the copy of the final decree, where property has been arrested as security for a claim in a court case, or with the service of the schedule of arrestment in other cases.

I lodged amendment 8 to ensure that the creditor does not provide the package before the start of the 48-hour period. If the creditor provided the package earlier, that might allow the debtor time to move funds, so the amendment clarifies that the package must be served during that period.

I move amendment 4.

Christine May: I welcome amendment 4, which, again, follows long deliberations by the committee. I am grateful to the minister for the time that he took to consider the representations that were made in evidence from Money Advice Scotland, Citizens Advice Scotland and others. Too often, debtors fail to take advantage of the support that is available to them, perhaps because they feel intimidated, or for other reasons. I commend amendment 4 to the Parliament.

The Deputy Presiding Officer: I do not think that any response is necessary, minister, so I will go straight to the question.

Amendment 4 agreed to.

Amendment 5 moved—[Allan Wilson]—and agreed to.

The Deputy Presiding Officer: Group 15 is on competency of land attachment. Amendment 148 is the only amendment in the group.

Christine May: The bill introduces the new diligence of land attachment, under which a debtor's main dwelling-house can be attached and

sold for a debt of £3,000 or more. That merits sober consideration because the consequences are extremely serious. We must ensure that the law provides a fair and effective means for creditors to recover their money, but we must also protect debtors from unfair or punitive recovery methods.

In the minister's comments on amendment 4, we heard about some of the steps that he has taken to protect people's homes. Amendment 148 proposes a hierarchy of diligence, not to let debtors off the hook but to ensure that creditors do not use such a serious recovery tool as their means of first resort. According to the Scottish Law Commission, when a creditor has a choice of different legal procedures, preference should normally be given to that which involves the least coercion. In its 1985 document, "Report on Diligence and Debtor Protection", the commission expressed the view that bank arrestments and arrestments against earnings are less intrusive than poindings and warrant sales. In its 2000 document, "Report on Poinding and Warrant Sale", the commission states:

"where a creditor had an option of using more than one diligence to recover a debt, the law should facilitate his opting for arrestment or earnings arrestment rather than poinding and sale."

That principle was brought into practice by the Debt Arrangement and Attachment (Scotland) Act 2002, which introduced a hierarchy of diligence for exceptional attachment orders, which replaced poindings and warrant sales.

The 2002 act also provides that the creditor must show the sheriff not only that they have taken reasonable steps to negotiate settlement of the debt but that they have executed or attempted to execute a bank arrestment or earnings arrestment first.

Land attachment ultimately involves the loss of the debtor's home. It is a far more coercive measure than even poinding and warrant sale. My amendment 148 proposes that the creditor must attempt other forms of diligence—including exceptional attachment—before they can attach the debtor's home. It is better for the debtor to lose high-value possessions from within their home than to lose the home itself. The amendment mirrors the relevant provisions in the 2002 act and is consistent with the principle behind other forms of diligence.

I note that the minister has lodged manuscript amendments, which will be considered later, but I will be interested to hear his response to the points that I have made.

I move amendment 148.

The Deputy Presiding Officer: We are very pressured for time, so I ask for three-minute speeches.

Tricia Marwick (Mid Scotland and Fife) (SNP): I will be brief. Christine May's amendment 148 would introduce a hierarchy of diligence and ensure that the creditor used other means to try to recover their money before they attempted to sell the debtor's house. It would not prevent the attachment and sale of a family home, which we will discuss in the debate on group 17, but in the meantime, a hierarchy of diligence is better than what is in the bill at the moment. The introduction of a hierarchy would bring the bill into line with previous legislation. We will support the amendment.

Murdo Fraser: I will try to be equally brief. The part of the bill on land attachment is one of the most contentious parts, and the committee considered it in some detail at stage 1. We recognise that concerns have been expressed about it throughout civic Scotland. Many members will have been lobbied by Citizens Advice Scotland and other bodies that have concerns.

A range of amendments have been lodged on the matter. I can see what Christine May is trying to achieve with amendment 148, but I am not attracted to it. In practice, it would be difficult to implement and enforce a hierarchy of diligence. For that reason, we are not inclined to support amendment 148, but we will support some of the other amendments on the matter when they are considered later.

Shiona Baird (North East Scotland) (Green): We will support amendment 148. It makes sense to us to have a hierarchy of diligence so that every effort is made to ensure that creditors use the full range of approaches to debt recovery before they use the ultimate sanction and impose homelessness.

The evidence to the committee made it clear how vulnerable people are when they have huge debts. There is a tendency for them to ignore their debts, not to open their mail and not to admit that there is a problem. That suggests that we need a far less heavy-handed approach. The creditor's aim is to recover as much of the debt as possible, but in the end a heavy-handed approach can be counterproductive. A hierarchy of diligence would ensure that every effort was made to use less punitive methods of debt collection first.

The Deputy Presiding Officer: Members' having exercised considerable self-restraint, I am able to be more generous to you, minister.

Allan Wilson: I would not wish to get preferential treatment. I will be as brief as I can.

I fundamentally agree with everything that Shiona Baird said. That is why I am introducing the crystallisation of debt and, potentially, debt relief to the debt arrangement scheme, which is the single most significant element of the bill.

The sale of land to repay debt is a serious matter for the debtor. I therefore made sure that the bill includes strong debtor protections, two of which I just mentioned. Like others, I understand why Christine May believes that land attachment should be a diligence of last resort and proposes that it should be at the top of a hierarchy of diligence. However, I do not agree that her amendment 148 would improve the bill.

We must see land attachment in its context. It is a diligence that is used to enforce court judgments. Any diligence comes at the end of a long process—as Shiona Baird suggested—and the debtor will have had many chances to sort out the problem that led to their land being attached. In many cases, they will have ignored representations. However, it is possible to stop a land attachment even after it has started. The debtor has at least six months in which to get legal advice and pay, or put in place an arrangement to pay, and they will be given the address of a local money adviser who can help them to do that.

If we make creditors use other diligences first, the debtor might have to pick up the bill. I do not see much point in forcing a creditor to try to arrest a bank account if they strongly suspect that little or nothing will be recovered.

There are other reasons why the amendment would not work, however well intentioned it is. It borrows the language of section 48 of the Debt Arrangement and Attachment (Scotland) Act 2002, but there is a critical difference. Under the 2002 act, the court considers the evidence and gives permission to attach the home. In land attachment, the creditor would have to take the risk that the court would decide that the attachment was unlawful months after the event. That is not fair to creditors.

Even if there was time today to consider a hierarchy of diligences—I and others have been criticised for lodging last-minute amendments—the list in amendment 148 is too short. It does not mention ordinary attachment, money attachment or, crucially, inhibition, which is another diligence that affects land. The omission of inhibition would have an undesirable effect. Inhibition is a personal bar on the debtor's disposing of land. It does not attach land. The one purpose of land attachment is to enforce the breach of an inhibition, so the exclusion of inhibition from such a hierarchy would make it unworkable.

Careful work would be needed to ensure that all the diligences fitted into a hierarchy, even if that

were for land attachment alone. I agree with Murdo Fraser that that cannot be done today. In any event, the process would be technical and complex. If the Scottish Law Commission had been able to do that work, I am sure that it would have done it before now. That is not to say that I am not predisposed to doing such work in due course, but it would require consideration by all practitioners and consensus and buy-in across the board. That is not possible in the debate on amendment 148, so I ask Christine May to withdraw her amendment.

Christine May: I thank members and the minister for their comments. Having listened to the minister and considered his amendment 209, which was lodged after my amendment 148, I am persuaded that he takes on board the point that I make and that he is concerned to discuss with others how such diligences might be ranked. Given that, I ask to withdraw amendment 148.

Tricia Marwick: No.

Frances Curran (West of Scotland) (SSP): No.

Carolyn Leckie (Central Scotland) (SSP): No.

The Deputy Presiding Officer: That takes care of the question whether the Parliament agrees to withdrawal.

The question is, that amendment 148 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 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)
 Morgan, Alasdair (South of Scotland) (SNP)
 Scott, Eleanor (Highlands and Islands) (Green)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 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)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 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)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, John (Ayr) (Con)
 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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Sheridan, Tommy (Glasgow) (Sol)

The Deputy Presiding Officer: The result of the division is: For 28, Against 74, Abstentions 1.

Amendment 148 disagreed to.

Section 72—Notice of land attachment

The Deputy Presiding Officer: Group 16 is on minimum debt limits for land attachment. Amendment 149, in the name of Christine May, is grouped with amendments 151 and 152. I would be grateful if Christine May completed speaking to the amendments in three minutes.

Christine May: For most home owners, losing the family home is the ultimate sacrifice, which they would wish to avoid at all costs. As we have said, the new diligence of land attachment will allow a home to be put under threat for a debt of as little as £3,000. Amendments 149 and 151 would increase the debt limit to £5,000.

Increasing the figure to £5,000 would offer low-income debtors some protection. Citizens Advice Scotland's research shows that one third of its debt clients had debts of less than £5,000. Increasing the limit would decrease the risk of a creditor pressuring a debtor to take on further, potentially unsustainable, borrowing to avoid losing their home.

In introducing a stage 2 amendment, the minister told the committee that the limits for bankruptcy and for land attachment should be the same. The policy intention of that is to ensure that creditors do not find it easier to bankrupt people than to attach their land. Accordingly, any increase in the land attachment figure is likely to result in an increase in the bankruptcy limit, too. If amendments 149 and 151 are agreed to, such an increase could be done by regulation. Increasing the debtor limits could be problematic, but £5,000 is seen as a reasonable compromise, given the bill's new section 14A, which relates to low income, low asset clients.

Amendment 152 proposes to increase the figure for the not-worth-it test from one third of the debt that is owed plus expenses to a minimum of £5,000. At the same meeting that I mentioned, the minister said that land should not be sold for small debts. Amendment 152 would ensure that there was sufficient equity in a dwelling-house to realise a minimum of £5,000 plus expenses, rather than allow a debtor and their family to face

homelessness in order for a debt of as little as £1,000 to be recovered.

Increasing the limits would not be the whole solution, but it would ensure that a serious step was not taken for a small sum of money.

I move amendment 149.

11:00

Tricia Marwick: Amendments 149, 151 and 152 would increase from £3,000 to £5,000 the debt limit for granting a land attachment. As Christine May said earlier, land attachments are a far more coercive measure than poindings and warrant sales, as they involve the ultimate loss of a debtor's home. Christine May's amendments do not address the principle of land attachment of the family home, which will be discussed later. However, the amendments would make the situation marginally better than that which the Government proposes, so we will support them.

Shiona Baird: Surely it is draconian to include a diligence that will result in homelessness on accruing a debt of just £3,000, although, to be fair, the minister raised the ceiling from £1,500 to £3,000. Christine May's amendments would afford greater protection overall to debtors who face land attachment. In view of ever-rising house prices, will the minister reconsider the Executive's policy intention of keeping the limits for land attachment and sequestration the same? It would not help if the amendments adversely affected people with low incomes and low assets so that they could not access bankruptcy until their debt reached the higher level. Facing up to debt sooner rather than later will always benefit both parties.

Allan Wilson: I do not disagree with Shiona Baird's last point, although arguments can be made about having the limits out of kilter. I introduced provisions for no income, no asset clients to access debt relief that were not in the bill originally.

The amount of debt that is needed before land can be attached and sold was debated widely at stage 2, when the lead committee agreed to my amendment to double the debt limit to £3,000. It is right to keep a close eye on the debt limit—I do not dispute that. The limit cannot be so high that creditors have an incentive to bankrupt the debtor or so low that debtors lose their land as the result of a relatively small debt.

I told the committee and I repeat that I am not stuck on £3,000. I would consider a higher figure if the argument for change were overriding. I understand and respect the concerns of members who have spoken about the impact of the diligence. In the next group of amendments, we

will consider amendments that I believe will offer Christine May all the assurance that she needs.

Tommy Sheridan: If the minister does not have a problem with the actual debt limit, how did he arrive at the proposed debt limit? The average house price is £135,000. Is the limit a percentage of that?

Allan Wilson: It is a fact that the process is relatively arbitrary. I doubled the previous limit of £1,500 to £3,000 and kept the debt limits for land attachment and bankruptcy together because we do not want to give creditors a perverse incentive to bankrupt debtors as opposed to using the more debtor-friendly system of land attachment. That was the rationale.

The arguments in favour of a higher figure are not any better or more reliable today than they were a few weeks ago. Increasing today the debt limit, which was agreed at stage 2, would not be rational. A strong argument remains in favour of keeping the land attachment and bankruptcy debt limits in line with each other. The Parliament considered the issue this morning. There is no strong argument for raising the bankruptcy limit now. As I explained, if the attachment debt limit were £5,000 and the bankruptcy limit were £3,000, many creditors would find it easier to bankrupt a debtor than to attach land.

I have said before, and it is worth repeating as many times as needed, that one reason for introducing land attachment is that it is better for home owners than bankruptcy. The reason is simple: in a sequestration, ownership of the home automatically transfers to the trustees for the creditor. A land attachment is only a security and can be stopped by a time-to-pay measure. Later, I will move amendments to make it clear that people who make a reasonable request for time to pay will have that time.

I do not support amendments 149, 151 and 152, but I am happy to keep a close eye on the issue that Christine May has raised.

I would consider changing the debt limits for bankruptcy and land attachment at any stage, using the powers that I am asking for. The argument that Christine May has made can, therefore, be reconsidered after the bill becomes law—as I hope that it will today. I therefore ask Christine May and those who agree with her to work with me to ensure that the new diligence of land attachment strikes the right balance. I have an open mind about the limits. I believe that the limits should be the same, so that there is no perverse incentive to bankrupt rather than attach—such an incentive would mean that people would lose their home because it would transfer automatically and be vested with the trustee in a sequestration application.

I say to Christine May and those who support her that they should work with us. We will consult, if necessary, and will change the limits if there is demand for that. I ask her to withdraw amendment 149 and not to move amendments 151 and 152.

Christine May: Amendment 149 was lodged before the minister lodged his amendments, which will be considered later. Having listened carefully to what he said, especially his willingness to engage in dialogue after today, I am satisfied that he has taken on board the points that I have made. I look forward to having those discussions with him and urge the members who have supported me in the debate to join me in that dialogue. I seek to withdraw amendment 149.

The Deputy Presiding Officer (Trish Godman): Does any member object to Christine May withdrawing amendment 149?

Members: Yes.

The Deputy Presiding Officer: The question is, that amendment 149 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 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)
 Morgan, Alasdair (South of Scotland) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)

Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
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 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 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)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 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)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, John (Ayr) (Con)
 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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tosh, Murray (West of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Sheridan, Tommy (Glasgow) (Sol)

The Deputy Presiding Officer: The result of the division is: For 29, Against 74, Abstentions 1.

Amendment 149 disagreed to.

Section 81—Application for warrant to sell attached land

The Deputy Presiding Officer: Group 17 is on attached dwelling-houses and statements on land attachment. Amendment 208, in the name of the minister, is grouped with amendments 150, 209, 153, 154, 210, 211, 157, 158, 177 and 212. This group includes all the amendments that are printed on the supplementary marshalled list.

Allan Wilson: I will be brief. I hope to come back to the non-Executive amendments in the course of the debate.

As has been said, this is a bill for enterprise. Land attachment is one of the new diligences that will give businesses the modern and effective enforcement system that they should have. I repeat that people who can pay, should pay and that people who will not pay their debts must face what follows, even if that means that, as a last resort, their home is attached and ultimately sold.

Of course, we must tread carefully where homes are concerned. Land attachment must be part of a well-balanced package that offers help and support to people who have debt problems. In the run-up to the debate, I tried to explain the 21 debtor protection measures that can be taken prior to any home being sold, and I believe that the bill, as it appears today, offers a well-balanced package. Indeed, it ensures a better balance between the interests of creditors and debtors.

I will need to say more about why land attachment strikes the right balance in reply to what is likely to be said by members who have lodged amendments in this group. However, before I do that, I will say why my amendments should be agreed to.

I have listened to the concerns of members such as Gordon Jackson and Christine May, among others. I have also listened to the concerns that were expressed to the lead committee. Although I have not seen the convener of that committee all morning, I note that he has lodged amendments in this group. I do not agree entirely with what has been said, but there is good sense in it that ought to be recognised by people such as me. That is a reasonable way to proceed.

Gordon Jackson has proposed that the Executive reviews the take-up of land attachment in reports to Parliament after 15 months. That is something that we can and will do; however, 15

months may be on the short side if we are to have useful information to guide policy. The Executive will, therefore, write to Parliament on the take-up of land attachment 18 months after the bill comes into force. We will also lay out the facts and figures for all to see and discuss.

Tommy Sheridan: Is the minister at least prepared to agree that the take-up of land attachment would not tell the whole story as far as the operation of this part of the bill is concerned? The concern of most homelessness and anti-poverty charities is that the threat of land attachment would force debtors to take loans from other sources and dig themselves into a deeper debt hole in order for the land not to be attached. The figures may not, therefore, show just how bad an effect land attachment could have.

Allan Wilson: I am conscious of that concern. That is why I have introduced debt crystallisation and, prospectively, debt relief into the debt arrangement scheme. That will give debtors access to good, solid, free money advice to encourage them to use a system that would stop, if not prevent, the land attachment process. I am conscious of those concerns, which is why I have done all that I have for no income, no asset clients. At the point at which the debtor enters the scheme, debt crystallisation will stop the debt rising and interest rates increasing. I want to ensure that that will lead, prospectively, to debt relief—something that does not exist currently. I have taken all those concerns on board.

Gordon Jackson has also proposed that the Scottish ministers take a power to vary the matters that the court can take into account in deciding whether to grant a warrant to sell a home, with particular regard to factors that might cause homelessness. Selling a home and homelessness are, of course, not the same thing. That, too, is a sensible proposition. I believe that the evidence from the review will show that sales are rare and that sales of homes are rarer still—a point that was made earlier. However, no one can know how a new diligence will work until it is used. What if land attachment did not work as it is expected to work? I would want to be able to return to the Parliament and ask it to agree the changes that might be needed to address any imbalance. Therefore, I would like to take even broader powers than Gordon Jackson suggests. In that way, the Executive would be able to tackle any unexpected effects of the attachment of land and homes, not just the possible problems with homelessness, which have been mentioned, important though they would be.

Executive amendments 208 and 209 accordingly add a new power to section 81 that will enable ministers to specify that a creditor may not apply to the court for a warrant to sell the dwelling-

house. That could be used to exempt sole or main residences from the sale stage of the diligence. It could also exempt primary, as opposed to secondary, residences and could be used widely to protect the debtor's interests above and beyond the 21 debtor protections that I have already built into the process.

Executive amendments 210 and 211 add a new power to section 87 that will enable ministers to change the matters that the court can take into account when it is asked to grant a warrant to sell a dwelling-house. The power could be used to make the sheriff pay more attention to the risk of homelessness or it could go further. Sheriffs are already required to take such matters into account when they make a decision, and they do so. Importantly, those powers could be used at any time. I do not propose any time limit on their use into the future; it will be possible to use them at any time that it is thought necessary. They are not tied to a particular report or to one problem. I therefore ask Gordon Jackson and Alex Neil to withdraw their amendments.

I move amendment 208.

11:15

Christine Grahame (South of Scotland) (SNP): As everyone can see, I am not Alex Neil, but I will do my best. I will speak to amendments 150, 153 and 154 in my colleague's name, and against amendments 208 and 209 in the minister's name. We support the amendments in Gordon Jackson's name.

Figures from Citizens Advice Scotland show that the average unsecured—and I stress the word “unsecured”—debt of their clients in 2006 was more than £13,000 and that most people in Scotland have unsecured debts in excess of £3,000, which is the trigger for a land attachment. That is most people in Scotland. I have a quote from Citizens Advice:

“Without the exemption of the primary dwelling house, land attachment will be a significant step backwards in modernising diligence.”

Amendment 150 would exempt the principal dwelling-house, but why should it? A land attachment virtually converts an unsecured debt into a secured debt. Notwithstanding the trigger limit of £3,000, that is unjust. Because of the nature of secured debts, they come with favourable interest rates and unsecured debts attach high interest rates. Ironically, that means that the trigger for a land attachment could be reached very quickly, for example, on one credit card debt. Indeed, it would positively encourage higher interest rates to allow creditors to activate land attachment proceedings in a race against all

the other creditors, or, as the Law Society of Scotland put it so eloquently:

“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.]

So what about the can pay, won't pay debtors? There is a range of effective options for dealing with them at the moment, such as land attachment against second and subsequent homes, inhibitions, bank and earnings arrestments, attachment orders of all varieties, and bankruptcy itself. Alex Neil's amendment 154 makes it explicit that, in all cases, the sheriff should consider all the debtor's circumstances before moving to apply a land attachment. At the moment, the sheriff simply has to “have regard” to those circumstances, and he can only defer and not reject a land attachment.

The only defence that a debtor has to stop a land attachment is that it would be “unduly harsh”. I submit that for the majority of ordinary people who would have this kind of debt, a land attachment would be unduly harsh in all circumstances. If that was true, no land attachments would succeed. I do not know how a sheriff could apply that test.

As for the minister's last-minute, fig-leaf amendments, they contain the words “may” and “could”. The provision is not mandatory, it is discretionary and it uses too small a word. It would not be binding. It is simply a fig leaf to cover up and try to jettison our worthy amendments, which are backed, I might add, by Citizens Advice Scotland, the Law Society of Scotland, Shelter Scotland, Money Advice Scotland, Govan law centre, Castlemilk law centre, and, indeed, the editor of *The Herald*. What more can I say?

Christine May: Will Christine Grahame therefore join me in asking the minister to use his winding up remarks to agree to consult those various bodies when he is drawing up the detailed regulations?

Christine Grahame: Christine May had a good try at throwing the Executive a lifeline, but if the minister withdraws his amendments, our amendments will make the bill clear. We are at stage 3, not stage 2. These proposals have been made over and over again and it is as plain as a pikestaff that the procedure proposed by the minister would be most unjust. The rich who try to avoid their debts will still be able to do that, while ordinary Scots who have credit card consumer debts totalling more than £3,000 after Christmas, including interest, could trigger land attachments. There is no protection for the people.

I heard what the minister said earlier: that losing a house over a relatively small consumer debt is

more debtor-friendly than sequestration; but that is not better than sequestration.

Allan Wilson: Will the member give way?

Christine Grahame: Let me finish. Someone could lose their house and still have other personal debts; they would not have cleared the slate in the way that they would have through a sequestration. They would have lost their house because of a small debt and all the other debts would remain. Tommy Sheridan was quite right to say that people who know that they are going to lose their houses will get consolidation loans at higher rates or will go to doorstep loan sharks who will provide them with the money to keep their home; otherwise they will face homelessness.

Gordon Jackson (Glasgow Govan) (Lab): I would like to explain what I was seeking to do with amendments 157 and 158. By and large, I agree with the minister that the bill is balanced and offers a lot of protection. As the minister seems to accept, the difficulty arises because no one can tell precisely what is going to happen. Any legislation of this nature is, to some degree, a leap in the dark. The Executive thinks that the provision will result in a certain number of people losing their homes. Other organisations believe that the Executive has got that wrong and that it will result in a great many more people losing their homes. Clearly, only time will tell us that.

My amendments seek to do two things. Amendment 157 seeks to make it mandatory for the Executive, after 15 months, to look into how land attachment is operating. I have listed the things that that inquiry should tell us. If, having carried out that inquiry, it turned out that no great harm had been done by the bill, so be it. If, on the other hand, there was a real problem with homelessness, as many legitimate agencies fear, amendment 158 would give the Executive the power to make the necessary changes in order to combat the evil that the survey had discovered. For the avoidance of doubt, I say to Christine Grahame that my amendment 158 does not make that power mandatory either; it also uses the word "may". It is a power that can be used by the Executive and I drafted it that way after consultation with some of the bodies that Christine Grahame mentioned. We can never make it mandatory for the Executive to make those changes; we can only give the Executive the power to make them because we do not know whether the changes will be required.

Tommy Sheridan: Will the member take an intervention?

Gordon Jackson: Members seem to be queuing up, as someone said about something else.

Tommy Sheridan: Does the member accept that the idea of a survey after 15 months to establish whether or not land attachment has had a negative effect on the level of homelessness or indebtedness throughout Scotland might not be able to show the depth of the problem? For example, if the Parliament had decided to abolish warrant sales based on the number of warrant sales that were taking place, it would not have abolished them at all. It was the fear that the use of warrant sales would lead to consequent problems that led us to agree to abolish them. Does the member agree that such an inquiry would not show the depth of the problem?

Gordon Jackson: I heard Mr Sheridan make that point to the minister and I have some sympathy with it, in that I understand what Mr Sheridan is saying. Of course, certain things will not show up in such a survey, and I accept that some people will get into debt in other ways to avoid a land attachment—there is a logic to that. Having said that, just because we cannot find out everything by using a survey does not mean that we should not get whatever information we can get. So to a limited extent—and I accept that it is limited—amendment 157 seeks to get that information. Only after that should the Executive take the power—not a mandatory power; it cannot be mandatory—to make the changes.

In fairness to the minister, the Executive seems to have answered that. By lodging amendments 209 and 211, the Executive is seeking to take the power that I wanted it to take, and the minister would say that it is taking a broader power than I was asking for. In fact, the Executive's amendment places the power in a different section; the Executive is better at the law than I am, so it has put the provision in the right place. However, my point is that Executive amendments 209 and 211 accept what my amendment 158 is asking for. It would be irrational of me to insist on moving amendment 158 when the Executive has taken all the power that I wanted it to take, and more.

My only remaining reservation—I say this frankly—is that my amendment 157 would make it a statutory requirement to conduct the survey. The minister says that, in two years, we will get the information without that statutory requirement. I would have preferred that to be explicit in the statute. That is not unusual; it happened in legislation on homelessness and in a number of other pieces of legislation. Where we wanted to monitor something, there was a statutory requirement, and I would have preferred the minister to have had a statutory requirement in this case. However, if he gives me his assurance that the Executive will do that survey and give us the information, I do not suppose that I will die in a ditch over that distinction.

The Deputy Presiding Officer: Members may wish to note that, if needs be, I will allow the debate on this group of amendments to continue this afternoon, as permitted by the timetabling motion. As a considerable number of back benchers wish to speak, the time limit for speeches will be three minutes.

Jackie Baillie (Dumbarton) (Lab): I want to address the amendments in the minister's name, and express the genuine cross-party concerns about land attachment, the unintended consequence of which could indeed be homelessness. Aside from the impact of homelessness on whole families, which we know to be costly in terms of human and financial resources, what is proposed could run contrary to Executive intentions elsewhere. That said, the minister has acknowledged those concerns and has introduced useful manuscript amendments, one of which could be used to exempt the sole or main residence from the sale stage of the diligence and another of which could be used to make the sheriff pay more attention to the risk of homelessness.

I had hoped that the minister would have gone further, given his evident commitment to strengthening key parts of the bill to provide for enhanced debtor protection, but his amendments offer some comfort. However, I wish to ask him three specific questions, which I hope he will address in summing up, to give us some additional comfort.

First, if problems are identified within two years, will ministers have the power to act, and will they do so? Secondly, what will he be seeking to lay before Parliament by way of information? It has already been pointed out that simply to count the number of attachments and the number of sales would be insufficient to get a flavour of how land attachment is actually operating. Will he therefore, as part of that process, commit to monitoring the implementation of land attachment with organisations such as Citizens Advice Scotland? Finally, what circumstances will trigger ministers to use the powers contained in the manuscript amendments? Answers to those questions would make more sense of the amendments.

Tricia Marwick: Yesterday, this Parliament did Scotland proud by voting for the St Andrew's day holiday. Today, on St Andrew's day, the Executive parties will make the shameful decision that a family home can be forcibly sold for a debt of £3,001. Without exception, the organisations that help people in debt are opposed to that draconian measure. Alex Neil's amendments will remove the family home from land attachment. As Citizens Advice Scotland said:

"Without exemption of the primary dwelling house, land attachment will be a significant step backwards in modernising diligence."

If the Executive prevails today and the bill is passed, Scots law will prevent a debtor's furniture and cooker from being sold, but will simultaneously allow the sale of a family home, so that there would be no place to put the furniture or the cooker.

The Executive's proposals are wicked and shameful, and they will lead to increased homelessness and threatened homelessness. The minister's late amendments will perhaps take effect in two years' time, but they are couched in maybes, mays and coulds. Whatever the minister says at this point is not worth the breath. Citizens Advice Scotland does not believe that the Executive amendments are sufficient, and the SNP agrees.

I urge MSPs to think of their constituents, to examine their consciences and to support Alex Neil's amendments, which will protect the many thousands of people who are in debt every year from losing their homes for as little as £3,001. Forty years ago this week, a Labour Government was in power when the whole of the United Kingdom was shocked by "Cathy Come Home" and by the problems of debt and homelessness. Today, Scotland will be shocked that members of a Labour Government are prepared to countenance pushing people with small debts into homelessness by selling their homes from under them. Shame on them.

11:30

Shiona Baird: The Green group will support Alex Neil's vital amendment 150. It is disappointing, to say the least, that the diligence of land attachment is still in the bill, despite all the representations from the groups that are most aware of the consequences of that section, which were eloquently highlighted by Christine Grahame.

The last-minute lodging of amendment 209 by the minister indicates a realisation that land attachment is unacceptable, but that late amendment does not address the threat of the sale of the dwelling-house for at least, and possibly beyond, the next two years, as far as I understand it. If the minister is sufficiently concerned to introduce a late amendment, why could he not go that step further and accept amendment 150, in the name of Alex Neil, saving himself and his Labour and Lib Dem colleagues from another charge of inconsistency for compromising the good work of the Scottish Parliament in making the prevention of homelessness a priority?

By supporting amendment 150, we can help to improve the financial efficiency of the Executive, because it will not have to introduce affirmative legislation at a later date. I appeal to the good sense of members to consider the full consequences of losing one's home for a debt of just £3,001. The inscription on the mace in front of us reminds us to act with compassion, integrity, justice and wisdom. I urge members to vote for amendment 150. They know that it is right.

I would now like to take the opportunity to speak to amendment 154.

The Deputy Presiding Officer: You will need to be brief. You have about 20 seconds to speak to it.

Shiona Baird: Amendment 154 is small but significant. It gives sheriffs the flexibility to consider all the circumstances of a case before making a decision on granting land attachments.

We will also support Gordon Jackson's amendments. It is imperative that some condition is built into the bill to allow monitoring of the impact of the quite draconian provisions that are being put in place.

Donald Gorrie (Central Scotland) (LD): It is a simple moral issue. I have yet to find anyone outside this Parliament with whom I have discussed the issue who does not express absolute amazement and incredulity that the Parliament and the Executive could actually be considering removing people's houses for a debt of £3,000. That is ludicrous. It is a simple moral issue and has zero to do with party politics.

The argument advanced by some of my colleagues—that we must have a severe provision so that we can get hold of the chancers—is dealt with in the note that we received from Citizens Advice Scotland. It points out that there are all sorts of alternative ways of dealing with chancers, and that the chancers are clever enough to put their houses in somebody else's name anyway. As I do not have time to read it out, I refer members to that note from Citizens Advice Scotland, which sets out all the alternatives.

The minister is at the last milestone before Damascus and he has had a vision, but he has not been converted. Instead, he has said to the Almighty, "Oh, well, that's interesting. I might think about it in two years' time." It is pathetic to come up with a manuscript amendment that is so feeble. It hits at the heart of democracy. We are here to legislate. What we are being asked to do is not to legislate, but to give a minister the power to legislate in a wee while if he thinks that that is right. We are abdicating our power. If we support bills such as this there is no point in our coming here; we could stay at home and let the ministers get on with it. This is an important moral issue and

I beg members not to worry about who is making what proposal or to stay with whips and scorpions. For heaven's sake, if we have a conscience, we must vote with our conscience for something that is morally sound.

Murdo Fraser: I referred earlier to my concerns about land attachment, which have been echoed around the chamber. I do not intend to repeat all the points that have been made. It is worth commenting that, when the committee considered the bill at stage 1, there was no evidence whatsoever of any demand from any quarter for the introduction of the new diligence. The credit industry and debt recovery agencies did not say that it must be introduced, so it is difficult to see what justification there is for it. Having said that, I understand what the minister has said about the bill requiring to be a balance. The difficulty is that if we make diligence too hard for the creditor, it will go straight for bankruptcy, under which the family home is not protected. Therefore, there is a balance to be drawn. It is not quite as simple as saying that we cannot have any form of diligence against property.

Christine Grahame: Will the member elaborate on how the family home is protected, considering the test in the bill? The only protection that exists is the unduly harsh. For everyone who loses their home it is unduly harsh, so what is the protection?

Murdo Fraser: The point is that I do not believe that the bill protects the family home, because any creditor owed a debt of more than £3,000 can petition for sequestration, which has the result that the family home becomes available. I am trying to make the point that there is no protection for the family home in the bill.

There is another point worth making. Sometimes the debate is presented along the lines of those who seek to recover money being large companies and credit agencies that attack the poor. We must remember that the great majority of diligences—more than 80 per cent in Scotland—are instructed by the public sector. By far the largest users of debt recovery are local authorities seeking to recover council tax and business rates. We need to remember that when we debate the issue.

There is a balance to be struck. I welcome the Executive amendments, although I feel that they have not gone far enough. There are some attractions in Alex Neil's amendment 150, but the difficulty is that if we exempt the dwelling-house completely from land attachment, it will encourage creditors to go straight for bankruptcy. I do not believe that that is in the wider interest of either the debtor or society, so I oppose amendment 150.

Amendment 154, in the name of Alex Neil, is a sensible amendment to ask the sheriff to have regard to all the circumstances in the case. We will support both that and the amendments in Gordon Jackson's name. They build in a review process, which is a sensible additional approach.

Colin Fox (Lothians) (SSP): As other members have said, the land attachment provisions are by far and away the most controversial of the bill, as they give creditors the right to force the sale of a family home for a debt of as little as £3,000. As members well know, advice groups and housing charities are up in arms about the proposition, suggesting that it is vastly more draconian than measures that the Parliament rejected by passing the Abolition of POUNDINGS and WARRANT SALES Act 2001.

The bill clearly has to strike a balance between the rights of creditors and debtors. It must protect debtors from unscrupulous creditors and creditors from unscrupulous debtors. Land attachments are way out of kilter in that, and the balance has not been struck. The bill introduces a thoroughly draconian practice that is potentially humiliating to debtors; there will be a real prospect of them losing their homes. There is the possibility that people will get unsecured loans that are in effect secured against their homes, and they will pay a far higher rate of interest as a consequence.

Gordon Jackson said that if no great harm is done by the bill, we have nothing to fear. He might want to check the Law Society of Scotland's evidence. Its representative 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.]

People will be queuing at the door to try to enforce it. The reality is that it will be a measure not of last resort for creditors, but of first resort.

Gordon Jackson: Will the member give way?

Colin Fox: I am sorry, but I do not have the time.

As other members have made clear, the rich will avoid their debts, and it is vulnerable debtors who will be penalised most by the measure. There are far better alternatives than land attachment: lodging an inhibition, earnings arrestments, bank arrestments, and attachments on luxury goods—we should remember that the essence of the Abolition of POUNDINGS and WARRANT SALES Act 2001 was to ensure attachments on luxury goods and not household items.

The minister says that he will see after 15 months whether there is evidence that there has been increased risk of homelessness, but that will be far too late. How many people are going to be made homeless before the minister intervenes?

The bill threatens the good work that the Parliament has done—and can be proud of doing—to tackle homelessness. In one measure, we risk undoing a great deal of the progress that we have made. The Scottish Socialist Party supports all the amendments to rescind the measure, and we attach our concerns to the worries about what is a grave attempt to undermine the rights of debtors in Scotland.

The Deputy Presiding Officer (Murray Tosh): I suspend consideration of amendments, because it is time for general question time.

Question Time

SCOTTISH EXECUTIVE

General Questions

11:40

Underage Drinking (Tonic Wine)

1. Mike Pringle (Edinburgh South) (LD): To ask the Scottish Executive what recent discussions it has had with the alcohol industry regarding the impact of tonic wine on underage drinking. (S2O-11305)

The Minister for Health and Community Care (Mr Andy Kerr): I met J Chandler and Company Ltd on 30 October 2006. The Executive also has regular meetings with a number of representatives of the alcohol industry who are involved in the partnership on alcohol misuse, which I announced on 5 September 2006.

Mike Pringle: Does the minister agree that the public condemnation of tonic wine distributors will work only to reinforce the drink's appeal to underage drinkers, as it did when Helen Liddell condemned it back in 1984? Does he also agree that if the Executive is serious about tackling the problems of underage drinking, we need a strategy to address the social causes that underlie why young people drink?

Mr Kerr: If that was our strategy, the member would be right in condemning the Executive, but it is not. I refer to the interview about which so many misinformed articles appeared in the papers, with comments from Mr MacAskill, Mr Monteith, Mr Maxwell and Ms Mitchell. In the interview, I set out clearly that we have an alcohol strategy in Scotland. It is about changing attitudes, behaviour and culture and about recognising that the industry has a role to play. We also need to communicate the need for parents to talk to their children about alcohol. Myriad other issues, such as licensing and legislation, are involved. It was not me but others who chose the battleground of Buckfast.

Mr Kenny MacAskill (Lothians) (SNP): Is the minister aware that, although Buckfast is a problem throughout Scotland, the problem is more concentrated in west-central Scotland? In the city of Edinburgh, for example, the main problem is not so much tonic wine such as Buckfast but high-alcohol-by-volume ciders, which are remarkably cheap and, as various newspapers have pointed out, sometimes cheaper than the available water. What action will the minister take on that, and will he lobby Westminster on the anomaly whereby high ABV beer is taxed at a higher rate but high ABV cider is not?

Mr Kerr: I remarked on that point in my interview with Talk 107, when I said that the issue is not just Buckfast but Diamond White and other heavy ciders, two-litre bottles of which are available for £1.99. The Executive is well aware of the issue, and I have also made clear my views on the taxation of high-alcohol-by-volume drinks, which are a problem in society. Those views have been passed on and will continue to be passed on to the Treasury.

Margaret Mitchell (Central Scotland) (Con): Does the minister accept that the increase in the incidence of underage drinking is not so much to do with any particular product or brand of alcohol but instead stems substantially from a failure on the part of parents to take responsibility for the supervision of their children? Some drinkers are under the age of 13.

Mr Kerr: It is ill informed and ill advised to single out one particular aspect of our alcohol challenge in Scotland. Every six hours, someone in Scotland dies of alcohol-related illness. As a Government and as a nation, we have a problem in relation to our attitudes to alcohol. As I have said, I believe strongly that parents have a role to play, but so do our schools and education system, licensing and legislation, the police and communities. The problem is multifaceted, which is why our Executive strategy is designed to address the issues that many members have raised. Our alcohol action plan in Scotland does not have a single dimension—tonic wine or any other drink product—but covers our culture, our approach, enforcement, legislation, licensing and many other aspects.

Fireworks Act 2003

2. Mr Charlie Gordon (Glasgow Cathcart) (Lab): To ask the Scottish Executive whether it monitors the effectiveness in Scotland of the United Kingdom Fireworks Act 2003. (S2O-11270)

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): Yes, we do. The numbers of crimes and offences that are recorded by the police are provided to the Scottish Executive. Crimes under the Fireworks Act 2003 are included in the crime code for various offences connected with the keeping and supply of explosives.

Mr Gordon: I am grateful for that answer. Does the minister appreciate that I and other members have had letters from constituents complaining that the new laws are not working and saying that legislators should consider banning the use of fireworks except in organised, licensed displays? That is why some of us have signed Margaret Jamieson's motion S2M-5123. Will the Executive continue to monitor and publish figures on instances of injuries and complaints to the police

and local authorities arising from the misuse of fireworks?

George Lyon: I am aware of the concern felt by Mr Gordon and other members who have raised the issue with the justice ministers and me.

The incidents that have been reported to the police and the crimes that they have recorded since the passing of the Fireworks Act 2003 show no clear trend at the moment. A slight rise in the number of incidents was reported to the police this year, which might be due to the public becoming more aware of the legislation. I am very much aware of the concerns that have been raised, and I undertake to have further discussions with the member on the matter.

Shona Robison (Dundee East) (SNP): Will the minister join me in congratulating the Scottish Society for the Prevention of Cruelty to Animals on its campaign to reduce the noise level of fireworks from the current level of 120dB that is specified under the 2003 act? Will he make representations to the United Kingdom Government, asking it to consider amending the act to reduce that level?

George Lyon: As the member is aware, under the Fireworks Regulations 2004, it is illegal for retailers to sell fireworks louder than 120dB. I am prepared to listen to the concerns that members raise with me, and we will consider what action to take.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): In my constituency in East Ayrshire, there has been a reduction of 60 per cent in the number of licences this year but a 140 per cent increase in the number of complaints to the police. Does the minister accept that there is a problem in our communities, that the current legislation does not meet communities' needs and that we need to consider new legislation, either here or in conjunction with our colleagues at Westminster, for a total fireworks ban?

George Lyon: I fully accept the concerns that members from various parties have raised on the issue. It will be interesting to see what the figures look like for 2006-07. Up until 2005-06, no clear trend has emerged. However, if there is a rise in the number of incidents, the matter will have to be addressed. I give the undertaking that we will review the position once we see the figures for this year.

Antisocial Behaviour

3. Mr Frank McAveety (Glasgow Shettleston) (Lab): To ask the Scottish Executive what progress is being made in empowering local authorities and the police to tackle antisocial behaviour. (S2O-11279)

The Minister for Justice (Cathy Jamieson):

We have made very considerable progress in tackling antisocial behaviour in the past three years. Up and down the country, communities are feeling the positive effects not just of the legislation that we have put in place but of the substantial funding that we have provided to allow local authorities and their partners to offer a range of services, including community wardens, antisocial behaviour investigation teams, victim and witness support schemes and neighbour mediation.

Mr McAveety: I welcome the minister's response, the Executive's recent commitment to tackling antisocial behaviour and the recent allocation of money to Glasgow City Council to tackle the problems associated with antisocial behaviour. I ask the minister to give some reassurance to people such as the residents of Calton, who have recently seen Strathclyde police taking significant action to tackle a problem family who had been causing misery for a long time. Can the minister give an assurance that resources and powers will continue to be made available to the police and other agencies to ensure that the decent majority of residents in such areas can reclaim their neighbourhoods from the tyranny of the small minority who make their lives a misery?

Cathy Jamieson: I can certainly give those assurances. I hope that the powers that are available continue to be used and that parenting orders, which have not been used to date, are deployed. Mr McAveety is correct to indicate that funding has been announced for 2007-08, with Glasgow City Council getting around £3.4 million.

This morning, I received a letter from residents in another part of Glasgow. The Blairdardie and Old Drumchapel community council thanked us for the work that we did in pushing through the Antisocial Behaviour etc (Scotland) Act 2004 and told me about the substantial reduction in antisocial behaviour on the streets in that area since a dispersal order was used.

Christine May (Central Fife) (Lab): The minister mentioned parenting orders. Does she share my concern and that of residents in Glenrothes and Levenmouth at the lack of parental control over certain young people? Is it her intention for some of the money to be used for parenting orders and to support parents in controlling their children?

Cathy Jamieson: Members will be aware that the Antisocial Behaviour etc (Scotland) Act 2004 was criticised over antisocial behaviour orders not getting to the underlying problems. The reason why the Executive put in place a strategy around parenting orders and substantial funding to cover all the provisions of the 2004 act was to address that sort of behaviour. As I have said before, I find

it astonishing that, despite the powers having been asked for and the resources having been sought, the powers to issue parenting orders have not yet been used. I believe that they would add to other measures that local authorities already adopt to deal with some of the problems that they face.

Vale of Leven Hospital (Anaesthetics)

4. Jackie Baillie (Dumbarton) (Lab): To ask the Scottish Executive what action NHS Greater Glasgow and Clyde is taking to sustain the provision of anaesthetics at the Vale of Leven hospital. (S2O-11260)

The Minister for Health and Community Care (Mr Andy Kerr): My letter to the member of 26 October 2006 sets out the action that NHS Greater Glasgow and Clyde will take on the provision of anaesthetics at the Vale of Leven hospital. I expect the health board to undertake a comprehensive review of the health care needs of the population north of the River Clyde and of the services that are necessary to meet those demands. The review will consider sustaining the provision of anaesthetics, and NHS Greater Glasgow and Clyde will examine all possible models of delivery.

Jackie Baillie: I thank the minister for his intervention on the matter, which has been particularly helpful. I wish to make the minister aware that, to my current knowledge, no action has been taken to fulfil vacancies for anaesthetists at the Vale of Leven hospital and no advert has appeared in any local or national newspaper. When I asked about the matter, no one had spoken to the locum consultant anaesthetist about whether they might be interested in a permanent post and no consideration had been given to a systems-wide approach to anaesthetics. Does the minister agree that NHS Greater Glasgow and Clyde needs demonstrably to do much more to sustain anaesthetics at the Vale of Leven hospital?

Mr Kerr: I am not prepared to comment on those matters, because I do not have the details of NHS Greater Glasgow and Clyde's view of the points that Jackie Baillie makes. I repeat that the review will consider sustaining the provision of anaesthetics, and NHS Greater Glasgow and Clyde will examine all possible methods and models of delivery.

Mrs Nanette Milne (North East Scotland) (Con): What input are regional planning groups having to the review of services at Vale of Leven? Does the minister agree that regional planning is imperative and is a statutory duty on health boards?

Mr Kerr: In my view, regional planning is key not just for the situation at the Vale, but for hospitals

and services all around Scotland. Therefore, I expect any consideration by NHS Greater Glasgow and Clyde of the proposals for the Vale to reflect regional planning requirements.

Faslane (Community Police Officers)

5. Paul Martin (Glasgow Springburn) (Lab): To ask the Scottish Executive how many community police officers have been deployed to Faslane over the past 12 months. (S2O-11277)

The Minister for Justice (Cathy Jamieson): I am advised that 1,098 tours of duty were conducted by Strathclyde community police officers at Faslane over the 12 months from the beginning of November 2005. That is the equivalent of about three community police officers per day.

Paul Martin: Will the minister join me in commending the hard work of community police officers throughout the Strathclyde division? However, their hard work is being undermined by their constant deployment to deal with protesters at the Faslane facility. Will the minister write to the chief constable of Strathclyde police and call on him to ensure that the deployment of community police officers is kept to a minimum and that negotiations are undertaken with the protesters so that their activities do not have an effect on our ability to deliver community police officers for our local communities?

Cathy Jamieson: As Paul Martin will be aware, operational policing is the responsibility of the chief constable. Paul Martin has made representations on this point before and I am sure that there will be opportunities for the chief constable to reflect on what he has said. I commend the work of community police officers. They are now involved in a range of activities, both detecting and preventing crime, particularly through work in association with antisocial behaviour teams, youth projects and schools. I hope that policing can be carried out effectively to deal with serious and organised crime and the other difficulties that are faced throughout Scotland and to enable the police to play a role at the heart of our communities.

Chris Ballance (South of Scotland) (Green): I, too, have been contacted by community councils, for example in Stonehouse, where people are concerned at the loss of their community police officers. Does the minister accept that the issue is not just the loss of those officers to their community, which means that they are not doing the valuable work that they were appointed to do, but the fact that, at Faslane, they are policing and arresting demonstrators, rather than investigating or halting the international crimes of possessing and threatening to use the illegal, immoral and strategically nonsensical nuclear weapons—

The Deputy Presiding Officer (Murray Tosh): Do you have a question that it is within the minister's competence to answer?

Chris Ballance: My question is, does the minister agree that officers are doing the wrong job and are policing the wrong side?

Cathy Jamieson: The police have a responsibility to ensure the safety of communities, and they do difficult jobs in demanding circumstances. It can be seen from what happened at the G8 summit and from how a number of protests have been policed that we try to ensure that community safety and stopping disorder are priorities. By and large, communities have been safe and disorder has been stopped at the Faslane site, to which Chris Ballance and Paul Martin referred. Everyone has the right to protest, but people must understand that there will be consequences if they break the law.

Sexually Transmitted Diseases

6. Gordon Jackson (Glasgow Govan) (Lab): To ask the Scottish Executive what action it is taking to address the increase in sexually transmitted diseases over the past 18 months. (S2O-11273)

The Minister for Health and Community Care (Mr Andy Kerr): In January 2005, I launched the national sexual health strategy, "Respect and Responsibility: Strategy and Action Plan for Improving Sexual Health". I am pleased to inform members that I launched the first annual progress report on that strategy on 21 November 2006. The report, which can be found on the Scottish Executive's website under "Publications", gives examples of good practice throughout Scotland.

Gordon Jackson: The minister will appreciate that tomorrow is world AIDS day. Recently, there has been an increase in the incidence of HIV. I suspect that most members of the public think that HIV is becoming less of a problem, but it is not. What steps might be taken to increase public awareness that HIV is a continuing problem that must be addressed and closely scrutinised?

Mr Kerr: The member is correct: the incidence of HIV/AIDS is rising. The evidence that is available to me suggests that that increase is largely among Scotland's sub-Saharan African population.

We are supporting a number of initiatives as part of world AIDS day, including a one-day conference in Glasgow entitled "Keeping the Promise: Faith, Health and HIV". We are sponsoring an African health project that aims to improve access to health care in general and HIV testing for Africans who live in Scotland, and we are providing information on how we can assist and support HIV-positive Africans who live in Scotland. That

work is in addition to all the other work that we do in Scotland. We must relearn the lessons of the past and work in new and different ways to target our efforts on populations that are most at risk.

Management of Offenders

7. Colin Fox (Lothians) (SSP): To ask the Scottish Executive what impact its plans for the release and post-custody management of offenders will have on the prison population. (S2O-11296)

The Minister for Justice (Cathy Jamieson): As members will be aware, the Executive has made it clear that we intend to end the current automatic early release system. Our plans are set out in the Custodial Sentences and Weapons (Scotland) Bill, which the Parliament is considering. We recognise that the proposed measures could result in an increase in the prison population in the short term, but we believe that we must balance punishment, rehabilitation and public safety measures while we work to reduce reoffending rates.

Colin Fox: As the minister knows, the Scottish Prison Service has estimated that the Executive's plans will add an extra 1,100 prisoners to the prison population, which has reached record levels. Are the public not being failed by an approach that means that more people are being sent to jail for longer periods, reoffending rates continue to rise and offending behaviour tends to worsen after people have spent time in custody? Does she agree with the evidence that the community justice authorities gave at the meeting of the Justice 2 Committee this week? They said that it would be far better to spend the £7.45 million that the Executive's plans will cost on community-based alternatives, which would provide much better outcomes than will sentencing people to repeated short periods in jail.

Cathy Jamieson: Plans are being drawn up for the new community justice authorities, which will be in place from April next year. It is important that we are able to use robust community sentences, although the reoffending and reconviction rates following some such community sentences are not what we would want either, and there is room for improvement.

We want an entirely different approach that joins up the work that is done when people are in prison and the work that is done when they are released back into the community. However, it is right and proper that people who have committed serious offences should spend time in prison—and sometimes a significant period of time. Of course we want community sentences to be used and to be applied robustly, but the public must also have confidence that sanctions will be taken if those sentences are breached.

First Minister's Question Time

12:00

Cabinet (Meetings)

1. Nicola Sturgeon (Glasgow) (SNP): I wish the First Minister a happy St Andrew's day.

To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-2576)

The First Minister (Mr Jack McConnell): I wish Nicola Sturgeon a very happy St Andrew's day.

Next week's meeting of the Cabinet will discuss issues of importance to Scotland.

Nicola Sturgeon: On Tuesday, the First Minister said:

"it is important to have a competition environment in the EU that ensures consistency and fairness".

Does he believe that there is consistency and fairness in the proposed takeover of Scottish Power by the Spanish firm Iberdrola?

The First Minister: The proposal raises three different issues. First, the European Union's current regulatory environment should be applied consistently by the European Commission. I made that very point to the President of the Commission on Tuesday. Secondly, inside the United Kingdom, competition law should be applied consistently and independently of ministers. That is the absolute objective of the provisions of the Enterprise Act 2002, which has been implemented in the UK. Thirdly, the specific proposal for Scottish Power raises additional issues aside from the importance of the consistent application of competition law.

Those additional issues include Scottish Power's promised investment in Scotland in renewables and in Longannet; the position of the employees, in particular those who are employed in the headquarters functions in Glasgow and management functions elsewhere; and, perhaps most important, the position of Scottish consumers, who have experienced very high price rises over recent years. I suspect that if the move goes ahead, consumers will want to see improvements in price in the years to come.

Nicola Sturgeon: I suggest to the First Minister that we need to ask whether the proposed takeover is proceeding on the basis of fairness. The First Minister will be aware that the Spanish Government is going to great lengths, rather ironically, to prevent another Spanish energy company from falling into foreign ownership because it considers that that would be against Spain's national interest.

Is the First Minister also aware that the Spanish Government gives substantial tax subsidies to Spanish companies that buy foreign firms? According to a report that has been obtained by my office, Iberdrola stands to land more than £1 billion in tax subsidy for the takeover of Scottish Power. Indeed, analysts believe that the company would not be able to afford the bid without that subsidy—

The Deputy Presiding Officer (Murray Tosh): Ms Sturgeon, all those matters are reserved. Will your question come to matters within the competence of the First Minister?

Nicola Sturgeon: In light of that information—and in light of the comments that the First Minister made about the proposed takeover of Scottish Power—will the First Minister officially ask the European competition commissioner to investigate those subsidies? Will he demand that the takeover of Scottish Power be blocked pending the outcome of that investigation?

The First Minister: As I said in my first answer, on Tuesday I made clear to the President of the European Commission that the Commission should apply current European competition policy consistently across the European Union. He agreed absolutely with that point of view. In addition, I know that he and the Commission are determined to improve European energy policy and the way in which it is applied in such matters.

It is also important to recognise the environment in which we operate. That is why I said on Tuesday, and I repeat today, that we have two choices in today's global economy. Either we can run an open economy in which our firms are able to be successful globally by taking over firms in the international economy or we can have a closed economy in which we suffer the impact that that would have on jobs and growth in Scotland. Anyone who has any sense about economics will agree that we would suffer that impact as a direct result of such an approach.

In fact, the SNP made its position clear in one of our previous debates. Presiding Officer, I suggest that these questions are legitimate because we debated the provisions of the Enterprise Bill in this chamber—in fact, it was in the chamber of the first building that the Parliament used. In that debate, Adam Ingram spelled out the Scottish National Party's policy. He said:

"The SNP broadly supports the thrust of the Enterprise Bill, which is to deal effectively with anti-competitive practices. The introduction of sanctions on individuals who breach competition law is welcome, as is the widening of rights and powers for competition authorities."—[*Official Report*, 17 April 2002; c 10900.]

At that time, the SNP's position was quite clear. One reason why its economic policies have so

little credibility is that it takes one stance when we are passing legislation but moves away from those basic principles when the going gets difficult. It is time for the SNP to say the same thing on business issues from one week to the next, not just one year to the next.

Nicola Sturgeon: I suggest to the First Minister that he has completely sidestepped the question. I asked him what he was going to do about alleged unfair practices in this case. I remind him that Scottish Power is our biggest industrial company, is of strategic importance and is one of only 19 major companies that have their headquarters here in Scotland—in short, it matters to the Scottish economy. Free trade is one thing, but the First Minister should be deeply concerned if Scottish Power is being taken over with the help of unfair subsidies. I point out to him that the European Commission will examine the Spanish tax arrangements only if it is specifically asked to do so. I tell him today that the SNP is submitting a formal request for an investigation. Will the First Minister stand up for Scotland and support that request?

The First Minister: I say for the third time that on Tuesday I raised with the European Commission President the importance of consistent application of EU competition policy. He gave me an absolute assurance that the policy would be applied consistently and that, on the basis of the limited information that was available to him at the time, it appeared that Iberdrola's move fell within that policy and would need to be looked at properly by the European Commission. Having received that assurance, I am perfectly happy to take him at his word. I believe that Ms Sturgeon should be, too.

Nicola Sturgeon: The Commission will look only at general issues of competition unless it is specifically asked by the First Minister to look at the specific issue of the Spanish tax system. I hope that in his final answer he will say whether he will make that specific request. In an interview this morning, he said that he regularly makes wee slips at First Minister's question time. I suggest to him that being so cavalier with the national interest is more than a wee slip—it is an abdication of responsibility. Is it not the case that people want a First Minister who will fight for Scotland's interests? Is that not why more and more people want an SNP Government?

The First Minister: I really enjoy First Minister's question time. One reason why I enjoy it is that week after week Ms Sturgeon is unwilling and, indeed, afraid to raise issues that are the responsibility of the chamber, because she has lost the argument on each and every one of those. It is 18 months since Ms Sturgeon raised the issue of health waiting times in the chamber. This week,

health waiting times are the lowest ever, but the member does not have the nerve to ask a question about them.

The position on Scottish Power is quite clear. It is vital that the competition procedures and the discussions that I will have next week with the company look after the interests of Scottish consumers and employees and ensure that the investment in the Scottish energy industry that Scottish Power has promised takes place. Those outcomes are more important than Ms Sturgeon making political points on Scotland's position in the European Union that seek merely to divide the country on constitutional issues. The European Commission has given us an absolute guarantee of consistency in the application of its rules when it investigates the proposed takeover. We have received a guarantee from Scottish Power that it has raised the issues that we want to see guaranteed. I hope that we will get further guarantees next Tuesday, when we meet the Spanish owners of Iberdrola. In the meantime, we will continue to implement an energy policy that has an impact not just here in Scotland but throughout the UK and the European Union. That approach across borders makes us different from the nationalist party, with its approach to borders.

Mr Charlie Gordon (Glasgow Cathcart) (Lab): Will the First Minister seek a meeting with the executives of Iberdrola in the light of its takeover bid for Scottish Power? If so, will he ask them for firm assurances of future job retention at Scottish Power, including 1,700 jobs in my constituency of Cathcart?

The First Minister: I appreciate Charlie Gordon's constructive and to-the-point question about the future of employees and investment here in Scotland. I confirm that Nicol Stephen and I will meet both Iberdrola and Scottish Power next Tuesday morning specifically to raise the position of the employees, the management and the headquarters functions here in Scotland; the long-term investment in Longannet and the renewables industries in Scotland; and pricing, which is of particular importance to businesses and individuals in Scotland. We will do so seriously with the objective of getting those assurances and putting the interests of Scotland first.

Prime Minister (Meetings)

2. Miss Annabel Goldie (West of Scotland) (Con): To ask the First Minister when he will next meet the Prime Minister and what issues they will discuss. (S2F-2577)

The First Minister (Mr Jack McConnell): I met the Prime Minister last weekend. We discussed very important issues. I have no current plans to meet him again before Christmas.

Miss Goldie: The First Minister will be aware of the increasing and worrying level of fuel poverty in Scotland today. Some 328,000 households now live in fuel poverty. That represents a worrying 14.5 per cent increase—a rise of 42,000 households that the Scottish Executive described as “not statistically significant”. I am sure that that clinical description will be of little comfort to those who struggle to pay the bills. Having listened to Nicola Sturgeon, I am also sure that the First Minister agrees that the protectionist policies of the nationalists, the like of which would have prevented Scottish Power from expanding in the first place, are certainly not the answer. Will the First Minister tell me what he plans to do to relieve the financial burden on those hard-pressed families?

The First Minister: The measures that we have introduced—such as the highly successful central heating programme, which has ensured that many more pensioners have warmer homes; the highly successful warm deal insulation programme, which makes a difference to the quality of heating as well as its efficiency and therefore the cost of heating in pensioner homes; and of course the economic measures that we introduced that have taken so many Scottish pensioners and families out of poverty in the past nine years—have together made a significant difference to fuel poverty in Scotland, although we must continue those measures to ensure that fuel poverty becomes a thing of the past.

Miss Goldie: The First Minister will be aware that one of the groups that suffer acutely from rising energy price policies is Scotland's pensioners. Shockingly, a third of them are trapped in fuel poverty. They are usually on fixed incomes and have pensions that rise only at the rate of inflation while their council tax and energy bills rise at well over the rate of inflation.

Although the First Minister cannot interfere with private businesses, he can do something about council tax. Will the First Minister join the Scottish Conservatives and say to every 65-and-over pensioner household in Scotland, “We will cut your council tax bill in half”?

The First Minister: I thank Annabel Goldie for reminding me of one of the elements that I forgot to mention. In addition to having a central heating programme and a warm deal energy efficiency programme that did not exist when the Conservatives were in power and taking out of poverty hundreds of thousands of pensioners and families who were in poverty when the Conservatives were in power, we have ensured that in every year since devolution, council tax increases in Scotland been not only lower than increases in the rest of the United Kingdom but

lower than the increases in every one of the final years of the previous Conservative Government.

We are very proud of that record, but it is not yet enough. That is why we must continue our support for pensioner households to ensure that their homes are energy efficient and they can afford to heat them. Secondly, we must continue in our efforts to ensure that more and more pensioners are lifted out of poverty through targeted action so that Scotland becomes a better place.

Miss Goldie: I am sorry to say that it is for reasons such as those that the popularity in Scotland of the First Minister is dropping like a stone. Talk about putting devolution at risk—it is exactly that vacuum at the heart of Government that puts devolution and the union at risk. In the First Minister's Bute House bubble, Scottish pensioners are happy as Larry but, in the real world, life is no bed of roses. Many of Scotland's pensioners are sliding into poverty because their council tax bills are devouring more and more of their income. They want to know, as I do, when the First Minister will provide some dignity for the elderly and cut their council tax.

The First Minister: Economically and socially, Scottish pensioners are light years away from where they were 10 years ago—I suspect that Annabel Goldie knows that.

In addition to having the lowest council tax increases compared with any of the last years of the Conservative Government, in addition to having the warm deal programme to improve energy efficiency in pensioner households, and in addition to implementing the central heating programme to secure central heating for pensioners whose houses were freezing in the past, we now have pensioners who are able to travel around the country for free through the free concessionary travel scheme. We also have a whole range of other services for the elderly, including free personal care, none of which was in place when the Conservatives were in power. Because of their mismanagement of the economy, the Conservatives could not afford them.

It is time for Annabel Goldie to admit—even just occasionally—that although there is still much for us to do to improve the lot of pensioners in Scotland, there are pensioners the length and breadth of our country whose lives are far better today because of the actions of this Government, the actions of the devolved Scottish Parliament, and—if my Liberal Democrat colleagues will allow me to say so—the actions of the Labour Government in Westminster.

Mr Jamie McGrigor (Highlands and Islands) (Con): I am glad that the First Minister thinks that everything is rosy in the garden for pensioners. However, in the light of the Scottish public

services ombudsman's recent decision to order Argyll and Bute Council to pay the costs of personal care to a 90-year-old man, will the First Minister kindly take steps to ensure that the hundreds of other people in Argyll and Bute who are waiting for their rightful payments for free personal care will also be paid, or will they all have to write to the ombudsman too?

The First Minister: We might regret the fact that the Conservatives write their questions before they come to the chamber and do not reflect on the answers that I have given. However, I congratulate Jamie McGrigor on asking a question about an issue that is in the news this week and is clearly of concern to constituents. My answer is that the review that we began six months ago—not only of the position in Argyll and Bute but of the position in other local authorities too, to ensure that the policy on free personal care is being properly financed and implemented by local authorities—continues. Ministers will report to Parliament as soon as that review is complete.

Secretary of State for Scotland (Meetings)

3. Robin Harper (Lothians) (Green): To ask the First Minister when he will next meet the Secretary of State for Scotland and what issues he intends to discuss. (S2F-2592)

The First Minister (Mr Jack McConnell): I expect to meet the Secretary of State again before Christmas. I suspect that we will discuss issues that are important to Scotland.

Robin Harper: I want to ask about children's services and social work. There is clear evidence from the Executive's own social work statistics of the rising numbers of children in need of care and attention. There is also evidence of increasing costs. It is planned that the grant-aided expenditure for core children's social work services will fall by 2 per cent in real terms in the 2007-08 budget. Why? GAE funding for pre-school education is also falling by 2 per cent in real terms. Will the First Minister include that commitment to reduce children's services in his manifesto for the next election?

The First Minister: The funding of children's services and social work services comes not only from the education budget but from the justice budget, the health budget and other budgets too. All those budgets together have produced a substantial increase not only in the budget for children's services but in the delivery of children's services. Indeed, over a period of years, those budgets have also produced an increase in the number of social workers and have led to further improvements in the work that they do. That work has to continue as a result of the review that was published early this year or late last year, which will transform the social work profession. Thirty

years on from the profession's creation in its current form, that is appropriate.

In relation to future commitments, I make it clear to Robin Harper that not only will there be the normal announcement before Christmas on local authority finance for next year's budget—the 2007-08 budget—by the minister with responsibility for local government, when he will clarify the budgets that are available for next year, but, if my Liberal Democrat colleagues will allow me to say this, there will be a firm commitment in my party's manifesto to ensuring that children and young people are the Parliament's number 1 priority in the next session.

Robin Harper: The First Minister has a lot of work to do between now and those announcements, which I hope are positive. However, the truth of the matter is that, although members were given the impression that there was lots of money floating around for social work, the money that was, in his words, allocated for his six programmes, is virtually ring fenced—the Executive said that that money was for added value. There is therefore a real problem at the moment. There is a funding gap in social work spending on the three core services between the £416 million that is being spent and the £255 million that is provided by grant-aided expenditure. As I am sure the First Minister is aware, some local authorities are having to raid funds for care in the community to prop up children's services.

The Deputy Presiding Officer: Please come to the question, Mr Harper.

Robin Harper: What is the First Minister going to do about that? Will it be solved in his conversations between now and the announcements on the new budget? Will he release money from the six programmes into core funding?

The First Minister: Any decision to remove funding from the targeted programmes on health and on justice programmes that deal with young offenders and so on, and include them within general local authority funding, would have to be carefully taken, with clear assurances that the money would be used for the important priorities for which it was originally intended. As I said earlier, the minister with responsibility for local government will make a statement on local authority finance for 2007-08 before Christmas. In that statement, he will make clear the allocation of resources for local authorities, and therefore for local services, for next year. I am sure that the chamber would want me to wait for him to do so.

Margo MacDonald (Lothians) (Ind): On a point of order, Presiding Officer. Is it in order that one of us should move an extension of 10 minutes so

that all of the questions that are notified today for the First Minister can be adequately attacked?

The Deputy Presiding Officer: I am not minded to exercise any discretion in that area.

Schools (Attainment Levels)

4. Cathie Craigie (Cumbernauld and Kilsyth) (Lab): To ask the First Minister how this week's announcement of £60 million investment in schools will help to improve attainment levels. (S2F-2584)

The First Minister (Mr Jack McConnell): Scotland's schools are benefiting from additional teachers, new and better buildings and improvements in curriculum, management and parental involvement. The additional resources that were announced this week will further improve the learning environment and the equipment available in classrooms. I have no doubt that we will see better attainment by pupils as a result.

Cathie Craigie: Is the First Minister aware of the visit this week by the Minister for Education and Young People to Greenfaulds high school in my constituency, during which he took time to listen to the views of pupils and staff? A teacher who had moved to Greenfaulds from a public-private partnership school expressed the view to me and to the minister that young people learning in new and refurbished PPP schools have a clear advantage over those in schools without major capital investment in the fabric of the building and in equipment. Will the First Minister encourage acceleration of the capital programmes, and will he ensure that that welcome additional funding to schools is concentrated on schools that have not yet benefited from major capital investment?

The First Minister: That additional money can be used for two purposes: first, for further improvements in the fabric of school buildings; and secondly, for the equipment and resources that are available inside schools. It is appropriate that equipment and resources are available, and are continually modernised, in all schools. Clearly, improvements in the fabric of school buildings and facilities should be concentrated on those schools that have the greatest need. We would expect all local authorities, in allocating that money, to take that as one of the primary objectives.

In addition to the money for improvements to the fabric of school buildings, which has increased fivefold in four years to a total of £150 million, there is the overall school building programme, in which dozens—indeed, soon hundreds—of schools in Scotland are being rebuilt or renewed in a way that is improving the education of children the length and breadth of our country. I hope that voters in Scotland will vote in May for parties that

are committed to that programme and not for parties that will abolish it.

Fiona Hyslop (Lothians) (SNP): Is the First Minister aware that the capital cost of St Patrick's primary school in Kilsyth in Cathie Craigie's constituency is £5.9 million in 2006 prices but that, as calculated using an Audit Scotland report from 2002, the extra costs for the contract will be between £4.4 million and £7.1 million? Will he finally acknowledge that the excess costs of PPP would be better invested in more teachers for smaller classes and in better equipment and resources to help to drive up attainment, particularly among the bottom 20 per cent of pupils in Scotland? Does he acknowledge that, according to a report by Her Majesty's Inspectorate of Education that was published this week, the performance of those pupils has remained disappointingly static under his stewardship?

The First Minister: I am pleased that Fiona Hyslop is at last willing to raise that issue, as Peter Peacock, the previous Minister for Education and Young People, made several attempts to get her to commit to writing the Scottish National Party's policy on the abolition of the school building programme and its determination to end all the projects for which there is not currently a contract. Every school building contract in Scotland has to pass the value-for-money test to ensure that it can go ahead. To say otherwise is to distort the truth.

The SNP said earlier this year that it would stop every contract that has not yet been signed and end the building of dozens of new schools in Scotland, but it is now unwilling to explain that policy in writing or to debate it properly in the Parliament. That shows that it is now running scared of the voters in next May's election.

Sex Offenders (Monitoring)

5. Christine Grahame (South of Scotland) (SNP): To ask the First Minister whether the Scottish Executive has calculated the cost to local authorities of monitoring high-risk sex offenders released under the automatic early release scheme. (S2F-2596)

The First Minister (Mr Jack McConnell): With respect to Christine Grahame, the unconditional early release of serious sex offenders was ended in the Management of Offenders etc (Scotland) Act 2005, which the Parliament passed.

Christine Grahame: I have been informed of a gentleman who served only two thirds of his sentence but would have served it all if he had undertaken a sex offenders rehabilitation course, so that does not pertain.

A very high-risk sex offender was returned to the Scottish Borders. He has got out on automatic early release, following a conviction for the serious

sexual assault and torture of a young woman with learning difficulties. He failed to take part in any rehabilitation programmes while inside and has continued to be assessed as being at high risk of reoffending.

The Deputy Presiding Officer: Come to the question.

Christine Grahame: The offender's return has placed a heavy financial burden on the local authority, which is now charged with monitoring him 24 hours a day. Does the First Minister believe that draining resources from social work services—which require them for other events—in that fashion is the best way to protect our communities? Will he consider preventing the release of such offenders, who are at risk of claiming another victim sooner or later?

The First Minister: In addition to ending the automatic early release of serious sex offenders in the 2005 act, we provided additional funding to local authorities so that such offenders can be monitored more effectively than before, even if they are back in the community after their period in prison.

In addition to that, the Custodial Sentences and Weapons (Scotland) Bill, which the Parliament is now considering, will ensure not only that sex offenders and other offenders properly serve the custodial part of their sentences but that they are subject to further monitoring and supervision following their periods in custody. That bill takes the arrangements that we introduced last year because of the genuine concern that people throughout Scotland expressed about the issue and implements them further, and I hope the Parliament will pass it this winter.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): Is the First Minister aware that one consequence of the tragic case to which Christine Grahame referred was the establishment in the Borders of an adult protection committee, to streamline the relationship between the police, social work and the health board at the highest level? Will he ensure that the Adult Support and Protection (Scotland) Bill, which is currently going through the Parliament, retains the important statutory duty on all local authorities to ensure that that protection is in place? Is he as disappointed as I am that, last week in the Parliament, Christine Grahame argued against such committees, which she described as

“form filling, pen pushing and paper clipping”?—[*Official Report*, 23 November 2006; c 29696.]

The Deputy Presiding Officer: I do not think that that is helpful, Mr Purvis.

Christine Grahame: On a point of order, Presiding Officer.

The Deputy Presiding Officer: Do we really require a point of order?

Christine Grahame: I simply ask you to look at the *Official Report* and check what I said.

The Deputy Presiding Officer: That is not a matter for me; that is bandying about the politics of the issue.

I ask Mr McConnell to answer the substantive question from Mr Purvis.

The First Minister: I have no reason to believe that our current plans, as outlined in the Adult Support and Protection (Scotland) Bill, need to be changed.

The Deputy Presiding Officer: Because of the time lost to points of order, I will take question 6.

Affordable Housing

6. John Farquhar Munro (Ross, Skye and Inverness West) (LD): To ask the First Minister what plans the Scottish Executive has to address shortages of affordable housing in areas where tenants have voted against housing stock transfer. (S2F-2578)

The First Minister (Mr Jack McConnell): We are taking a range of measures that will improve the supply of affordable housing throughout Scotland. Those include an investment of £487 million this year for affordable housing programmes; the development of the shared equity scheme, homestake, to enable new-build housing; fundamental reform of the planning system through the Planning etc (Scotland) Bill to assist in the supply of land for housing; and a substantial eight-year investment programme to remove water and sewerage constraints on new build. Ballots on housing stock transfer are matters of free choice for those concerned and the funding of affordable housing through local authorities will continue, regardless of the result.

John Farquhar Munro: The First Minister will be aware that people on housing waiting lists do not have a vote in the stock transfer ballots. Will he assure me that action will be taken so that the outcome of the ballots will not lead to a reduction in the number of new affordable houses for rent that are built in their areas?

The First Minister: John Farquhar Munro makes a valid point about the impact of the decisions on those who are on housing waiting lists or who require housing. The parties in the Parliament—there are at least two, the nationalists and the socialists—that have campaigned against housing stock transfers should consider those implications when they run the misinformation campaigns that they do at a local level. Regardless of the outcomes of ballots on housing

stock transfer, our commitment to investing in housing in Scotland continues.

For example, in the local authority areas where tenants have recently voted against transfer and all the benefits that it would bring, we continue to increase funding. In Highland, the funding this year will go up from £33.5 million to nearly £39 million; in Stirling, it will go up from just over £4 million to just over £10 million; in Renfrewshire, it will go up from nearly £19 million to more than £24 million; and in Edinburgh, it will go up from nearly £35 million to £57 million. In each of those four council areas, the benefits would have been even more substantial if housing stock transfer had gone ahead. However, we remain committed to having a good supply of affordable housing and to putting the needs of the people of Scotland first and we will provide that funding in those four areas to ensure that that happens.

12:33

Meeting suspended until 14:15.

14:15

On resuming—

Question Time

SCOTTISH EXECUTIVE

Finance and Public Services and Communities

Rural Sub-Post Offices

1. Murdo Fraser (Mid Scotland and Fife) (Con): I welcome Des McNulty to his new role of answering questions on behalf of the Executive.

To ask the Scottish Executive what discussions it or Communities Scotland has had with the Department of Trade and Industry regarding financial assistance for the provision of services from public post offices to ensure the future of the rural sub-post office network. (S2O-11255)

The Deputy Minister for Communities (Des McNulty): The Scottish Executive and Communities Scotland regularly contribute to discussions that inform decisions taken by the United Kingdom Government on the post office network.

Murdo Fraser: I appreciate that the issue is reserved, but there would be serious implications for the economy and quality of life in rural Scotland if there were widespread closures of rural sub-post offices. Will the minister ensure that the Department of Trade and Industry is made aware of the high level of concern throughout rural Scotland about the impact of the removal of sub-post offices? Will the Executive commit to working with the DTI to see what solutions might be put in place to safeguard those vital local services?

Des McNulty: The Minister for Environment and Rural Development, Ross Finnie, has been involved in meetings with the DTI and has expressed clearly the interests of rural Scotland in connection with the problems that Murdo Fraser mentions.

Under the Scotland Act 1998, our powers allow us to support only the provision of non-postal services through post offices. Between 2003 and 2006, we helped a number of post offices in deprived urban areas with a capital grants scheme, which enabled 47 post offices to improve their shop business and their security. We have also developed a programme to support specialist business improvement training for sub-postmasters and sub-postmistresses in deprived urban and rural areas, which will be delivered in partnership with Scottish Enterprise, utilising a £250,000 investment from Communities Scotland.

Alasdair Morgan (South of Scotland) (SNP): I, too, welcome the minister to his new post. Does he agree that one of the problems is that, although the Governments here and at Westminster are very good at paying lip service to the idea of preserving rural post offices, they seem to have no coherent idea of what services should or should not be delivered via rural post offices and therefore no strategy for how the network can be preserved?

Des McNulty: We understand that we need sustainable arrangements that are adapted to the needs of consumers, including those who live in rural areas. We also need to recognise the network's wider social and economic value and take account of the distinct needs of Scotland's remote areas. I am sure that Ross Finnie and the Development Department, in their talks with the DTI, will continue to make those points on behalf of rural Scotland.

Central Heating Programme

2. Margaret Mitchell (Central Scotland) (Con): To ask the Scottish Executive when the Minister for Communities last met representatives of Scottish Gas to discuss the progress of the central heating programme. (S2O-11252)

The Minister for Communities (Malcolm Chisholm): A ministerial meeting with Scottish Gas is being arranged in the near future to discuss the central heating programme and the warm deal. Officials in Communities Scotland are in frequent contact with Scottish Gas.

Margaret Mitchell: I hope that when the minister meets representatives of Scottish Gas he will make them aware that, due to the popularity of the programme, the company has inherited a waiting list of approximately 10,000 people. That means that many applicants, who include the most vulnerable in society, will be lucky to have central heating installed under the scheme before 2008. Anyone who contacts Scottish Gas today will almost certainly be told that they—

The Deputy Presiding Officer (Trish Godman): Is there a question here, Ms Mitchell?

Margaret Mitchell: Yes.

They will be told that they face a long wait before their present system can be assessed, let alone a new system installed.

In the light of that, can the minister offer any comfort to my constituents Mr and Mrs Messur, an 80-year-old couple from Strathaven—

The Deputy Presiding Officer: No. There should be a question. I do not want a story.

Margaret Mitchell: I want to know whether the minister can do anything to help my 80-year-old

constituents from Strathaven, whose central heating system has just been condemned by Transco and who are left with one small heater to heat their entire home.

Malcolm Chisholm: As I have emphasised on more than one occasion in the chamber, there is an issue about increasing demand for what is a very successful and popular programme. However, now that all the people who were inherited from the Eaga Partnership have been surveyed, the number who are eligible is significantly less than the 10,000 to which Margaret Mitchell refers. Therefore, not nearly as many people are waiting as was thought until fairly recently. Of course, there is an issue of demand, which is why we announced about 10 days ago the injection of extra money into the programme for this year. I am also seeking to get extra money into the programme next year.

Let us recognise how successful the programme has been. The target of installing 12,000 systems that was set for this year will be met; indeed, under the warm deal, we will install more systems than we did last year.

Tricia Marwick (Mid Scotland and Fife) (SNP): When the minister meets Scottish Gas, will he ask whether it is not about time that some sort of priority system was introduced? I have been contacted by a number of constituents, one of whom has chronic heart failure, diabetes and osteoarthritis. He and his wife, who are both 68 years old, have been given no date for a survey or for the installation of central heating. There needs to be—

The Deputy Presiding Officer: Can I have a question, Ms Marwick?

Tricia Marwick: Does the minister agree that there needs to be some sort of priority system and, if so, will he take the matter up with Scottish Gas when he meets the company?

Malcolm Chisholm: The guidance makes provision for prioritisation, but we are seeking to build on and formalise that to a greater extent. Members will realise that because all the people whom we are talking about are older people, a significant number of them will have health and other problems, so it would be extremely difficult to implement a wide-ranging priority system. I accept that provision ought to exist for dealing with extreme cases. The current guidance contains such provision and we are seeking to build on that.

Christine May (Central Fife) (Lab): Like me, many members will have been contacted by older constituents on the issue and my question, too, concerns prioritisation. I hear what the minister says, but in his next discussions with Scottish Gas, will he ask what element of prioritisation there could be so that we avoid the situation that

has arisen in the cases that I have dealt with, whereby constituents can get action if they contact me, but not if they contact Scottish Gas directly? That cannot be right or fair.

Malcolm Chisholm: That issue will be raised at the ministerial meeting. The principle of a degree of prioritisation is certainly accepted; I am merely pointing out that it would be difficult to have a wide-ranging priority system.

In many ways, the fact that the central heating programme was set up as a universal programme has been the secret of its success. It was set up as a universal programme because we knew that the majority of people who did not have central heating systems were people who found it difficult to afford them. That is why so many people who have had central heating systems installed have been lifted out of fuel poverty as a result. Indeed, the central heating programme is one of the main reasons why the number of households in fuel poverty has fallen from 35 per cent in 1996 to 14 per cent at the latest count.

The programme has been successful, but of course we want to develop it. Starting in January, people on pension credit will have extra entitlements and, beyond that, we will review the whole system and how it will develop in time for the next spending review.

John Scott (Ayr) (Con): The minister will be aware that many of the people on the waiting list have been on it for almost a year. As recently as yesterday, Scottish Gas told me that the number of people on the list was well in excess of 12,500 and might have been approaching 15,000. What advice can the minister give the people on the list, many of whom have faulty and dangerous systems, as we go into the colder part of the winter?

Malcolm Chisholm: I do not want to be too party political, but I could begin by saying that there would not be a list at all if the Tories had remained in government.

As I have said, the surveys that have been done indicate that a significant number of the people who were on the list are not eligible, so the figure is smaller than John Scott suggests. We are taking every action that we can to ensure that people get the systems to which they are entitled as quickly as possible. Most of the increased demand has been for replacement systems. That was not foreseen in the first days of the programme, when the priority was to provide systems to people who did not have them. The fact that the programme is universal means that any eligible person whose system breaks down—even if they live in the largest house in Scotland—is entitled to a new one. That situation is new. We are responding to

the new demand as quickly and effectively as possible.

John Swinburne (Central Scotland) (SSCUP): In the event that someone's heating breaks down and they are told that it will be many months before it can be repaired under the programme, will they be reimbursed if they pay to have it repaired themselves?

Malcolm Chisholm: New repair arrangements are coming in and one of the new conditions that will be introduced in January is that, if a system can be repaired up to a value of £750, it will be. That did not happen in the past.

I should point out that the system has never worked on the basis of reimbursement. There is a great deal of demand, which we are trying to deal with as quickly and as effectively as possible; in fact, so many people are applying to the scheme because it has been so successful. However, it will improve in several significant ways from January onwards, especially with the introduction of entitlement to repairs where they can be carried out. Of course, any such repairs will be carried out quickly.

Communities (Funding and Support)

3. Marilyn Livingstone (Kirkcaldy) (Lab): To ask the Scottish Executive what steps it is taking to ensure that funding and support are reaching those communities with the greatest need. (S2O-11275)

The Deputy Minister for Communities (Des McNulty): We are committed to tackling poverty and disadvantage by closing the opportunity gap, which means increasing access to services and opportunities for all and tackling inequalities between our most disadvantaged communities and the Scottish average. We are also regenerating the most disadvantaged neighbourhoods; taking account of deprivation in the distribution of funds to local authorities and health boards; and providing support and advice to communities on the community right to buy.

Marilyn Livingstone: The minister is aware of my concerns about areas of deprivation in my constituency, which have been borne out by the recently published multiple deprivation statistics. What advice and support can the Executive provide to local agencies working in partnership in my constituency to ensure that sustainable solutions are urgently brought forward?

Des McNulty: I am interested in the causes of persistent deprivation in Marilyn Livingstone's Fife constituency and am quite keen to meet her to discuss her view of the problems and how we might take the matter forward in conjunction with the different agencies in Fife.

Glasgow Housing Stock Transfer (Second Stage)

4. Tricia Marwick (Mid Scotland and Fife) (SNP): To ask the Scottish Executive when it will announce a timetable for the second-stage transfer of Glasgow housing stock. (S2O-11257)

The Minister for Communities (Malcolm Chisholm): At the time of the original transfer, it was envisaged that second-stage transfers would take place over a period of about 10 years. Ministers remain committed to second-stage transfer and want some transfers to move forward in the near future. However, as we recognised at the outset, the bulk of transfers might well take place over a longer period.

We should also remember that, while issues around second-stage transfers are under discussion, the investment that we have released is transforming the living conditions of thousands of Glasgow Housing Association tenants.

Tricia Marwick: I thank the minister for his reply, but I think that my question was more to do with when the second-stage transfers would start. As for the 10-year timetable that he mentioned, surely he is not suggesting that none of the second-stage transfers will take place before those 10 years are up.

I repeat the question: when will second-stage transfers begin? Moreover, when will the minister acknowledge that the failure to start second-stage transfers in Glasgow is causing the no votes in housing stock transfer ballots throughout Scotland?

Malcolm Chisholm: If Tricia Marwick is going to repeat part of her question, I will repeat part of my answer. We want some second-stage transfers to move forward in the near future. Indeed, that will be an absolutely central priority for me over the next few weeks, and I am having on-going meetings with the different players in Glasgow to ensure that that happens. The joint team report, which was commissioned to unravel and analyse some of the genuine financial complexities associated with disaggregating the GHA business plan, will be published before Christmas and will help us to map a way forward. I make it clear again that we are determined to see progress on some transfers in the near future.

The Deputy Presiding Officer: Question 5 has been withdrawn.

Social Work Services (Funding)

6. Mrs Nanette Milne (North East Scotland) (Con): To ask the Scottish Executive whether there is a shortfall in the local government finance settlement in respect of the financing of social work services. (S2O-11304)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): No. The Executive is currently funding local government at record levels. Against the 1999-2000 baseline, the increase will be about 55 per cent and, with regard to social work services, the increase will be around 89 per cent. Of course, it is the responsibility of each local authority to consider the allocation of finances based on its own needs and local priorities.

Mrs Milne: Given that Aberdeen City Council's spend on social work services is now outstripping grant-aided expenditure by £20 million, will the minister consider targeting the additional £100 million promised for 2007-08 at the spending pressures on needs-led services that Aberdeen and other councils are facing?

Mr McCabe: I do not know who promised £100 million, but I am sure that the member can ask them to consider how they will distribute it. It is important to say yet again to the chamber that grant-aided expenditure is a spending guideline; it is not the minimum or the maximum spend. It is always for local authorities to look at their priorities and allocate money to the areas that they think are in greatest need. That is why they are democratically elected, and we do our best, on behalf of the Scottish Executive, to enhance their democratic credentials.

Local Government Finance Review Committee

7. David McLetchie (Edinburgh Pentlands) (Con): To ask the Scottish Executive whether it will publish its official response to the recommendations of the local government finance review committee prior to April 2007. (S2O-11292)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): We will need to take the necessary time to study the committee's conclusions and findings and to give the report the careful attention and consideration that it deserves. It is in no one's interest to set an arbitrary date for producing a response on a matter of such importance.

David McLetchie: I think that the answer is no. Perhaps the minister learned a lesson from giving dates for his consideration of the Howat review.

Given that we have had a non-response to date, will the minister confirm that the local property tax recommended in the Burt committee's report as a replacement for council tax is similar in concept to the local property tax on homes in Northern Ireland that was introduced by the Labour Government? Will he further confirm that that recommendation of the Burt committee has not been rejected by the Scottish Executive and remains under active consideration?

Mr McCabe: I certainly confirm that the report as a whole remains under active consideration. I have said that it is only right and proper that we take the time to consider that important work. We will do that in due course, and when we are ready to announce our views, we will do so. It is for Mr McLetchie to draw his own conclusions on the comparison between some aspects of the report and some of the things that go on in different parts of the United Kingdom.

Mark Ballard (Lothians) (Green): Does the minister agree that the independent review of local government finance dealt a knock-out blow to those who advocate an income-based local government tax? Does he further agree that the new taxation system—whatever it is—will provide an opportunity to widen the tax base by expanding property tax, with the potential to include the taxation of land?

Mr McCabe: The report certainly offers an opportunity to introduce greater fairness into the tax system, but the caveat is that we will never find a tax that is universally popular. However, it is important that we find a tax that is proportionate and can be spread as evenly as possible over those in our community who have the means to pay tax.

The report's conclusions are certainly critical of certain methods of taxation that were suggested, which is why my colleagues on the nationalist benches have been so silent. Some people anticipated some parts of the report and that is why they tried to cap their aspirations, but the cat was already out of the bag and it was simply too late.

Mr John Swinney (North Tayside) (SNP): Far from being silent, I am happy to join the debate, no doubt to the minister's enjoyment. I follow up Mark Ballard's point and ask whether the minister will acknowledge that his proposals for a council tax revaluation and rebanding were described by the Burt review as unfair. If he accepts that the compelling argument must be the ability of individuals to pay local taxation, as he just said to Parliament, does he not find the arguments for a local income tax worthy of further exploration and debate?

Mr McCabe: I find them as worthy of further exploration as the Burt committee did, which does not say much for them. My party has already made clear its position: we see merit in expanding the number of bands and looking at the gearing between them. Whatever conclusion is reached, I repeat that it has to be proportionate and, as with any tax, it must be seen to be as fair as it can be.

Affordable Housing (Rural and Remote Communities)

8. Nora Radcliffe (Gordon) (LD): To ask the Scottish Executive what steps it is taking to develop affordable housing in rural and remote communities. (S2O-11315)

The Minister for Communities (Malcolm Chisholm): We are doing a great deal to provide affordable housing in rural and remote communities. This year alone, our investment in new affordable housing in rural Scotland is some £139 million.

Nora Radcliffe: That money does not go quite so far in remote and rural communities as it does in other parts of the country, where there are economies of scale.

Given the rise in the number of people presenting as homeless in the past year in my constituency and across the country, and given the estimate from Shelter Scotland last weekend that 3,000 extra homes will need to be built each year to meet the 2012 target of eliminating unintentional homelessness in Scotland, has any consideration been given to whether additional funding to Scottish Water could deliver more speedily the water and sewerage infrastructure that would enable more homes to be built in remote and rural communities?

Malcolm Chisholm: Scottish Water has a massive budget specifically for unlocking the constraints that sometimes prevent housing development. In parallel, and even more significantly, the budgets for new affordable homes are increasing. The numbers will rise into next year, when there will be 8,000 starts compared with 7,000 this year.

Nora Radcliffe represents part of Grampian. In Grampian, we have a £29 million budget to provide 847 affordable homes. That budget is £11 million up on the figure at the start of last year. Indeed, we supplemented the budget by £4 million earlier this month, bringing this year's total across Grampian to £33 million.

Education and Young People, Tourism, Culture and Sport

The Deputy Presiding Officer: Question 1 is from John Swinney.

Members: Swinburne.

The Deputy Presiding Officer: I am sorry. It is from John Swinburne.

Swimming Pool Charges (Senior Citizens)

1. John Swinburne (Central Scotland) (SSCUP): To ask the Scottish Executive what action it will take to prevent local authorities from

increasing swimming pool charges for senior citizens to an unaffordable level. (S2O-11242)

The Deputy Minister for Education and Young People (Robert Brown): It is for local authorities to determine the level of admission charges to their swimming pools.

John Swinburne: Does the minister agree that swimming, particularly by elderly people, should be encouraged by councils? Will the minister join me in deploring the 320 per cent increase in charges to senior citizens for access to swimming baths in North Lanarkshire? Charges have been increased from £14.50 a quarter to £15 a month. To defeat those increases—which were even worse than those that have been imposed by fuel suppliers—some senior citizens in North Lanarkshire have taken to using their free bus passes to go to South Lanarkshire, where access is cheaper. Why should we have a postcode lottery?

Robert Brown: John Swinney's central point—

Members: Swinburne.

Robert Brown: John Swinburne's point about the importance of swimming for older people is correct—I very much agree with him. Nevertheless, under our system, local authorities rightly have devolved powers to determine charges at their swimming pools. They also have powers to offer discounted or free swimming if they want to. Many local authorities already offer free or discounted access to swimming pools and to other sports facilities. That is a decision for each local authority to make, according to local needs and circumstances.

I should add that most, if not all, swimming pools operate at a loss. That has to be taken into account.

Film Making (Renfrewshire)

2. Ms Wendy Alexander (Paisley North) (Lab): To ask the Scottish Executive what action Scottish Screen is taking to promote film making in Renfrewshire. (S2O-11259)

The Minister for Education and Young People (Hugh Henry): Scottish Screen promotes Scotland as a great place to make films. It has supported projects in Renfrewshire, most notably the TV series "Taggart", "Rebus", "Dr Finlay's Casebook" and "Naked Video". The film "Young Adam" was filmed in Renfrewshire. Scottish Screen has also supported a number of films including "An Anarchist's Tale" and "Homage to History", made by Johnstone-based company, Pelicula Films.

Ms Alexander: I would add to that list "Ecstasy", which has been being filmed in Paisley in recent weeks.

In the light of all that activity, will the minister ask Scottish Screen if it will work with Renfrewshire Council and East Renfrewshire Council to create the sort of facilities for film makers that exist in other parts of Scotland?

Hugh Henry: Scottish Screen works with a network of local authority funded film offices. The regional film offices make a vital contribution to attracting film-makers, who are then supported during filming. It is evident that Scottish Screen finds it easiest to organise filming in areas where there is a local film office. I hope that it is evident to those concerned that the availability of such local offices can enhance an area's status and attract more filming. I also hope that Renfrewshire Council and East Renfrewshire Council, which were mentioned by Wendy Alexander, will consider enhancing what is already happening in the area.

Mr Jamie McGrigor (Highlands and Islands) (Con): Compared with Scotland, film making in Ireland has enjoyed huge success in recent years. Indeed, with a few exceptions—such as Peter Mullan, who pulled off the converse with "The Magdalene Sisters", which is a film that is set in Ireland but which was made in Dumfries—the makers of films that are set in Scotland often take their films to Ireland. Since the locations that are available are so similar, has the minister evaluated why that is the case? What has he done to reach the point at which Scotland can offer financial and payment-in-kind incentives comparable to those that are available across the Irish sea?

The Deputy Presiding Officer: Minister, I realise that it is Renfrewshire, but—

Hugh Henry: There is no better place to speak about, Presiding Officer.

Jamie McGrigor raises a complex issue. He asks what it is that determines where a film is made. It is a variety of things. It is about the suitability of the location, the financial support and the availability of the personnel and technology to make the film. Scottish Screen has been given approximately £3 million of Scottish Executive grant in aid and £2.7 million of lottery funding to distribute each year. It uses the money to develop screen industries throughout Scotland. Although Scotland has been successful in attracting films to be made here, an exciting expansion is that we are promoting, creating and developing our indigenous film makers, who are showing a great deal of talent and who offer great hope for the future.

Mr Stewart Maxwell (West of Scotland) (SNP): Does the minister agree that the motivation of film makers in Renfrewshire, as well as elsewhere in Scotland, has been dented by the fact that Scottish Screen has withheld £170,000 that was

promised to the makers of a film about Graeme Obree? Will the minister agree to take that matter up with Scottish Screen in order that it can resolve that problem as soon as possible?

Hugh Henry: I am not familiar with the detail in relation to that film, but it will be a matter between Scottish Screen and the film makers. I am not sure that it would be appropriate for the minister to intervene in decisions about how that money is used and who receives the money. I will certainly pass the matter that has been raised by Stewart Maxwell to the minister.

The Deputy Presiding Officer: Question 3 has been withdrawn.

Schools (Streaming)

4. Bill Aitken (Glasgow) (Con): To ask the Scottish Executive what plans it has to review the use of setting or streaming in secondary schools. (S2O-11240)

The Minister for Education and Young People (Hugh Henry): We have no plans to review the use of setting or streaming. The management of schools and the organisation of learning and teaching is a matter for schools and education authorities.

Bill Aitken: I am obliged for that response. Can I take it therefore that the minister does not agree with the First Minister, who, in an article in *Holyrood* magazine, stated:

"I believe there is a place for mixed ability classes but there is also a place for setting groups of kids together to make sure that those who are quicker learners are not bored and those who are slower learners get the sort of attention that they need".

Does he also agree with the First Minister that if the Liberals and the Scottish National Party state otherwise, they are "on shaky ground"?

Hugh Henry: What the First Minister said is entirely consistent with my reply. There is a place for setting and streaming, but the determination of how it is used in any specific instance is a matter for local decision makers. They need to decide what is appropriate for individual schools and for groups of pupils within those individual schools.

There is a lot of debate in education about the value of setting and streaming—there are strong views for and against. The Executive is determined to ensure that children who are failing for whatever reason or who need extra support to reach their full potential are given appropriate support. At the same time, we want to ensure that children who are capable of developing further are helped to reach their full potential. No child in Scotland should be held back and no child should be held down.

Fiona Hyslop (Lothians) (SNP): I welcome the new Minister for Education and Young People to his first question time and note that he has at short notice managed also to commandeer the international tourism and culture briefs, although he might want to take a crash course in Scottish film.

Does the minister agree that there is more setting in Scottish schools than people realise? Given the onset of more advances in individualised learning, does he agree that it is about time we had an honest debate about what is happening? On the quotation that Bill Aitken used, perhaps the First Minister was just reflecting what is already happening in Scottish schools, rather than leading the debate.

Hugh Henry: In the two weeks in which I have been in post, I have visited a number of schools, including Leith Walk primary school in Edinburgh, which I visited at lunch time. Among the things that have impressed me are the enthusiasm and excellence of the teachers and the pupils' sheer enjoyment of their good learning environments. We have confident pupils who want to learn and who are contributing to schools' excellence.

How pupils are taught in any class in any year group at any time is best left to the person responsible. Fiona Hyslop is right to say that a range of methods are used throughout Scotland. It would be wrong of us to try to dictate a simple or single formula to be used everywhere in Scotland, because that would not be appropriate.

As long as we set the correct parameters, know what the standards are and have a challenging curriculum—which I believe we do—I have every confidence that the excellent teachers that we have will respond to the challenge and use teaching methods appropriately in the best interests of their pupils.

Universal Free School Meals

5. Frances Curran (West of Scotland) (SSP): To ask the Scottish Executive whether it is aware of the research conducted by academics at the University of Dundee on the efficiency of universal benefits compared with means-tested targeting in relation to free school meals. (S2O-11253)

The Deputy Minister for Education and Young People (Robert Brown): Yes, we are aware of that research.

Frances Curran: The research, which was conducted by Morelli and Seaman in 2005, demonstrated both the ineffectiveness of the current system of free school meals provision to the poorest households and the improvements that universal free school meals provision would bring. It showed that inequality is minimised where there is provision for up to and including the ninth

income decile of the population for households with children, and that the increase in household income that derives from universal provision is—in both absolute and percentage gains—greatest for households with the lowest income levels, in deciles 1 and 2. Does the minister have any comment to make on his equality and inclusiveness strategy?

Robert Brown: We disagree both with the methodology that was adopted and with the conclusions that were reached in that research. It does not take too much imagination to realise that if we gave additional support to people on upper and middle-range incomes, it would be difficult to conclude that we would narrow inequalities.

We have three priorities. One is to do with nutrition, one is to do with take-up and one is to do with stigma. The Executive's Schools (Health Promotion and Nutrition) (Scotland) Bill is dealing with all three. The bill will require education authorities to promote uptake of free school lunches and protect the identity of those who receive them. Even among pupils who receive free school lunches at the moment, take-up would be far lower under universal provision than is often suggested by people who propose bills of the sort that Frances Curran supports.

The Executive commissioned a research project to consider local authority procedures for identifying and registering children who are eligible for free school meals with a view to helping to improve practice. That is an important aspect of the practical way in which the Executive is taking forward this important agenda.

Elaine Smith (Coatbridge and Chryston) (Lab): Given the extent of the obesity problem across socioeconomic groups in Scotland and the Scottish Executive's acceptance of the potential of universality in relation to health promotion through, for example, the free fruit in schools initiative, does the minister agree that there is a real need for pilot schemes for free school meals, and that in dismissing the policy without practical research we might be rejecting prematurely what could be the most effective tool for health promotion policy since the smoking ban?

Robert Brown: I readily accept that the debate on the issue will continue. The Executive's policy is one of targeting, of trying to make effective advances and of looking at the issue holistically. We are talking not only about the simple issue of accessibility in provision of school meals, but about issues to do with nutritional value, actual take-up in schools, the attraction of the provision and the understanding by young people at school—and as they become adults—of dietary issues. We are making considerable progress in that regard and we are targeting our efforts on those issues.

Extension of free school meals to all children would have a significant cost implication. Members must consider whether that cost—which would be up to £179 million a year—would be the best use of scarce public resources if we are to achieve the objectives that I think members of all parties share.

The Deputy Presiding Officer: Question 6 is not lodged.

Sports Facilities

7. Ms Sandra White (Glasgow) (SNP): To ask the Scottish Executive what plans are in place to reverse the decline in playing fields in local authority areas and how much money is earmarked for the provision of sports facilities and coaching in local communities. (S2O-11246)

The Deputy Minister for Education and Young People (Robert Brown): The draft Scottish planning policy 11, which is on physical activity and open space, seeks to strengthen the protection of open space and playing fields. In the current financial year, sportscotland will commit about £5.5 million through the building for sport programme to support the development of new and upgraded local sports facilities, as well as £240,000 to support coaching posts in a number of local authorities.

Ms White: Is the minister aware that, since 2000, the number of applications to build on playing fields has increased by 100 per cent? Is he aware that Dawsholm park in Glasgow, a public facility, is to be sold to a private school by Glasgow City Council, which had already turned down an offer by Broomhill sports club—a community sports organisation? I therefore ask the minister whether he will go further in his proposals to protect public spaces throughout Scotland.

Robert Brown: We must acknowledge the democratic mandate of local authorities in the matter—we at the centre cannot decide on such matters. Rightly, successive Governments of all stamps have worked on the basis that local authorities should decide on provision in their areas. However, having said that, the Scottish Executive wants high-quality playing fields and sports facilities that are linked to robust sports clubs with access to good coaching. Sandra White is absolutely right to connect those aspects.

I am aware of the issues to which Sandra White refers—I have had some correspondence on and involvement in them as a member. In any event, I attach considerable importance to protection of playing fields and other such provision. Our strengthening of the planning protections is extremely important. We will extend sportscotland's role so that it is a statutory consultee when there is a threat to land that is

used for tennis courts or bowling greens or other such facilities. We are investing in coaching and facilities and we are strengthening planning protections more generally. It is for local authorities to account to their electors for the decisions that they take on local matters.

Lord James Douglas-Hamilton (Lothians) (Con): I warmly welcome the new Minister for Education and Young People, Hugh Henry, and wish him well in the many tasks that are before him.

Is the deputy minister aware that, although draft SPP 11 will rightly make selling of playing fields much more difficult, it is believed that many local authorities have in the past sold playing fields or parts of them when they have had crucial public-private partnership investments in new buildings in the vicinity? Will he audit the impact that SPP 11 will have on PPP investment?

Robert Brown: I am slightly surprised to have a question of that sort from Lord James Douglas-Hamilton and the Conservatives. As most of us in the Executive do, he will realise that the issue of how sports and school facilities are funded is separate from that of the planning and provision arrangements that go with that. We acknowledge that there is an issue and we are trying to put in place improved arrangements in order to protect existing playing fields. It is worth mentioning that, in 2004-05, the number of sports pitches rose for the first time in recent years, so the situation is not totally static.

There is an underlying issue about the quality of provision. The audits that have been carried out have identified a significant issue about on-going maintenance and support and the need to upgrade existing facilities throughout Scotland. In the detailed sense, that is a matter for local authorities, but the Executive has provided considerable funding to support local authorities in upgrading and developing sports pitches—£5.5 million this year—and for the development of facilities projects more generally, the figure for which is £143 million since 1995.

I think that those infrastructure and funding issues are all linked together by how we want the matter to move forward, but the planning constraints are central to the protection that we and other members want for playing fields.

Bankruptcy and Diligence etc (Scotland) Bill: Stage 3

Resumed debate.

14:55

The Deputy Presiding Officer (Trish Godman): We resume consideration of the Bankruptcy and Diligence etc (Scotland) Bill. We are dealing with group 17 of the amendments.

Christine May: The provisions in the bill have always been about creating a balance between debtor and creditor. Those who have given evidence to us, as well as committee members, have accepted that that balance has entailed compromises being made. I pay tribute to the minister for the way in which he has listened and engaged in consultation and for the way in which he has adapted the provisions of the bill to meet many of the concerns that have been raised.

With regard to the group of amendments that we are debating, it ill behoves members of parties whose members that sit on the Enterprise and Culture Committee made no comment at the time when these matters were being discussed to generate such sound and fury as has been generated this morning without also recognising that the minister has made considerable effort to deal with the points that have been raised.

With regard to crystallisation of debt, the number of diligences that have to be taken into account before a property can be sold and support for debtors through money advice, everything possible has been done to give debtors the best possible chance of keeping their homes and repaying their debt. I hope that the minister will be able to answer Jackie Baillie's questions about what might appear on the face of the bill. Sometimes, if a provision is on the face of the bill, that makes it easier for people who have to use it and saves them from having to trail through what has been said during the debate.

I urge members to support the minister's amendments.

Elaine Smith (Coatbridge and Chryston) (Lab): I want to talk about Gordon Jackson's amendments 157 and 158.

I welcome the deputy minister's manuscript amendments, which, in effect, do what Gordon Jackson sought to do with amendment 158, which is give the Scottish ministers delegated powers to introduce further debtor protections if land attachment results in an increase in homelessness. However, questions remain about how the Scottish Executive will know whether that has happened. No relevant court statistics are

available at present. The latest civil judicial statistics are for 2002 and that service has been discontinued, pending a review by the Executive. How will anyone know how many land attachments or warrants for sale have been granted? More important, without the provision in amendment 157 how will anyone know the impact that land attachment has had on homelessness and debt recovery?

As Tommy Sheridan pointed out, we know that, when people were subject to poindings, they would stop paying their rent and utility bills to prevent a warrant sale. That explains why, prior to the abolition of warrant sales, there were 23,000 poindings but only 500 warrant sales.

Due to the power of land attachment, a debtor could be forced to stop paying their mortgage in order to pay off a land attachment debt. That could mean that the debtor and their family might be threatened with the absurd situation of becoming homeless through mortgage repossession when, in fact, their homelessness would have been caused by the land attachment.

Unless we monitor and record those statistics, no one will know the true impact of land attachment on homelessness. That is why amendment 157, in the name of Gordon Jackson, is absolutely necessary. It requires the Executive to publish a statement on the impact of land attachment within 15 months, setting out the impact of land attachment on debt recovery and homelessness.

Given that the minister is happy to support amendments that are similar to Gordon Jackson's amendment 158, which would create a power to introduce further protections for home owners, it makes sense that he should also be willing to provide a statement on the impact of land attachment. Without that statement, no one will know whether the Scottish ministers should introduce additional protections at a later date. Therefore, it makes little sense to have that additional power without undertaking to do the necessary monitoring and research.

As others have said, the Executive has been happy to provide formal statements on fuel poverty under the Housing (Scotland) Act 2001 and on the abolition of priority need tests under the Homelessness etc (Scotland) Act 2003. Further, I now understand that the minister will accept amendment 157. The bill contains many progressive features, but it will be improved by amendment 157, which is complementary to the minister's manuscript amendments.

I urge members to support amendment 157, in the name of Gordon Jackson.

15:00

Tommy Sheridan: The point that I tried to make to the minister earlier was about the evidential base that will be required to show whether land attachments are being abused and are leading to extra homelessness.

I now have the quotation that I was searching for this morning. When the minister addressed the Enterprise and Culture Committee, he talked about the similarity between land attachments and charging orders in England and Wales. He said that we do not have to worry that land attachments will lead to massive rises in homelessness or to people losing their homes, because the similar procedure in England has not led to that. He said:

"My information is that in 2004 there were 45,562 applications for charging orders in England and Wales, which related to the attachment of all types of properties ... but that there were fewer than 500 sale orders".—[*Official Report, Enterprise and Culture Committee*, 26 September 2006; c 3292.]

That is the point that we are making. It is the point that Elaine Smith made when she said that there were 23,000 poindings but only 500 warrant sales. The problem was not solved. To avoid warrant sales, individual debtors ended up getting deeper into debt because they did not pay their bills in order to avoid the nuclear option of the warrant sale. Frankly, warrant sales are like candy floss in comparison with land attachments. That is why I argue—unfortunately, I have been unsuccessful—that the minister's amendment 209 should be amended. Instead of "may", it should read "shall".

Tricia Marwick: Will the member take an intervention?

Tommy Sheridan: I would love to hear Tricia Marwick's point, but the Presiding Officer is shaking his head.

There should not be an option. The dwelling-house must be removed from the application for a warrant to sell the attached land.

My final comment is on what Donald Gorrie said earlier. He expressed hope that there will be a conscience vote on the matter. If we agree to the provisions on land attachment today, we will do a huge disservice to all those who find themselves in debt throughout Scotland. We will hand a massive nuclear option to creditors, and they will use it. More and more people will get deeper into other debt to avoid losing their homes.

Allan Wilson: I will try to deal with all the points that were raised during the debate on the group. I was variously accused of being evil, wicked and immoral, but I am none of those things, and I point out that the bill and the provisions on land attachment are none of those things. We are all

used to hyperbole in this place, but that is a hyperbole too far.

With all due respect to Donald Gorrie, he has no monopoly on morality in the Parliament. He cares no more and possibly no less than me or anyone else about our responsibility to people who are in debt. I do not accept the charge and I now stand to defend myself. It would be a surprise if I did accept the charge, because the principles and the morality of the bill have already been accepted by members of the Enterprise and Culture Committee. They agreed that what is proposed in the bill merits consideration and that there are circumstances in which homes should be sold. If I stand accused of being evil, wicked or immoral, so do they and many other members in the chamber.

Alex Neil (Central Scotland) (SNP): Will the minister take an intervention?

Allan Wilson: No. I am going to defend myself, if Alex Neil does not mind.

I would agree with Tommy Sheridan's point on poiding if land attachment was the same as poiding. I give due recognition to the role that he played in dispensing with warrant sales and poiding, but there is a difference. With poiding, the creditor could go straight to a sale of the debtor's home, but with land attachment the court has to make an order, as is the case with exceptional attachment.

Land attachment has many debtor protections, some of which I introduced—I have counted 22 protections. The sale of a debtor's home will be rare, just as attaching goods in a debtor's home is exceptional. I accept that land attachment and sale are at the harder end of the enforcement scale, but attachment is not the worst thing that can happen to someone who owes £3,000—they can be made bankrupt. At present, creditors move from diligence such as earnings arrestment, which has a limited impact, straight to bankruptcy. Nothing is in-between, apart from the old and unfair diligence of adjudication, which the bill will abolish.

Tommy Sheridan talked about a rush to use land attachment, but the evidence does not support that and I stand by that. No rush to use charging orders—the equivalent measure in England and Wales—has happened. However, there has been a rush to use bankruptcy. More debtors than creditors used to use bankruptcy to obtain debt relief, but that has turned round in the past three years. Now, more creditors than debtors use bankruptcy to recover debts, particularly against land. I have used the time since the morning to obtain the latest figures to update members. In 2004-05, 50 per cent of applications were by debtors and 49 per cent were by creditors, but in 2005-06, the figures were 45 per cent against 54

per cent, and the projection for this year is 42 per cent against 57 per cent.

There has been a rush to use bankruptcy, under which the right to the debtor's home passes automatically to the creditors, along with almost everything else that the debtor owns. It is not guaranteed that a debtor will get their home back; bankruptcy goes much further than that. I will give just one example: people who have been bankrupt can struggle for years to obtain something as basic as a normal current account.

Christine Grahame *rose—*

Tommy Sheridan *rose—*

Allan Wilson: I give way to Christine Grahame as she wanted to intervene first.

Christine Grahame: Bankruptcy is horrendous, but under land attachment, the debtor will lose their home yet keep all their other debts. They will be homeless and will still have all the other debts, and we know that people who are at such a stage probably have a multiplicity of debts.

Allan Wilson: That is precisely the case—but only if the debtor wishes it to be. If Christine Grahame is saying that a debtor in such a situation would do better to apply for bankruptcy, she is brave, because that will not be the position in every instance.

Land attachment is a diligence. If a creditor uses it, the debtor is apparently insolvent at that point. The debtor can then apply for their own bankruptcy, if that is right for them.

Christine Grahame: I know that.

Allan Wilson: However, the reverse is not always true.

Christine Grahame: I know that.

Allan Wilson: I do not really want to conduct a debate with Christine Grahame.

The Deputy Presiding Officer (Murray Tosh): I think that she is finished.

Allan Wilson: I cannot stress my last point too much. If attached homes cannot be sold, creditors can and will bankrupt debtors and are doing so. That is not speculation; I have given members the statistics. Bankruptcy is not that good for the creditor, either, as it is slow and uncertain and is an expensive way to recover debt. The problem is that the current system pushes creditors in that direction. I have given the creditor and the debtor a way out of that and I ask members to support the amendments in my name and amendment 157, in the name of Gordon Jackson.

The Deputy Presiding Officer: The question is, that amendment 208 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. We will have a suspension while the division bell is rung and members return to the chamber.

15:08

Meeting suspended.

15:11

On resuming—

The Deputy Presiding Officer: We will now proceed with the division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 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)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 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)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (Ind)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

Byrne, Ms Rosemary (South of Scotland) (Sol)
 Maclean, Kate (Dundee West) (Lab)
 Sheridan, Tommy (Glasgow) (Sol)

The Deputy Presiding Officer: The result of the division is: For 73, Against 31, Abstentions 3.

Amendment 208 agreed to.

Amendment 150 moved—[Christine Grahame].

The Deputy Presiding Officer: The question is, that amendment 150 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Campbell (West of Scotland) (Ind)
 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)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)

Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 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)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, John (Ayr) (Con)
 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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 40, Against 74, Abstentions 0.

Amendment 150 disagreed to.

Amendment 209 moved—[Allan Wilson].

The Deputy Presiding Officer: The question is, that amendment 209 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 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)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 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)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 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)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, John (Ayr) (Con)

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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (Ind)
 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)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 78, Against 36, Abstentions 0.

Amendment 209 agreed to.

Amendment 151 moved—[Christine Grahame].

The Deputy Presiding Officer: The question is, that amendment 151 be agreed to. Are we agreed?

Members: No.

15:15

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)

Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gorrie, Donald (Central Scotland) (LD)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Campbell (West of Scotland) (Ind)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)

McCabe, Mr Tom (Hamilton South) (Lab)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 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)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, John (Ayr) (Con)
 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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Byrne, Ms Rosemary (South of Scotland) (Sol)
 Sheridan, Tommy (Glasgow) (Sol)

The Deputy Presiding Officer: The result of the division is: For 34, Against 70, Abstentions 2.

Amendment 151 disagreed to.

Amendment 53 moved—[Allan Wilson].

The Deputy Presiding Officer: The question is, that amendment 53 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 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)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 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)
 Hyslop, Fiona (Lothians) (SNP)
 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)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (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)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 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)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 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)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 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, John (Ayr) (Con)
 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)
 Swinney, Mr John (North Tayside) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Byrne, Ms Rosemary (South of Scotland) (Sol)
 Curran, Frances (West of Scotland) (SSP)
 Fox, Colin (Lothians) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Martin, Campbell (West of Scotland) (Ind)
 Sheridan, Tommy (Glasgow) (Sol)
 Swinburne, John (Central Scotland) (SSCUP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Maclean, Kate (Dundee West) (Lab)

The Deputy Presiding Officer: The result of the division is: For 103, Against 8, Abstentions 1.

Amendment 53 agreed to.

Section 86—Full hearing on application for warrant for sale

Amendment 152 moved—[Christine Grahame].

The Deputy Presiding Officer: The question is, that amendment 152 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Campbell (West of Scotland) (Ind)
 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)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 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)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)

Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Byrne, Ms Rosemary (South of Scotland) (Sol)
 Sheridan, Tommy (Glasgow) (Sol)

The Deputy Presiding Officer: The result of the division is: For 37, Against 74, Abstentions 2.

Amendment 152 disagreed to.

Section 87—Application for warrant for sale of sole or main residence

Amendment 153 moved—[Christine Grahame].

The Deputy Presiding Officer: The question is, that amendment 153 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. *[Interruption.]* I remind members that all mobile phones, BlackBerrys and other similar items should be switched off.

For

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Campbell (West of Scotland) (Ind)
 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)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 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)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)

Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, John (Ayr) (Con)
 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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 39, Against 76, Abstentions 0.

Amendment 153 disagreed to.

Amendment 154 moved—[Christine Grahame].

The Deputy Presiding Officer: The question is, that amendment 154 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Campbell (West of Scotland) (Ind)
 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)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (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)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 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)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)

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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 52, Against 58, Abstentions 0.

Amendment 154 disagreed to.

Amendment 210 moved—[Allan Wilson].

The Deputy Presiding Officer: The question is, that amendment 210 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 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)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)

Martin, Campbell (West of Scotland) (Ind)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 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)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, John (Ayr) (Con)
 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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 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)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)

Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 80, Against 35, Abstentions 0.

Amendment 210 agreed to.

Amendment 211 moved—[Allan Wilson].

The Deputy Presiding Officer: The question is, that amendment 211 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 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)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 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)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)

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)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, John (Ayr) (Con)
 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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 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)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 79, Against 36, Abstentions 0.

Amendment 211 agreed to.

Section 88—Protection of purchaser under contract where creditor applies for warrant for sale

The Deputy Presiding Officer: We come to group 18, on land attachment and protection of purchaser under missives. Amendment 70, in the name of Murdo Fraser, is the only amendment in the group.

Murdo Fraser: I fear that this group, unlike the last, will be of limited interest, other than to commercial lawyers. As I have been a commercial lawyer myself—and, who knows, I might have to be one again—it is of considerable interest to me. [*Applause.*] I thank my fellow members for that vote of confidence.

Amendment 70 originated with the Law Society of Scotland, and requires the sheriff, when considering whether to make an order under section 88(2),

“to have regard to the desirability of securing that a person who, before the notice of land attachment was registered, has completed missives for the purchase of the property is able to acquire title to the property.”

The bill, as currently drafted, recognises that a warrant for sale following an effective land attachment may adversely affect the position of an innocent third party who, in good faith, contracted to purchase the property prior to the attachment.

Following the recommendations of the Scottish Law Commission report on diligence in 2001, the bill includes a dual mechanism to protect such purchasers, first by providing that a warrant for sale cannot be granted until six months have elapsed since the registration of the attachment, and secondly by allowing purchasers to make representation to the sheriff, who may sist the application to allow the purchase under contract to be completed.

In most standard conveyancing transactions, as members will be aware, six months is sufficient for completion, and that mechanism will provide adequate protection for purchasers under the prior missives. However, a significant minority of transactions cannot be completed within a six-month timescale, usually because the transaction is dependent on the granting of planning permission, which can often be a lengthy process, particularly if an appeal is involved. Although it is still open to the sheriff to sist the application in such cases, there is a legitimate concern that the legislation offers no further guidance in that decision-making process, and that it leaves open the possibility that an application will not be sisted and a warrant for sale granted. The effect of transactions of that kind, which often involve the investment of large sums of money, may be

greatly prejudiced if the purchaser has little in the way of guarantee that the transaction will be safeguarded against the intervention of a land attachment, possibly for as little as £3,000.

At stage 2, I introduced a similar amendment, which the committee voted on and disagreed to, as it would have obliged the sheriff to sist the application for a warrant for sale and required the prospective purchaser to pay the price under the contract to the creditor, where missives for the purchase of the land had been entered into, before the land attachment was registered. During debate on that amendment, the minister said that the best way forward in such a case was to allow the contract to be completed, but he raised concerns that the amendment would not allow the sheriff discretion not to sist, particularly when there was likely to be a sizeable delay before the purchase price would be payable.

Amendment 70 is designed to accommodate those concerns by placing no obligation on the sheriff to sist. It would simply require the sheriff

“to have regard to the desirability of securing that a person who, before the notice of land attachment was registered, has completed missives for the purchase of the property is able to acquire title to the property.”

It would not remove the sheriff's discretion; it would simply offer guidance on the outcome that should be aimed for. It would allow the sheriff to proceed with the application for land attachment when they felt that it was appropriate, for example when the delay involved would be excessive. I hope that that is sufficient explanation.

I move amendment 70.

The Deputy Presiding Officer: At this stage, I should say that I am using my power under rule 9.8.4A of the standing orders to extend the next time limit by 10 minutes.

Allan Wilson: Section 88 allows the sheriff to suspend an application for the sale of land if satisfied that the debtor should be allowed to sell the land to a buyer. As has just been said, in many cases it will make sense for the buyer to take the land, which is one reason why there is a minimum six-month gap between attachment and sale and why the bill allows a buyer to ask the court to suspend an application for a sale order.

Amendment 70 purports to help the sheriff decide whether to suspend the application by having regard to the desirability of allowing the buyer to take title. That prompts the obvious question—desirable for whom? It will undoubtedly be desirable for the buyer, but it may be very undesirable for the attaching creditor.

It is worth keeping in mind the fact that in most cases the attaching creditor will have no particular need to prevent the buyer from taking the land.

The creditor has a security and will have to be paid if the buyer is to get good title. The creditor would want to prevent only a sale that is harmful to them, for example if the price was so low that they would not be paid, perhaps because the land was being sold for less than it was worth. It may not be desirable for the buyer to take the land in those circumstances.

It is clear that there is a flaw at the heart of the amendment. It would bring confusion rather than clarity. Section 88 allows the sheriff to decide what is best in the circumstances, balancing the interests of all concerned. We should leave that matter to the good sense of the sheriff. If the buyer makes a good case, the sheriff will sist the application. If not, the sheriff will refuse. Therefore, I ask Murdo Fraser to withdraw amendment 70.

The Deputy Presiding Officer: I can give Mr Fraser two minutes to wind up.

Murdo Fraser: Thank you, Presiding Officer. I do not think that I will take two minutes.

I listened to the minister with great interest. Amendment 70 deals with an important point. We are seeking to create certainty in the purchase process to aid future investment and development. Without the amendment, the bill will create a degree of uncertainty that will not be helpful for future purchases. I intend to press the amendment.

The Deputy Presiding Officer: The question is, that amendment 70 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 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)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 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)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Campbell (West of Scotland) (Ind)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)

Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Byrne, Ms Rosemary (South of Scotland) (Sol)
 Sheridan, Tommy (Glasgow) (Sol)

The Deputy Presiding Officer: The result of the division is: For 44, Against 67, Abstentions 2.

Amendment 70 disagreed to.

Section 96—Consequences of giving notice under section 95(1)

Amendment 54 moved—[Allan Wilson].

The Deputy Presiding Officer: The question is, that amendment 54 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)

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)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (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)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (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)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 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)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)
 Morgan, Alasdair (South of Scotland) (SNP)
 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)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Etrick 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, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (Sol)
 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)
 Swinney, Mr John (North Tayside) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Curran, Frances (West of Scotland) (SSP)
 Fox, Colin (Lothians) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Martin, Campbell (West of Scotland) (Ind)

ABSTENTIONS

Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

The Deputy Presiding Officer: The result of the division is: For 108, Against 4, Abstentions 2.

Amendment 54 agreed to.

Section 105—Proceeds of sale

15:30

The Deputy Presiding Officer: Group 19 is on the effect of sequestration on diligence. Amendment 155, in the name of the minister, is grouped with amendments 156, 159 and 182 to 185.

Allan Wilson: A bank arrestment or other diligence is for one creditor alone, but a sequestration is for all the creditors. Sequestration is the worst outcome for the debtor and, for that reason, is sometimes called the ultimate diligence. Because sequestration is for all the creditors, the Bankruptcy (Scotland) Act 1985 cuts down any recent diligence. The bill introduces the new diligence of land attachment and residual attachment. Consequential changes need to be made to the 1985 act. The amendments in this group make those changes and provide for the effect of time-to-pay arrangements on residual attachment.

Amendment 159 deals with residual attachment. How residual attachment will operate in practice will depend on the type of property that has been attached. That will be set out in regulations, so it is not possible to say at this stage how residual attachment will be affected by sequestration. The amendment gives the Scottish ministers powers to make provision in that regard. It also grants a power in relation to the effect of time-to-pay directions and time-to-pay orders on residual attachments, for the very same reason. The bill already provides that land attachments that are started within a period six months before the sequestration will be cut down. Amendment 182 makes further changes in relation to that.

The main amendment in the group, amendment 183, inserts new subsections into section 37 of the 1985 act. They provide that no new land attachments can be created after sequestration. They also provide for what happens to land attachments that were created more than six months before sequestration. Such land attachments are not cut down, because they are not close to the date of sequestration. In summary, the effect of the new subsections is that land attachments that have reached an advanced stage will be able to be completed.

The remaining amendments in the group make technical and consequential changes that need to be made as a result of amendment 183.

I move amendment 155.

Amendment 155 agreed to.

Amendment 156 moved—[Allan Wilson]—and agreed to.

Section 106—Foreclosure

Amendment 55 moved—[Allan Wilson]—and agreed to.

After section 115

Amendment 157 moved—[Gordon Jackson]—and agreed to.

Amendment 158 not moved.

Section 117—Residual attachment

Amendment 159 moved—[Allan Wilson]—and agreed to.

Section 118—Application for residual attachment order

Amendments 6 and 7 moved—[Allan Wilson]—and agreed to.

Section 123—Application for satisfaction order

Amendment 56 moved—[Allan Wilson]—and agreed to.

Section 154—Keeper's duty to enter inhibition on title sheet

The Deputy Presiding Officer: Group 20 is on diligence and minor and technical amendments. Amendment 57, in the name of the minister, is grouped with amendments 160 to 164, 166 to 170, 172 to 174, 26 to 28, 81, 181 and 187.

Allan Wilson: The amendments are all minor and consequential. Most of them simply clarify the provisions and improve the language. Others are consequential on amendments that were made at stage 2. I do not propose to take up any time explaining each of them but, if members have

questions about individual amendments, I will be happy to answer them.

I move amendment 57.

Amendment 57 agreed to.

Section 156—Diligence on the dependence

Amendments 160 to 164 moved—[Allan Wilson]—and agreed to.

Section 160—Interim attachment

The Deputy Presiding Officer: Group 21 is on execution of interim attachment and attachment. Amendment 165, in the name of the minister, is grouped with amendment 89.

Allan Wilson: The diligence of attachment replaced poinding in 2002. The two amendments in this group have the effect of clarifying that goods are attached when they are inspected rather than when they are valued. Most goods can be valued straight away, in which case the attachment and valuation happen at the same time. However, in some cases specialist valuation is needed, which may take a few days. It should be made clear that the goods are attached during that gap, so the debtor is not entitled to take them away.

Amendment 89 makes service of a schedule of attachment at the time of inspection a legal requirement and provides that an attachment is executed when the schedule of attachment is served.

Amendment 165 is a minor amendment, which adds to the required content for a schedule of interim attachment so that it also specifies the value of the attached goods, so far as they can be determined.

I move amendment 165.

Amendment 165 agreed to.

Amendments 166 to 168 moved—[Allan Wilson]—and agreed to.

Section 170—Creditor's application for payment order

Amendment 169 moved—[Allan Wilson]—and agreed to.

Section 171—Effect of payment order

Amendment 170 moved—[Allan Wilson]—and agreed to.

Section 172—Release of money where attachment unduly harsh

The Deputy Presiding Officer: Group 22 is on undue harshness of money attachment.

Amendment 171, in the name of Alex Neil, is the only amendment in the group.

Alex Neil: Throughout the bill, we have tried to establish a balance between the interests of the creditor and the interests of the debtor. In doing so, both the minister and the committee have been conscious of the need to ensure that there is a degree of humanitarianism in the administration of bankruptcy and diligence. [*Interruption.*]

The Deputy Presiding Officer: I repeat my earlier advice on mobile phones and urge members to accept it and follow it this time.

Alex Neil: You will be glad to learn, Presiding Officer, that I see from my phone that the latest poll shows that there is a 10 per cent gap between the Scottish National Party and the Labour Party.

We must achieve a balance between the interests of the creditor and the interests of the debtor. However, it is also necessary to ensure that people are left with enough to live on while they live up to their responsibilities.

Section 172(3) states:

"Where the sheriff is satisfied that, in the circumstances, the money attachment is unduly harsh to the debtor, the sheriff must, subject to subsection (4) below, make an order such as is mentioned in subsection (2) above."

The purpose of my amendment 171 is to provide a degree of definition of the phrase "unduly harsh" and, in particular, to leave the debtor with enough for them and their family to subsist on, so that they are not left destitute or nearly destitute as a result of the decision of the sheriff. This is a humanitarian amendment that does not alter the balance between the interests of the creditor and the interests of the debtor, but acts as a guarantee to ensure that the affected person has enough left to live on. That is a sensible measure.

The issue was not highlighted at stage 2, but I am moving the amendment as a result of what has happened to two of my constituents in Central Scotland, to provide an extra guarantee that in future there will be a degree of safeguard for the debtor.

I move amendment 171.

Allan Wilson: I do not necessarily have a problem with the spirit behind amendment 171. I can see what Alex Neil is trying to achieve. Having said that, section 172 without the amendment will better deliver the protection that he seeks.

The sheriff already has to consider all the circumstances of the case. That will clearly include the financial circumstances of the debtor and their family in cases where the debtor is an individual. It is worth remembering that money cannot be attached on a person or in a home, and many debtors will not be individuals.

The wording of amendment 171 would cause confusion. Aliment has a particular legal meaning, which is defined in the Family Law (Scotland) Act 1985. It is the duty of a husband or wife to support the other and the duty of a parent to support a child. Therefore, it is not clear whether the use of the word "family" in the amendment is intended to mean the same as that or is meant—as is the case with, for example, land attachment protection—to include other relatives.

Aliment is also not a minimum level of support. The level of aliment depends on the resources and the needs of the people involved. For example, divorce courts award large sums of money to support people's lifestyle. I do not think that Alex Neil wants amendment 171 to have the effect that a wealthy debtor could persuade a court to release money whereas a debtor who was on benefits could not. That could be the result of amendment 171. Section 172 should be left as it is, so I ask the member to withdraw amendment 171.

Alex Neil: I hear what the minister says but, quite frankly, I think that his comparison with divorce settlements is rather spurious. In a divorce settlement, aliment is related to the rights of the spouse. The definition of aliment is not as simplistic as that propounded by the minister. Amendment 171 would improve the bill by providing the guarantee that is required, and I do not accept that it would confuse the issue, so I intend to press it.

The Deputy Presiding Officer: The question is, that amendment 171 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (Ind)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)

Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 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)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 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)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Murray, Dr Elaine (Dumfries) (Lab)

Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, John (Ayr) (Con)
 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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 35, Against 74, Abstentions 0.

Amendment 171 disagreed to.

Amendment 172 moved—[Allan Wilson]—and agreed to.

Section 178—Audit of final statement under section 177(1)

Amendment 173 moved—[Allan Wilson]—and agreed to.

Section 181—Unlawful acts after money attachment

The Deputy Presiding Officer: Group 23 is on unlawful acts after money attachment. Amendment 71, in the name of the minister, is the only amendment in the group.

Allan Wilson: Section 181 deals with unlawful acts after money attachment that are intended to defeat the creditor's right to payment. Amendment 71 seeks to expand section 181 to cover an attempt to defeat a money attachment by obtaining or attempting to obtain by fraud or other dishonest means a new banking instrument in place of the attached one.

I move amendment 71.

Amendment 71 agreed to.

Section 186—Interpretation

Amendment 58 moved—[Allan Wilson]—and agreed to.

Section 187—Simultaneous operation of arrestments against earnings where net earnings insufficient

Amendment 174 moved—[Allan Wilson]—and agreed to.

Section 192—Arrestment in execution

Amendment 8 moved—[Allan Wilson]—and agreed to.

The Deputy Presiding Officer: Group 24 is on arrestment of future or contingent debts and debts the value of which is unascertainable. Amendment 72, in the name of the minister, is grouped with amendments 73 to 80.

Allan Wilson: Although arrestment of future or contingent debts is less common than arrestment of debts that are immediately due, such debts are nevertheless an important feature of the law of arrestment. The amendments in group 24 will make technical revisions to part 10 of the bill, which deals with reforms to the law on arrestment and forthcoming, to clarify the effect of certain provisions on future and contingent debts.

Amendments 72 to 75 will ensure that there is no ambiguity about which rule it would be appropriate to apply on an arrestment in execution to determine the amount of funds to be attached by the arrestment. Amendment 76 will preserve the policy behind proposed new section 73D of the 1987 act. Amendments 77 to 80 will revise the provisions in the bill that provide for automatic release of arrested funds to creditors. They clarify that automatic release will not apply to future and contingent debts. However, a creditor will retain the current common-law right to realise an arrestment of future and contingent debts by raising an action of forthcoming.

I move amendment 72.

Amendment 72 agreed to.

Amendments 73 to 80, 26 to 28 and 81 moved—[Allan Wilson]—and agreed to.

15:45

Section 194—Abolition of sequestration for rent and restriction of landlord's hypothec

The Deputy Presiding Officer: Group 25 is on duration of landlord's hypothec. Amendment 82, in the name of the minister, is the only amendment in the group.

Allan Wilson: The relatively minor amendment 82 seeks to fix an anomaly in the bill. As introduced, section 194 would have had the effect of ensuring that the old law governing the length of a hypothec would be preserved for existing lengths of hypothec. Under that old law, the security lasted for only three months after the rent was due unless it was enforced by sequestration for rent. However, unamended, section 194 will abolish sequestration for rent, even for existing rights of hypothec. That anomaly would mean that existing hypothecs would essentially be worthless

compared with those that will arise after commencement of section 194. That would be unfair, so amendment 82 will put existing rights on the same footing as the new ones.

I move amendment 82.

Amendment 82 agreed to.

After section 195

The Deputy Presiding Officer: Group 26 concerns time-to-pay directions and orders. Amendment 175, in the name of the minister, is grouped with amendments 186 and 188.

Allan Wilson: The Debtors (Scotland) Act 1987 introduced time-to-pay directions on decree and time-to-pay orders after decree. That gave people who can pay their debts more time to do so and protected them from enforcement as long as they kept to the agreed payments. However, the 1987 act does not give any guidance on the factors that a court should take into account in deciding whether to grant time to pay. The act should cover such matters, and I want the courts to be able to consider all a debtor's circumstances and not to concentrate overmuch on the single issue of how long it will take to repay debt. The risk of taking the latter course of action is that debtors might offer more than they can afford because they feel that they are under pressure to repay the debt within a fixed period, such as a year. That appears to happen in some courts at the moment.

I agree with the Scottish Law Commission's view that a range of factors that are relevant to an individual debtor's circumstances should be taken into account, so amendment 175 seeks to require the court to consider the reasonableness of a time-to-pay application with regard to all the factors that it sets out, including the reason for the debt and any action that is taken by the creditor to help the debtor to pay.

Amendments 186 and 188 are minor consequential amendments to sections 3(1)(a) and 10(1)(a) of the 1987 act.

I move amendment 175.

Amendment 175 agreed to.

After section 197A

The Deputy Presiding Officer: Group 27 concerns execution of removings. Amendment 83, in the name of the minister, is the only amendment in the group.

Allan Wilson: New rules on enforcement of decrees for removing heritable property from land or buildings were introduced at stage 2. After examining them, the Society of Messengers-at-arms and Sheriff Officers asked that the bill be amended to ensure that it covers various

procedural issues and matters of practice in relation to removing such property. Contrary to statements that were made this morning, I have listened to all that society's sensible suggestions and, on this occasion, I agree with its views. As these are matters of procedure and practice, they are best addressed by enabling the Court of Session to regulate matters by act of sederunt. That is the purpose of amendment 83.

I move amendment 83.

Amendment 83 agreed to.

Section 197B—Service of charge before removing

Amendment 9 moved—[Allan Wilson]—and agreed to.

Section 197C—When removing not competent

Amendment 10 moved—[Allan Wilson]—and agreed to.

Section 199—Interpretation

Amendment 59 moved—[Allan Wilson]—and agreed to.

Amendment 176 not moved.

Amendment 60 moved—[Allan Wilson]—and agreed to.

Section 201—Orders and regulations

The Deputy Presiding Officer: Group 28 is on procedure for regulations under section 198. Amendment 84, in the name of the minister, is grouped with amendments 61, 62, 85 and 63. I invite the minister to move amendment 61.

Allan Wilson: Amendment 84.

The Deputy Presiding Officer: Sorry—there is a mistake in my script. I did not write it myself. I invite the minister to move amendment 84.

Allan Wilson: Before I speak to the amendments in the group, I thank Sylvia Jackson and her colleagues on the Subordinate Legislation Committee for their work on the bill. It is a complicated bill, as everyone appreciates, and many of the reforms will create a framework that will be best developed in secondary legislation. That has led to a large number of enabling powers, given the size of the bill. I am therefore grateful to the committee for its recommendations, many of which I have agreed with. There can be no doubt that the bill is better for the involvement of that committee.

A recommendation at stage 1 was that all regulations for information disclosure made under section 198(1) should be subject to the affirmative procedure. The committee considered that

appropriate because of the sensitivity of the powers involved. I intend that the first set of regulations will set out the details of the information disclosure scheme. It is a significant use of the power and I therefore agreed with the committee to the extent of deciding that the first set of regulations should be subject to affirmative procedure. Amendment to that effect was agreed at stage 2.

The Subordinate Legislation Committee looked again at the bill after stage 2 and agreed with me that some later uses of the power would not be substantial enough to merit regulations' being subject to the affirmative procedure, but it could not agree that every later use would be so minor that the negative procedure would be appropriate. Later changes would be significant if, for example, new types of body had to disclose information to the courts—if that were to be the case, the affirmative procedure might be best. Equally, later regulations might make only minor changes, such as revision of application forms, for which only the negative procedure would be sensible. The committee therefore thought that the regulations should be subject to an open procedure such that each time the power is used, ministers will choose between the affirmative and negative procedures. I now agree that the exceptional nature of the power does indeed merit an open procedure.

In fact, I will go further than the committee and state that the first regulations must still be subject to the affirmative procedure. Amendments 84 and 85 will give that effect. I considered whether it would be possible to accept amendments that were lodged by Dr Jackson and I am grateful to the committee for raising such an important point. On balance, however, it is important that the affirmative procedure be retained for the first set of regulations, so I hope that Dr Jackson will decide not to move her amendments but will instead support the Executive amendments on the basis that they meet—indeed, they go further than—the valid points that were made by the committee.

I move amendment 84.

Dr Sylvia Jackson (Stirling) (Lab): We welcome the Executive's amendments. They are an improvement on our own, which I will not move.

Amendment 84 agreed to.

Amendment 61 not moved.

Amendment 177 not moved.

Amendment 207 not moved.

Amendment 212 moved—[Allan Wilson.]

The Deputy Presiding Officer: The question is, that amendment 212 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 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)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 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)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 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)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, John (Ayr) (Con)
 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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (Ind)
 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)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 73, Against 32, Abstentions 0.

Amendment 212 agreed to.

Amendment 62 not moved.

Amendment 85 moved—[Allan Wilson]—and agreed to.

Amendment 63 not moved.

Section 204—Short title and commencement

The Deputy Presiding Officer: Group 29 is on the execution of electronic standard securities. Amendment 32, in the name of Allan Wilson, is grouped with amendments 33 and 34.

Allan Wilson: Section 199A was introduced by an amendment at stage 2. It prepares the ground for the roll-out by Registers of Scotland of the automated registration of title to land project, or ARTL, by allowing a paper copy of an electronic standard security to be registered for enforcement in the court books. The ARTL system will be rolled out from January 2007. Mortgage lenders who use ARTL should not be at a disadvantage compared

with paper users, so section 199A needs to come into force at the same time.

Amendment 32 will, if agreed, have the effect that section 199A will commence the day after royal assent. Amendments 33 and 34 are consequential on that change.

I move amendment 32.

Amendment 32 agreed to.

Amendments 33 and 34 moved—[Allan Wilson]—and agreed to.

Schedule 1

MINOR AND CONSEQUENTIAL AMENDMENTS OF THE 1985 ACT

Amendments 35, 36, 23, 24, 86, 11 and 25 moved—[Allan Wilson]—and agreed to.

Schedule 2

THE SCOTTISH CIVIL ENFORCEMENT COMMISSION

Amendments 178 and 179 moved—[Allan Wilson]—and agreed to.

Amendment 180 not moved.

Schedule 4

MODIFICATIONS OF ENACTMENTS RELATING TO ADMIRALTY
ACTIONS AND THE ARRESTMENT OF SHIPS

Amendment 181 moved—[Allan Wilson]—and agreed to.

Schedule 5

MINOR AND CONSEQUENTIAL AMENDMENTS

The Deputy Presiding Officer: Group 30 is on lay representation in diligence proceedings. To allow the minister to speak to the group, I use my power under Rule 9.8.4A to extend the next time limit by 10 minutes—although I sincerely hope that we will not need all that time.

Amendment 87, in the name of the minister, is the only amendment in the group.

Allan Wilson: I will not need 10 minutes. At stage 2, Christine May lodged an amendment that sought to enable a debtor who applied for a proposed arrestment restriction order to be supported by a lay representative. I was not able to support the amendment, but I agreed with her that it should be possible for a person in that situation to be represented by someone other than a lawyer. I have written to the Enterprise and Culture Committee to explain that lay representation for arrestment proceedings will be possible. No amendment is needed for arrestment.

However, we can and should provide for lay representation in the other court applications that may be needed for the other changes in the bill.

The bill will go part way to doing that by amending section 32(1) of the Sheriff Courts (Scotland) Act 1971 to provide for lay representation and applications relating to money attachment. Amendment 87, if agreed to, will complete that job. It will have the effect that the power to make rules for lay representation in proceedings covers the diligences of interim attachment, land attachment and residual attachment. That is a good thing.

I move amendment 87.

Amendment 87 agreed to.

Amendments 88 and 182 to 188 moved—[Allan Wilson]—and agreed to.

Amendments 189 to 191 not moved.

Amendment 89 moved—[Allan Wilson]—and agreed to.

Amendments 192 and 193 not moved.

Schedule 6

REPEALS AND REVOCATION

Amendments 37 and 194 to 202 moved—Allan Wilson]—and agreed to.

Amendment 203 not moved.

Long title

Amendments 204 and 205 not moved.

The Deputy Presiding Officer: That concludes our consideration of amendments.

Bankruptcy and Diligence etc (Scotland) Bill

The Deputy Presiding Officer (Murray Tosh):

The next item of business is a debate on motion S2M-5044, in the name of Allan Wilson, that Parliament agrees that the Bankruptcy and Diligence etc (Scotland) Bill be passed.

16:00

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): Parliament should support business by putting in place an effective enforcement system and it should ensure that the law deals fairly with people who are affected by debt. It should help people who can overcome their debt problems to do so and it should support business risk by helping people who are overcome by debt to start again.

In 2003, the Executive made a commitment to modernise the laws of diligence and bankruptcy. A year ago, we made good on that commitment by introducing the Bankruptcy and Diligence etc (Scotland) Bill to Parliament. The bill will reform the law of bankruptcy and the law of floating charges, create a Scottish civil enforcement commission and reform the law of diligence or court enforcement. As everyone now appreciates, the bill is a major piece of legislation. It will make root-and-branch changes to a key area of civil law and will build in much detailed and careful work by the Scottish Law Commission on diligence and floating charge reform. It has been 20 years in the making, and the changes it proposes will, if the bill is agreed today, be with us for many years.

Tommy Sheridan (Glasgow) (Sol): The minister will recall that, when he spoke to the Enterprise and Culture Committee on benefit arrestments as part of bank arrestments, he said that he would contact the Department for Work and Pensions to establish whether there are social security matters that mean that it is beyond the remit of Parliament to legislate in those areas. Has he managed to contact the DWP with that matter in mind and what is the DWP's advice?

Allan Wilson: I can answer half that question. I have contacted the DWP and I await its advice.

The bill sets out the legal framework for the matters contained within it for a generation. That framework will help us to create the conditions that are needed to support sustainable long-term economic growth.

However, there is always more to do. Consumer debt has hit the headlines in the past year—many people have borrowed more than they can afford to repay. The number of people who have debt problems is increasing throughout the United

Kingdom and the improvements that will be made by the bill are needed now more than ever.

There are many improvements in the bill—I have mentioned most of them in the course of the day. They are in many respects not glamorous changes—I think we would all agree that debt is a difficult subject—but they are useful and important, all the same. I am pleased that many people have given their time to help to make the bill that is before us today much better than the one that the Executive originally introduced. I thank the convener, members and clerks of the Enterprise and Culture Committee for their long and careful consideration of this very large bill at stages 1 and 2. I welcome in particular the committee's decision to endorse our big picture on reform of bankruptcy, reform of floating charges, a new enforcement commission and radical changes to enforcement law.

I thank the other people and bodies—they are too numerous to list in the short time that is available—who have come to us with ideas about how to develop the bill. Contrary to the opinions of some people, I have listened to them all, as is only right because the bill must strike a balance between the competing interests of creditors and debtors. I have made changes when I agreed that the bill did not strike the right balance, and I will continue to do so. Money Advice Scotland and others told me that some people find it too hard to get debt relief through bankruptcy. People cannot prove that they are insolvent if creditors do not try to enforce the debt; creditors do not try to do so if there is no money to be had. I have introduced a new path into bankruptcy for low income, low asset debtors, which was introduced at stage 2. Citizens Advice Scotland and others told me that some people who could pay their debts are being forced into bankruptcy, so a power for the court to delay sequestration where a payment programme may be agreed was introduced at stage 2. They also told me that people might struggle to be heard in bankruptcy cases, so a power to provide for representation by people such as money advisers was also inserted in the bill.

The Society of Messengers-at-Arms and Sheriff Officers told me that the proposed name—messenger of court—for the new combined profession did not reflect properly what messengers-at-arms and sheriff officers do, and that it would be better if they were appointed by the Court of Session, although it agreed that the creation of a Scottish civil enforcement commission is a useful and sensible reform. I listened to those concerns and changed the name of the new profession to “judicial officer”, and agreed that the officers would be appointed by the Lord President of the Court of Session on the recommendation of the commission.

People were worried—I suspect that some remain worried—about the possible impact of land attachments. Selling land is indeed a serious business, although not as serious as bankruptcy.

Jackie Baillie (Dumbarton) (Lab): I put three questions to the minister during the stage 3 proceedings. I appreciate that the debate was very full and that he did not have sufficient time to respond to all the points, so I would be grateful if he would respond in writing and make that response available to Parliament as a whole.

Allan Wilson: As ever, there have been time constraints, but I will be pleased to do as Jackie Baillie asks.

The bill applies more than 20 debtor protections. I listened to concerns that were expressed and extended the protections at stage 2. Land will now be attached only for debts of more than £3,000. Citizens Advice Scotland told me that bank arrestment can be too harsh, particularly for people on benefits, so new rights for people to apply to the court for the release of an arrestment came into the bill.

The debt arrangement scheme can help creditors get paid and help debtors by stopping enforcement. It can be an even better debt tool than it is. Debt relief and freezing of enforcement to allow people to apply for help were both enabled at stage 2. The Enterprise and Culture Committee agreed to many other useful improvements.

I promised to consider the impact on credit unions of the rising number of protected trust deeds. I wanted to ensure that the powers in the bill are wide enough to give them extra help if they need it, and to consider whether the court needed a bit more discretion where there is a reasonable chance of the creditor being paid. I now believe that we can do more to help people who face bankruptcy.

Some people will think that we should do more and some will think that we should do less—that is inevitable in consideration of a bill such as this. Members will be asked to agree some late changes that I do not agree with and I look forward to the debate.

The bill strikes the right balance in all important respects. I have been greatly encouraged by the fact that so many people agree with and have welcomed the changes that we are making.

I move,

That the Parliament agrees that the Bankruptcy and Diligence etc. (Scotland) Bill be passed.

16:07

Mr Kenny MacAskill (Lothians) (SNP): When the bill started on its journey we were relatively sanguine. We were aware that there were matters of adjudication in Scotland that had reached desuetude, that there had not been a review of them for approximately 20 years and that the basis of our economy and nature of our society had changed. Accordingly, we decided at stage 1 not to vote against the bill because we were prepared to give it a fair wind. To an extent we were brought on board by Mr Stephen and Mr Wilson, who said that the purpose of the bill was to promote and support a culture of entrepreneurship, which we agree that Scotland should seek to promote. The Parliament should play its part in that.

We are not necessarily convinced that the evidence shows that the proposed legislative changes will advance that culture one iota. There is clearly a problem to address. Only time will tell whether we address it by effecting a cultural change or through other legislation or education. However, we would not have voted against the bill on that basis alone; we were prepared to take the problem on board.

We also accept that there is a significant problem with consumer debt in Scotland, which is of considerable concern to all parties in the Parliament and must be addressed. We are conscious that we—and the Executive—are hamstrung by being able to tackle only the consequences of debt. We cannot address the problems for those who operate businesses or who get in over their heads and face insolvency, the consequences of which can be alcoholism, depression or suicide.

Until such time as the Parliament can address the reasons for the creation of debt as well as the consequences thereof, we will always have significant problems. Until such time as we have control over consumer credit and not simply over insolvency matters, there will be a significant problem in Scotland. The legislation that was passed recently at Westminster is inadequate and the problem of insolvency continues to grow. Many members commented on the escalation of the problem in England, although time will tell whether that is a result of the legislative changes or simply of societal changes, which are happening here as well as down there.

As I said, we were prepared to give the bill a fair wind and to accept that, even if we cannot address consumer credit, changes are required to the insolvency system. Today, we proposed alternative measures in respect of sheriff officers, as we are not convinced that a civil enforcement commission is necessary. As Mr Brownlee and members from other parties said, the commission will be yet another unnecessary quango, at huge

cost, to replace a system that currently operates well at no cost to the taxpayer. We also took a different view of the nature of ownership of sheriff officers firms, although other members disagreed. We may come to rue that decision and have to readdress the issue.

However, those matters would not necessarily have led us to vote no to the bill in the final vote. In some circumstances, we must accept that the Executive parties have a majority and that they won the election—not necessarily the overall popular mandate, but the overall numbers required to allow a Government to govern. We would have been prepared to allow the Executive to exercise its right to govern without our saying no. However, as Mr Gorrie said earlier, on some fundamental matters, we must draw a line in the sand and, although we accept that the Executive has a right to govern, we must exercise our right to say no. The continuation of the land attachment policy is one matter on which a line in the sand must be drawn—frankly, it is unacceptable.

Nobody in our party disputes the point that many members made that the land attachment provisions are more about theory than practice. As with poindings and warrant sales, it is likely that relatively few land attachments will transpire. However, we are conscious that organisations in broader civic Scotland, including Shelter, Money Advice Scotland, Citizens Advice Scotland and the Law Society of Scotland, have made the point that the provision will be used not only by predatory lenders, but by predatory people who seek to recover debt to frighten and intimidate people who get into difficulties. There will be consequences for consolidated debt, compounding the agony that already exists. In those circumstances, we cannot and will not vote for the bill.

At the outset of the process, we were prepared to give the bill a fair wind, but the failure to address the problems with the land attachment provisions makes it fundamentally unacceptable. We will vote against it and, when we return in May, we will do all in our power to ensure that the people of Scotland keep a roof above their heads, even if they get into debt.

16:13

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

As a member of the Enterprise and Culture Committee, I record my thanks to the clerks for all their assistance in dealing with the bill. Many a happy hour was spent in committee addressing the issues and considering amendments at stage 2. I also record my thanks to Nicholas Grier, the committee adviser, who brought the, dare I say it, necessary level of expertise in helping committee members to address some of the legal issues that were presented to us.

The background to the bill is the serious and worsening situation with sequestrations in Scotland, the number of which rose from 2,700 in 1997-98 to 3,500 in 2004-05, while the number of protected trust deeds rose from 890 to more than 6,000 in the same period. That reflects a wider culture in society of growing personal debt. The level of personal debt in the United Kingdom is estimated to be £1.1 trillion, which is a staggering sum that is unprecedented in our country's history. A recent YouGov survey for *The Scotsman* found that one in five Scots have unsecured debts that are in excess of £10,000 and that 20 per cent of those people say that they are seriously considering declaring themselves bankrupt. We have a culture of spend now and worry later.

The bill deals with timely and appropriate law reform and I believe much of it to be necessary and welcome. I record my appreciation of the minister's approach to the bill and of his willingness to engage with the various stakeholders and listen to interested parties who wanted certain amendments to be lodged. Further, I am grateful to him for accepting some of the points that I made about floating charges.

Some of the reforms—specifically the abolition of sequestration for rent and the abolition of the landlord's hypothec, which commercial lawyers will have enjoyed using—will be regretted but, over the piece, the provisions in the bill make a lot of sense. There is an exception to that, which I will come to shortly.

The central thrust of the bankruptcy part of the bill is to reduce the period of bankruptcy from three years to one year. That is the central policy change. The committee looked in vain for evidence of the good reasons behind the change. Originally, we were told that the bill would encourage enterprise. However, as the committee found out through figures that were provided by the Institute of Chartered Accountants, only a fraction of bankruptcies are business related—the great majority are personal bankruptcies. Frankly, therefore, there is little evidence that the bill will do anything to encourage an entrepreneurial culture. In fact, it seems that the change might be driven primarily by a desire to draw the law in Scotland into line with the law in England, where the bankruptcy period was reduced to one year in the Enterprise Act 2002, the consequence of which has been an even greater acceleration in the number of personal bankruptcies.

Whatever the Executive's intention—and I do not for a second believe that the Executive intended to increase the number of bankruptcies—the change in the law will mean that bankruptcy is increasingly seen as being an easy option and an easier way of getting rid of debt and coming through the other side of a crisis. I cannot think

that that is in the interests of this country or this Parliament.

I agree with much of what Kenny MacAskill said about land attachment, although the way in which he presented his case was unfortunate. Throughout the process, we never heard a convincing case from the stakeholders for the new attachment. No one was calling out for the new diligence to be created, yet the Executive seemed determined to press ahead with it.

This is a flawed piece of legislation. I fear that it will normalise bankruptcy, making it the normal way in which people deal with debt. I fear that it will give rise to an even greater increase in personal bankruptcy.

Allan Wilson: Will the member give way?

Murdo Fraser: I am over my time limit already, but I am happy to give way if the Presiding Officer will allow it.

The Deputy Presiding Officer (Trish Godman): Perhaps you can make your point when you sum up, minister.

Murdo Fraser: I cannot believe that passing legislation that will result in increased levels of personal bankruptcy is in the interests of our country, given the background of rising personal debt. Therefore, we will not support the bill this evening.

16:18

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I congratulate the minister on his willingness to take on board the comments of the committee and the concerned groups that have been advising us on the bill, particularly with regard to land attachment. It is always better to make policy based on evidence, and the provisions that have been put in place today will give us the opportunity to do just that.

As the minister said, we should not lose sight of the fact that although the land attachment provisions are one of the harsher measures in the bill, they are still a less harsh prospect than bankruptcy, which would result in a debtor definitely losing their house and many of their belongings. The decision gives creditors a reason not to pursue that course. Further, it ends the unfairness of adjudication, which had remained very nearly unchanged since the 17th century and did nothing to protect the interests of debtors.

Generally, the bill manages to keep its balance as it walks the line between social and economic policy. Today, we will be working to end the punitive effects of bankruptcy on entrepreneurs and to develop the entrepreneurial society that we in this Parliament have been seeking to create.

We should not punish people for taking the necessary risks that come with starting a business. The Parliament has a strong record on reforming the way in which debt is dealt with. From the Abolition of POUNDINGS and Warrant Sales Act 2001 to the Debt Arrangement and Attachment (Scotland) Act 2002, we have recognised the reality that people who are in financial difficulties face and the fact that they need support and advice to help them to repay, rather than threats.

Tommy Sheridan: Will the member remind us how the Liberals voted on the abolition of poundings and warrant sales?

Mr Stone: The member knows the answer perfectly well. The point about the bill, which is different from Mr Sheridan's demagoguery, is that the committee worked hard on it in co-operation with the minister, and for that reason it is better legislation. Nothing is ever set in tablets of stone.

The bill builds on the principle that we should support debtors and give them advice. It contains many provisions that will support debtors and give them opportunities for fair repayment.

Given the background to the bill, I take the opportunity to raise the important related issue of financial services. In considering the bill, it became clear that financial literacy is important if we are to prevent people from facing bankruptcy and debt attachment. Credit is all too easy to come by, and it is all too easy to let it get out of control. The more one has, the more one can get. It is vital that we work to deliver financial education and let young people, in particular, understand what it is to have debt, how to deal with it and how to budget. As a devolved institution, it is within our gift to give our young people those life skills.

We should continue to exercise our influence over financial providers to improve practice. Work has been done to get Scottish banks to agree that disadvantaged areas will have cash machines that offer free withdrawals. It is recognised that charging local people—especially those on benefits—to get their own money deprives them of an unacceptably high proportion of their income. I hope that the minister will assure us that those issues will be considered following the successful passage of the bill.

In closing, I endorse the sentiments that Murdo Fraser expressed apropos the work of the committee's clerks, the people who gave us evidence and our adviser. Our consideration of the bill was a long piece of work. We put many hours and weeks into it, but there was good co-operation between the committee and the minister. I pay tribute to the minister for listening to what we said and altering the bill accordingly.

I commend the bill to the Parliament.

16:22

Mr John Swinney (North Tayside) (SNP): Whenever the Parliament considers a bill—and particularly when it considers complex bills such as the Bankruptcy and Diligence etc (Scotland) Bill—members are required to judge, on balance, whether it is worthy of support and whether it should be passed. As the minister said in his opening remarks, the bill strikes a balance between creditors' legitimate right to recover the debts that they are owed and the right of debtors to reasonable protection and due process.

The test that members must apply when they vote on the bill tonight is whether it strikes the right balance. I regret that my party will be unable to support the bill. Despite the deliberations of the Enterprise and Culture Committee and the deliberations in the chamber today, the correct balance has not been struck.

The Government started with the provision that land attachment could be used to deal with a debt of £1,500. The sum then became £3,000, and today the bill was amended to include a review after two years. That sequence of events does not strike me as a compelling illustration of ministerial and parliamentary confidence in the measures. The propositions that we considered today are indicative of the unease—both within the Parliament and outside—about the Executive's direction.

Allan Wilson: Does the member agree that increasing the limit for land attachment to £5,000 while the limit for sequestration applications remained at £3,000 would create a perverse incentive to sequester rather than to attach?

Mr Swinney: The conclusion that I draw about the whole area is that the Government has got it wrong. As a result, the bill cannot be supported.

Jamie Stone said that we should base our conclusions on evidence. My view is that a number of organisations that are much more deeply involved than any of us in providing financial advice to those in peril provided compelling evidence for why the bill is inadequate.

Many organisations can provide first-class advice and support to individuals at times of financial peril and when they are in debt. I worry that the land attachment provisions and the implicit threat to financially vulnerable individuals that land attachment can represent will be used not to encourage people to take the advice of valuable organisations such as credit unions, but to force people in a panic to take other steps in relation to their financial arrangements that will put them in the hands of loan sharks and all the rest of it. That would be damaging for individuals.

The bill is another under which the Government sets up a quango. Every time we have a bill, we have another quango, which means that the state and the government infrastructure become bigger. In all legislation, we should look for opportunities to rationalise the governance of Scotland. Far too many bodies are involved and the bill will create another.

On the basis of those arguments about the problems of land attachment and the expansion of the governance of our country, I regret that my party will not support the bill.

16:26

Christine May (Central Fife) (Lab): As other members have said, the bill process has been long and complex. I suggest that it was at times daunting, even for committee members who have legal knowledge—Murdo Fraser, who is such a person, has left the chamber. The word “diligence” meant not a busy and dedicated little housewife working but something else entirely, and I struggled with that definition. I also seem to recall seeing somewhere in the bill arcane rules on the seizure of ships.

Like other members, I thank the clerks, the official report, our adviser—in particular—and all the people who gave evidence. Committee members appreciated the clarity of the evidence and witnesses' willingness to explain in simple language terms with which we were not familiar. People from Fife money advice service and Citizens Advice and Rights Fife spent considerable time with me in my constituency office going through the measures in the bill and giving me useful examples of debt, debt counselling and what they have done for my constituents. That coloured my questions in the committee and my subsequent discussions with the minister and others.

Legislation on these matters has not been revised substantively since 1985 and many provisions are out of date, to say the least. The law in England and Wales has been revised, so there was some pressure—particularly from business and financial institutions—for harmonisation, which will happen.

As John Swinney said, the bill is about balance. Its primary purposes were to reduce the barriers to entrepreneurs restarting in business; to give creditors the ability to recover money that is owed to them; and to give debtors sufficient protection to prevent them from—as we heard—having mobile telephone calls at 4, 5, and 6 in the morning and 10, 11 and 12 o'clock at night or being told when they are in hospital that someone does not believe them and that they should go and pay off their debts. That must not be allowed to continue.

It quickly became clear to the committee that, aside from the relatively few business bankruptcies that were under consideration, the major issue was consumer debt. We crystallised most of our thinking around the NINAs, who became LILAs—the no income, no asset debtors who are now low income, low asset debtors—because they have the greatest difficulty and are least able to stand up for themselves. This morning, I heard that people could have recourse to the sheriff principal if they object to something, but that can happen only if someone has the time, the space and the ability to know that and to write the letter.

I thank the minister for listening and for acting on the crystallisation of debt; the regulation of sheriff officers, messengers-at-arms and insolvency practitioners; changes to the debt arrangement scheme and the money advice service; and whether there should be land attachment regardless of status, which I believe cannot be taken out of the equation altogether. I congratulate the minister again on his considerable movement on the protection of the homes of people with lower incomes and lay representation in court, and on the work that has been done on credit unions.

The bill is good and will do much for the poorest in our communities, who are the ones about whom we should be most concerned and who will benefit most from it. The bill will also help and support people whose individual debts may be small but whose cumulative debts may be large. They will gain some freedom.

I commend the bill to the chamber and I hope that the Opposition parties will reconsider their position and vote with us.

16:30

Shiona Baird (North East Scotland) (Green):

The consideration of the bill has been long and technical, and sincere thanks are due to the clerks to the Enterprise and Culture Committee for their exceptional dedication and patience in helping the members to understand the intricacies of that complicated process. They deserve thanks for all their hard work which, on some occasions, continued well into the night. Thanks must also go to Nicholas Grier, the committee's adviser, for his patience, forbearance and skill in reducing some of the complexities of the bill to more understandable language. In addition, I echo Christine May's thanks to the witnesses, who often brought things down to the basics of what the bill is about.

Nevertheless, questions remain on the decision to allocate the bill to the Enterprise and Culture Committee. Early on, it became apparent that much of the evidence related to personal

bankruptcy, not to businesses. Placing the bill with the Communities Committees, however, would perhaps have created difficulties in pressing ahead with the new diligence of land attachment. I am concerned that the new diligence may create homelessness faster than the Executive can reduce it. I sincerely hope that that will not be the case, but concerns remain.

We must recognise the serious consequences of debt not only on the individual, but on the economy. With a total United Kingdom debt of £1.1 trillion, we patently do not have a securely based economy. However, that is for another debate.

I am also concerned that the passing of the bill will not address the serious issues surrounding debt. There is no doubt that the bill makes improvements, but there are serious omissions, some of which I accept were beyond the remit of the bill. I was struck by the evidence that we took from someone with experience of the equivalent English legislation who argued that there is a growing culture of buy now, file later. I doubt that anyone would welcome such an irresponsible attitude in Scotland.

That is where there is a huge gap in the remit of the bill. It fails to address financial education and advice or the part that irresponsible lending plays in encouraging debt. I welcome the concessions that are being made to the credit unions, but I urge greater Executive support in promoting the important part that credit unions play in providing safe and fair banking. A start could be made by dispelling the notion that credit unions are only for those who are on low incomes. They are open to all, regardless of income. Perhaps a more general use of credit unions would encourage the larger banks to review their excessive charges, which act as a deterrent to people on low incomes.

Many of us received a briefing from the IFS School of Finance, which highlighted its personal finance management course that is being rolled out in some English schools. Whether or not that is the right scheme, the purpose must be applauded. Better understanding of how to plan and manage spending in relation to income is surely essential if we are to tackle the ever-increasing misery of debt.

The Green party is minded not to support the bill. However, I will make my decision after I have heard the minister's concluding remarks.

16:33

Colin Fox (Lothians) (SSP): It is right that the debate should take place, given the galloping debt mountain—if, indeed, mountains can gallop—that is sweeping the country. It is necessary for us to consider, against that background, whether we are

striking the right balance between the rights of creditors to recover the money that is owed to them and the rights of debtors to be protected from unscrupulous creditors and to find an honourable way out of their difficulties.

The problem, which other members have highlighted, is that although there are many good things in the bill, there is one huge minus. It is the risk, which other members have talked about, of land attachments leading to people being forced to sell their family homes to pay off debts of £3,000. That is a potentially draconian, fierce and unbalanced approach to managing the delicate relationship between creditors and debtors.

One cannot help but compare today's debate with the debate that the Parliament had in the previous session on the Abolition of POUNDINGS and Warrant Sales Bill. At that time, the Parliament rightly rescinded the existing legislation because it felt that it was archaic, that it humiliated people and that, above all, it was utterly ineffective in recovering the debts that it sought to recover. It was designed to humiliate debtors and was therefore unacceptable to the people of Scotland and the Parliament, not least because there were and are far better ways of recovering debt.

However, the Bankruptcy and Diligence etc (Scotland) Bill contains many worse provisions than those that were in the old poundings and warrant sales legislation. It raises the prospect of people losing their houses as a consequence of getting into debt. Under the hated poundings and warrant sales, a debtor faced having all their prized possessions taken out of their house and auctioned in public but, under the bill, people will face even greater misery when they and their possessions are taken outside and their house is auctioned in public. That could leave families homeless and, let us not forget, councils would consider them to be intentionally homeless and therefore requiring to be provided only with emergency accommodation. All that could happen to someone who has debts of just £3,000.

The minister and the Parliament have heard evidence and received warnings from the Law Society of Scotland, and members have talked about the same evidence and warnings coming from right across civic Scotland. The Law Society said that once creditors hear how the land attachment provisions work, they will be queuing up to use land attachment as a first resort rather than a last resort, leaving behind the better means—lodging inhibitions against the sale of a house, arrestment of earnings and bank accounts, attachment of luxury goods and money enforcement orders—as they race towards land attachment as a way of getting their money back.

The Deputy Presiding Officer: You should be finishing now, Mr Fox.

Colin Fox: Indeed, Presiding Officer.

As many other members have mentioned, civic Scotland is up in arms about the bill. It threatens to undo much of the good that the Parliament has done on homelessness and, for those reasons, the Scottish Socialist Party will not support it at 5 o'clock.

16:37

Tommy Sheridan (Glasgow) (Sol): The bill reminds me of one of those old good news, bad news stories about a patient in hospital who asks to be given the bad news first. He is informed that he has lost his legs, but the good news is that his neighbour in the next bed has left him a lovely pair of slippers.

Any good that might be in the bill is completely eclipsed by the almighty negative prospect of the new diligence, which is uncalled for, unresearched, and not backed up by any evidence. Frankly, it is an illustration of bad law in the making that amendments are accepted at the last minute to provide for the Executive to review the legislation over a two-year period. If the minister and the Executive were confident about the bill, if there were any evidence for the need for the bill, or if any research had been done that backed up the new diligence, why would it be necessary to rush through an amendment to review the legislation?

Allan Wilson: Does the member agree that the review will have one of two outcomes? Either it will prove his case or it will prove mine. I am confident that the review will prove my case and I predict that, at the conclusion of the review, land attachment will have had little or no impact on levels of homelessness. As the member knows, homelessness is caused by a wide and complex multiplicity of reasons and not by land attachment.

Tommy Sheridan: That is one of the longer interventions that I have had in the Parliament, which perhaps reflects the weakness of the minister's argument. The minister says that he is confident about his review. Is he not listening to what civic Scotland is telling him or to what members have said during the debate? To review the number of land attachments that result in loss of homes is not going to be the story that we will have to worry about. It is the misery that will be caused in between times that we are worried about—the families who, for a debt of £3,001, find themselves threatened with losing their house and, to avoid that, go deeper into debt. The misery will pile up but, in two years, the minister will be able to say, "There have not been that many land attachments, so we must be right."

The point that I made was that the same argument was used in relation to warrant sales.

"Don't worry about warrant sales," we were told. "Don't change warrant sales. There are hardly any warrant sales." Of course there were hardly any warrant sales. In the last year for which records were held, there were only 500 warrant sales, so people asked why we should bother to abolish them if they were not being used. The point was that there were 23,000 threats of warrant sales, which led to people getting further and further into debt via the poinding process.

It is from that point of view that the bill is not good legislation. It is a poverty of argument to say that what is proposed is better than bankruptcy. That is a bit like saying, "If you think the electric chair is bad, why don't you try hanging?" What the Executive should be doing is introducing more protection from creditors and from bankruptcy, not introducing a new, unwanted and dangerous diligence. The bill should be rejected on that basis.

16:40

Mr Jim Wallace (Orkney) (LD): The bill has 204 sections and six schedules, and it goes back a considerable way. It is a bill that my party will certainly support, because its features are worthy of support.

On bankruptcy, I do not accept the view that the bill will not have some contribution to make in improving the enterprise culture. No one has ever pretended that it is the be-all and end-all, but we live in a society whose culture is that we fear two things: success and failure. The bill tries to destigmatise what has so often gone hand in hand with bankruptcy. I recall meeting two young businessmen in the west of Scotland who were finding it difficult to raise funds because their father had gone bankrupt some 20 years earlier. That is the sort of thing that we want to get away from and the bill can make a contribution to that. Of course, there is a proper balance of considerations, not only for creditors but for the interests of our wider society, because people should not use bankruptcy as a means of cheating, and creditors must still have a reasonable expectation of being able to get some settlement for their debts.

I turn to diligence. In the policy memorandum to the bill, there is a quotation from Lord Stair, the Scottish lawyer who said in 1681:

"Decrees would be of no effect, but as bees without stings, if the law did not fix the kinds and forms of the executions thereof".

It is important to recognise that, when we are dealing with diligence, we are dealing with things that can, by their very nature, be painful. The bill tries to ensure that the response to debt is an appropriate one. There should be no place to hide for those who can pay but simply will not pay. For

those who could pay, but who may need some time or some support to do so, the bill builds on the Debt Arrangement and Attachment (Scotland) Act 2002 to provide ways in which there can be flexibility in paying off and properly managing debt. For those who cannot pay, the bill ensures that there will be ways in which they can clear their feet and get a chance to start again. It helps them to find a humane way out.

I have listened to the opinion, reflected in many of the speeches in the debate, that the key issue is debt attachment, particularly in relation to dwelling-houses. That is an issue that has exercised members in all parts of the chamber, and ministers too. However, I have not heard anyone who is opposed to the proposal—with the possible exception of Tommy Sheridan, who said in his final comments that if there is a problem with bankruptcy, we must do something about that too—say what they would do to deal with sequestration and bankruptcy. Scotland cannot become a country where debt paying is a voluntary activity, as that would do no good for anti-poverty strategies or for attempts to create prosperity.

Not much imagination is required to predict that if the Executive had said from the outset that it would give complete protection to dwelling-houses, three or four years from now, as sequestrations rose and were used to put pressure on people to pay their debts, we would be told that the Parliament had sleepwalked into sequestration. We know full well where those criticisms would have come from. It is not easy to strike the necessary balances, but I believe that serious efforts have been made, improved by some of the amendments that have been agreed to today. As Allan Wilson has said, the fact that we will have a review of the legislation provides an opportunity for the case to be tested.

I note that the schedule to the bill shows that we are abolishing an act from 1584, as well as the Ejection Caution Act 1594. Indeed, the bill repeals eight acts of the old Scottish Parliament. I wonder what will happen in 2428 and how many provisions of the bill will exist then. In trying to address the issues of 2006, the bill represents a substantial piece of legislation. I offer my congratulations to the minister, the committee and all who have been involved in producing it.

16:45

David McLetchie (Edinburgh Pentlands) (Con): As several members have said, the reform of our bankruptcy laws is about striking a balance between, on one hand, a desire to promote an entrepreneurial culture in Scotland to tick another box in the Executive's top priority of growing the economy that we are constantly told about and, on

the other hand, dealing with the rising level of personal and consumer debt. In adjudging the bill, I think that it is fair to inquire which the bigger problem is. I am in no doubt that the bigger of the two problems is the level of personal debt and insolvencies. The level of personal insolvencies in Scotland is four times what it was in 1997, and the same growth is reflected in the arrestments of bank accounts and wages for private debts. The number of arrestments of bank accounts and wages that are required to enforce payment of council tax is no less than 237,000.

Indeed, it is worth reflecting that the law of diligence in all its forms is in many respects about enforcing payment of the taxes that we need to run our public services. We should be careful to avoid a situation in which paying tax as a debt becomes voluntary, because that would only put a greater strain on public services and a greater burden on responsible taxpayers who pay their share.

Tommy Sheridan: I am sorry, but I cannot resist it. Does that mean that Mr McLetchie will join me in condemning those who set up their affairs in offshore accounts to avoid paying taxation, many of whom are major donors to the Tory party?

David McLetchie: Every man is entitled to organise his affairs in accordance with the law of the land. That is true for supporters of my party as it is for supporters of Mr Sheridan's party. Perhaps he should ask some of his film star friends about tax avoidance and tax mitigation in that industry.

The minister deserves credit for listening to the arguments on some of the amendments that have been debated today, particularly on the vexed issue of land attachment. It is a new diligence, but we must bear in mind that the alternative would be the process of sequestration, for which there is no protection for the debtor's home. People would go straight to the process of sequestration without the land attachment alternative, and we would not want to encourage that outcome.

Although the minister deserves credit for those amendments, he deserves no credit at all for failing to take account of the wider picture on protected trust deeds. He said that he was dealing with the big picture of diligence and the management of debt in Scotland, but the picture has a couple of reels missing, at both the start and the end.

Ultimately, the bill goes in the wrong direction. It encourages people to avoid payment of their debts and runs counter to the process of debt arrangement schemes that arose from the legislation that came out of the working group on a replacement for pouncing and warrant sale, which Jim Wallace set up and on which I was pleased to

serve during the first session. That legislation was designed to encourage people to pay their debts; on balance, this bill encourages people to avoid them. For that reason, the Conservatives will not support the bill.

16:49

Tricia Marwick (Mid Scotland and Fife) (SNP): Citizens Advice Scotland gave us a stage 3 briefing, the first line of which says:

"Without exemption of the primary dwelling house, land attachment will be a significant step backwards in modernising diligence."

That is why the Scottish National Party will vote against the bill tonight. The arguments were rehearsed earlier, but the minister should be left in no doubt about the widespread anger and concern that the measures will bring.

The minister asserted earlier that he is not wicked or immoral. He may not be, but setting up a system whereby somebody's home can be forcibly sold for a debt of £3,000 is both wicked and immoral. Land attachment will not be the diligence of last resort; it will be the diligence of first resort.

Yesterday, the Executive performed a U-turn on the St Andrew's Day Bank Holiday (Scotland) Bill. I recognise that the Executive is not programmed for any more than one U-turn in a four-year period. Personally, I would have traded yesterday's U-turn for a U-turn today. The minister may bluster all he wants, and Labour members may be in denial, but the impact of the Bankruptcy and Diligence etc (Scotland) Bill will be felt in communities that the minister knows well the length and breadth of Scotland.

The Parliament removed the threat that pounchings and warrant sales held over people, yet the Executive is hellbent on replacing that threat with another, which would arguably have a greater impact. It will drive people to borrow at even higher rates of interest and will cause even more indebtedness.

I am indebted to Citizens Advice Scotland for making the point that land attachments are a far more coercive measure than pounchings and warrant sales, as they involve the ultimate loss of a debtor's home. The Government has forced young families to buy a home rather than rent, because there are no affordable houses to rent. Often, they have to buy at prices that they cannot afford. Now the Government is prepared to allow homes to be sold from under those families if they run up a debt of £3,000.

It is in the area of homelessness that the bill's impact will be felt most. The Executive has rightly received praise for its homelessness policy, but

the bill comes in marked contrast. It could, and I believe will, create homelessness. It is draconian. I urge members of the Executive parties to think again and, even at this late stage, to perform the U-turn that the minister opposes and vote against the bill.

Mr Wallace: Will Tricia Marwick answer the question that I posed? What is the answer to the problem that we would have if we went down the road that she proposes in respect of debt attachment, whereby a person could be immediately sequestrated without any protection whatever with regard to their home?

Tricia Marwick: The ministers have put forward their bill to do certain things, which they claim it will do, but the difficulty is that they have not listened to the evidence from Citizens Advice Scotland, money advice centres and the like. It is clear that any Executive that introduces legislation in this area of law would have to listen very carefully to what is said by organisations in that sector. It would have to strike the right balance between the creditor and the debtor. The bill patently fails to do that.

I urge members of the Executive parties to think again and vote against the bill at 5 o'clock. It deserves no better.

16:53

Allan Wilson: The *Official Report* will record that, in all Tricia Marwick had to say, there was no answer to the question that was posed by Jim Wallace. There remains no answer and there is complete silence from the Scottish National Party on how that circle might be squared.

I said this morning that the Bankruptcy and Diligence etc (Scotland) Bill, if it is passed today, will set out a framework that will last a generation. I believe that it will help to create the conditions for the future prosperity of our country and that it strikes a new and better balance between the interests of creditors and debtors, about whom so much has been said today. The bill will show how we in the Parliament are working to make Scotland a better place in which to live and in which to do business. Dare I say it, the changes that were made today make the bill even better—contrary to what *The Herald* might think.

There will be research. Tommy Sheridan said that there is a lack of empirical evidence to support our contentions. I do not accept that, but we will get information from the courts. The facts and figures—

Tommy Sheridan: Will the minister take a short intervention?

Allan Wilson: I have taken four or five interventions from Tommy Sheridan today already, so I—

Tommy Sheridan: Just a short intervention. Where is the—

The Deputy Presiding Officer (Murray Tosh): Order.

Allan Wilson: I was referring to the facts and figures for how many attachments, sale orders and reports of sale involve homes. We will talk to stakeholders, such as local authorities, banks, debt workers and lawyers, who will tell us how land attachment is used—and how it is perceived, which is just as important. We will instruct professional researchers, although first we will need to get the facts and figures and talk to stakeholders in order to proceed with the project. It might not be possible to do that within 15 months, but I do not think that that is a problem, because the evaluation will not stop there. We will keep the diligence under review to ensure that it strikes the right balance, and we will exempt homes if that is the right thing to do.

I pay tribute to the Subordinate Legislation Committee, the Finance Committee, the Scottish Law Commission and everyone else involved—particularly the Enterprise and Culture Committee—for their support on the bill.

As I said, I am confident of the bill's success. I believe that it strikes the right balance between creditors and debtors and will, if we agree to pass it, make a positive difference. It will deliver a new and better-integrated system of debt management and debt relief. That will be good for everyone. The bill will help people to restart after bankruptcy. It will offer better protection for the public against those who try to abuse the system, and it will modernise floating charges and help business to borrow wisely. It will also give us a modern, properly regulated enforcement profession. The new civil enforcement commission will assist in that process.

I believe that the new focus on helping credit unions to help their customers is important. We will work with them to understand their problems. We will also consult in the first part of next year on how the trust deed regulations can help deserving customers to get support from credit unions, which work with the financially excluded and give them access to credit and goods and services that, because of their low income, they would not otherwise be able to access.

We will work with the enforcement profession to ensure that the new commission does its job well and effectively. In that way, we will ensure that the public interest is protected.

I was interested in two comments that were made during the debate. Murdo Fraser compared the Scottish and English situations. In fact, in 2005-06 Scottish sequestrations went up by 54 per cent. As he is probably well aware, the increase in England was half that figure. More creditors are bankrupting people in Scotland.

I gave the Parliament the benefit of the figures in percentage terms earlier in the debate, but I will now outline the cost in human terms of the increase in creditor-led sequestration. The figure has gone from 5,480 to 8,707 since 2004. If we strip away the political rhetoric of the Scottish National Party, those figures represent real people whose homes, goods and chattels have been stripped from them. Where were the moral crusaders when that was going on? They were nowhere.

This Executive has increased the £1,500 limit and introduced new debtor protection so that no income, no asset clients have access to debt relief. This Executive has amended the debt arrangement scheme to ensure that the debt crystallises so that debtors do not have new and punitive interest rate charges imposed upon them. This Executive also proposes to introduce debt relief into that process.

I was struck by the comparison with the figure of 500 warrant sales, because the figure that I have just given for creditor-led sequestrations is not twice but 17 times that number, which is far too many. If there is even one less creditor-led sequestration as a consequence of what we have done, that will be one less person who loses their home, their goods and their chattels. The bill would be worthwhile if only because that one person benefited consequentially.

The bill sweeps away a range of old, unfair diligences and replaces them with new ones that provide much better protections in respect of the could pays and the can't pays. The bill is focused on precisely the right people. More people are struggling with debt and more people are losing their homes, their goods and their chattels as a consequence of the current legislation. The bill makes the situation better for those people. It provides additional debtor protections and strikes the right balance between creditors and debtors. I urge members to support it.

Committee of the Regions (Membership)

17:00

The Deputy Presiding Officer (Murray Tosh):

The next item of business is consideration of motion S2M-5236, in the name of George Lyon, on membership of the Committee of the Regions.

Motion moved,

That the Parliament endorses the Scottish Executive's proposal to nominate as a representative of the Parliament Maureen Watt MSP as alternate member on the UK delegation to the Committee of the Regions for the session from 2006 to 2010.—[George Lyon.]

Decision Time

17:00

The Deputy Presiding Officer (Murray Tosh):

There are two questions to be put as a result of today's business. The first question is, that motion S2M-5044, in the name of Allan Wilson, that the Parliament agrees that the Bankruptcy and Diligence etc (Scotland) Bill be passed, be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 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)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 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)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 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)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 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)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)

Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 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)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Martin, Campbell (West of Scotland) (Ind)
 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)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (Sol)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Watt, Ms Maureen (North East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 64, Against 50, Abstentions 0.

Motion agreed to.

That the Parliament agrees that the Bankruptcy and Diligence etc. (Scotland) Bill be passed.

The Deputy Presiding Officer: The next question is, that motion S2M-5236, in the name of George Lyon, on membership of the Committee of the Regions, be agreed to.

Motion agreed to.

That the Parliament endorses the Scottish Executive's proposal to nominate as a representative of the Parliament Maureen Watt MSP as alternate member on the UK delegation to the Committee of the Regions for the session from 2006 to 2010.

Borders College and Heriot-Watt University Borders Campus

The Deputy Presiding Officer (Trish Godman): The final item of business is a members' business debate on motion S2M-5146, in the name of Jeremy Purvis, on the pioneering co-location of Borders College and Heriot-Watt University Borders campus. The debate will be concluded without any question being put.

Motion debated,

That the Parliament welcomes the signing of the ground-breaking co-location agreement, on Friday 17 November 2006, between Borders College and Heriot Watt University to bring about a combined further and higher education campus in the Borders at Netherdale in Galashiels; recalls the concerns about the proposed relocation of the School of Textiles and Design by the university from the Borders campus to Edinburgh in 2004 but congratulates the group established to work with the university in successfully retaining the internationally renowned school at the Borders campus, and welcomes the extensive funding package from the Scottish Executive and EU structural funds, totalling £27.7 million for the redevelopment of the campus and a further £3.7 million being granted to fund a new community college in Hawick, to provide state-of-the-art learning facilities for the Borders and establish a "university college" model and creative, world-class learning facilities.

17:03

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): It is a pleasure to ask the Parliament to recognise the historic agreement that has been reached between Borders College and Heriot-Watt University to develop the Borders campus, a university college of the Borders.

The campus will house the base of further and higher education in the Borders. Development will begin on site soon thanks to the unprecedented provision by the Scottish Executive of almost £30 million in funding and the receipt of European Union structural funds. The new facilities, shared buildings and resources are to be matched with shared learning ambitions.

With Heriot-Watt University's world-class school of textiles and design and the outstanding Borders College, which received one of the best-ever inspector's reports for a further education institution, the ambition is the same: to create in the heart of the Borders a confident, vibrant, enterprising and innovative learning environment of the highest quality. There should be no other ambition for the Borders. I am sure that my colleague Euan Robson will talk about the exciting developments in Hawick, where, earlier this month, I had the pleasure of seeing the outline plans of the agreement between the university and college for the new community college in the town.

Some people had no confidence that we would ever reach this point. The Borders College team

has done a colossal amount of work, which has put major strain on the management and staff. However, at the end, the real prize has been won.

Early in 2004, I was informed that Heriot-Watt University's management had proposed to move the school of textiles and design from the Borders to its Riccarton campus. There was no doubt that its proposal was wrong, and I put together a group and chaired 20 meetings to work up an alternative that would persuade Heriot-Watt to change its mind. The campaign group was made up predominantly of Scottish Borders new ways partners, including David Parker and his team at Scottish Borders Council; David Gass and his team at Scottish Enterprise Borders; Peter Lee and Laurence Cox of Eildon Housing Association; and the chairman of NHS Borders, Tony Taylor, who has extensive experience in the textile industry. They all worked seamlessly to put together a case that would make Heriot-Watt change its mind, and I will never forget the day that I presented that case to the court of Heriot-Watt University.

I record my appreciation of the efforts of those who worked hard on this matter—including, in the later stages, the staff of Heriot-Watt University, especially Stefan Kay from the Borders campus. They knew that they had real partners in the local area and that any move away would have been very regressive.

The school of textiles and design, formerly the Scottish College of Textiles, was established in 1883 and has developed into an leading international textile institution whose graduates work all over the world. The school offers a unique range of courses to match the needs of the global and increasingly high-tech textile and fashion industries. According to the most recent statistics, 83 per cent of its graduates found employment within six months of graduation and a further 6 per cent progressed to postgraduate courses at institutions throughout the United Kingdom—what a record.

I hope that members appreciate the contribution that graduates from Galashiels have made to the world's textile industry. The world's best suits are cut by college graduates and use some of the best cloth in the world, from either Lochcarron in Selkirk or Holland & Sherry in Peebles. I have had the honour of opening the retrospective of Bernat Klein, who in the 1950s and 1960s transformed textile designs. No international catwalk bearing clothes of the highest quality would be without Borders cloth that has been knitted or woven in Galashiels and elsewhere in the Borders.

The finest textile designers, who have explored the uses of various materials, fabrics and wool, have been trained in the Borders. Indeed, when Jim Wallace, as Minister for Enterprise and

Lifelong Learning, accompanied me on a visit to the school two years ago, he met people from each continent, all of whom wanted to study in the Borders. The school has an enviable record in leading-edge research projects involving textiles, design, fashion, and clothing and colour science that reinforce our international reputation and contribute towards excellence in teaching.

However, students need proper, top-quality facilities. As a result, under the exciting proposals that we are debating, not only the main campus but the residences will be redeveloped.

The new home of Borders College will sit alongside this world-class textiles institution. Although we have outstanding schools and pupils in the Borders, many of our young people leave the area after school. Of course, that in itself is not a bad thing. However, our challenge is to create an economic environment that attracts people back to the area after they leave higher education.

For those in sixth form, those seeking after-school courses and returning learners who want to enter further education in the Borders, the developments in Netherdale and Hawick and the other areas of my constituency in which Borders College does its work will be the hub of a series of transformed facilities. Those facilities will certainly provide opportunities for young people who have found school difficult or who need extra help to enter full-time education or employment. That point is particularly important to me: I was the first of my family to go to university, even though I found it relatively straightforward.

The investment in the college will mean much better facilities for young people, especially those who have left school to take up employment and who want to return to undertake further learning or training. Of course, that will be important for people such as young parents, those without a car or those who cannot travel regularly who wish to matriculate to higher education but do not want to go to Edinburgh.

The university campus of the Borders model gives Borders College the opportunity to forge deeper relationships with other higher education providers for the Borders and to develop a range of degree courses that could be delivered alongside further education qualifications. That is an ambition of Liz McIntyre, the new principal, and Suzanne Dawson, the new chair, who will develop further the legacy of Bob Murray, who retired last year as principal.

However, the real testimony to whether we are doing the right thing can be heard if we listen to the learners themselves, which I have been doing since I was elected. A student from South America told me that he wanted to study textiles in the Borders because it was simply the best in the

world. It is also the right thing for the adult learner who wants the different opportunities that can come with better qualifications but who cannot afford to travel to Edinburgh each day.

The record level of investment for the Borders campus, combined with the secure retention of the school of textiles and design in the Borders for years to come, means not only that we will have first-class facilities but that provision and the types of courses available will be widened and that the relationship between higher, further and secondary education will be deepened. I hope that all members in the Parliament will agree that what is being done in the Borders is indeed the right thing.

17:11

Christine Grahame (South of Scotland) (SNP): I congratulate Jeremy Purvis on securing the debate. The joint campus initiative has been on the go for years and I applaud the tenacity of Borders College, Heriot-Watt University and others in achieving it.

I recall the threat of Heriot-Watt University pulling out altogether. The Borders campus was not in favour and the university was going to centralise everything at the Riccarton campus, which would have dealt a deadly blow to the process. I confess a family connection, as my niece attended the then school of textiles at the Borders campus.

However, this is not the end of the journey. There are plans to develop further tertiary education in the Borders. There are existing links between Borders College and Napier University Edinburgh, particularly in nursing training. There are also links with the University of Dundee, which teaches qualifications to the college's staff. All those links can be enhanced because of the march of technology and the security of the joint campus.

The joint campus will mean shared services, which has implications for staffing. I have been advised that, because those implications were anticipated, there are many temporary posts in line and natural wastage—I do not like that term—will mean that there should be no redundancies. Of course, if we take away administrators, more money is diverted from administration to front-line educational purposes, which is good. Those matters are being investigated now.

Hawick has its new community college, and Borders College is working in tandem with Hawick high school. That alleviates the fears from not so long ago that Hawick would lose any college and that everything would be centralised in Galashiels.

The campus will be a modern learning centre, with teaching rooms for business, information technology and construction skills. Those facilities are badly needed, not only in the Borders but elsewhere.

The Borders construction forum is engaged in the project, but it is also engaged in the construction of the buildings themselves. I hope that not only the existence of the joint campus, but the building of it, will bring business and work to the Borders. Apparently, the main contract at Netherdale has been split into smaller contracts of £1 million to £3 million that will have a bias—if I may use that word—in favour of local companies because, I understand, they currently fall below the threshold for contracts that must be put out to competitive tender in the *Official Journal of the European Union*.

However, the contract for the larger development at Netherdale has to be put out to tender, because it is worth about £18 million or £19 million—and we all know the rules of European competitive tendering. Therefore, I have asked Borders College to consider some creative contracting. I understand that there is a pre-qualifying period before tendering that will allow Borders College, which is letting the prime contract, to examine the make-up of the organisations that are tendering for the job to find out whether they can service the development after construction, for example. That is important and I want Borders College to pursue it robustly.

The campus is good news for the Borders. It will be a key employer and an asset to the Borders economy, which should not only survive but develop. Jeremy Purvis delivered his speech with his usual modesty, but I look forward to cutting the opening ribbon of the joint campus in October 2008 as the member for Tweeddale, Ettrick, Lauderdale and Penicuik.

17:14

Chris Ballance (South of Scotland) (Green): I, too, congratulate Jeremy Purvis on securing the debate, and on the way in which he introduced the subject with the customary modesty for which he is renowned.

I welcome the opportunity to debate the state of further and higher education in the Borders. The co-location of Borders College of further education and Heriot-Watt University has been a controversial marriage, which has not been without its critics.

In 2004, there was a scare that the university would withdraw courses from the Borders and move them to Edinburgh. Only thanks to a vigorous campaign by students, staff, the local textiles industry and the wider Borders community

did the management at Heriot-Watt reverse its decision to relocate its textiles courses—along with nearly 500 students and staff—from Galashiels to Edinburgh.

Under the current co-location scheme, Borders College and Heriot-Watt will share a further education and university campus at Netherdale in Gala, with Borders College bringing most of its further education provision under one roof. Members will appreciate that the further education college is the sole further education college and major provider of training in the Scottish Borders. It operates from six sites, including Galashiels, Hawick, Duns, Newtown St Boswells and Peebles. Around 10,000 students enrol for a wide variety of courses and programmes to higher national diploma level and beyond. Importantly, the courses and programmes are particularly in subject areas that allow graduates to find employment opportunities in their local area. The college has worked closely with the local enterprise company to shape its curriculum to the local labour market. There is an important link between local education provision, employment opportunities and the vitality of our Borders community.

I hesitate—but only briefly—to raise a couple of issues of concern. There is a concern that, following co-location, both institutions will not be able to maintain their autonomy and their identity as independent institutions. The college and the university are putting a brave face on it, saying that they will operate independently—but how likely is that if funding continues to be squeezed and the pressures for amalgamation continue? We will have to watch out for that.

The other concern is that the investment at Netherdale, although most welcome, represents a centralisation of facilities. One person's co-location is another person's condensation and amalgamation. The co-location scheme will see the Borders College's presence in Hawick slimmed down. That is deeply unfortunate when there is a continuing centralising of services in central Borders—in Galashiels—and a continuing movement of services and investment away from Hawick. A large investment of £30 million is to go into the centralised facilities in Gala, but only one tenth of that amount is to be invested in Hawick. The imbalance between Galashiels and Hawick is therefore further encouraged.

I seek assurances from the minister that funding for further and higher education in the Borders and other rural areas will not be subject to cutbacks. The future of those communities depends on their young people being provided with educational opportunities close to where they grew up, work and live.

17:18

Ms Rosemary Byrne (South of Scotland)

(Sol): I congratulate Jeremy Purvis on securing this debate this afternoon. The co-location agreement is to be welcomed; it secures further education in the Borders. However, like Chris Ballance, I hope that access to further education throughout the Borders will be maintained and that resources will be provided to allow the college to keep its identity separate from that of the university. Access to education should be available to people of any age, including pensioners. That is useful for employment and for other reasons.

After the threats of the move to the Riccarton campus of the school of textiles and design, the present proposals are welcome. I visited the school when it was being threatened with closure and a move to Riccarton, and I was very impressed. The strength of the campaign by the students, the members of staff and the community was fantastic.

Securing the school of textiles and design in Galashiels has been an achievement. I hope that the co-location agreement will further secure the school's future in Galashiels. Chris Ballance talked about Galashiels getting a lot and other areas in the Borders missing out. I hope that we will be able to secure something for other areas in future. It is good news that Hawick will get funding for its college.

The arrangements are imaginative and I hope that they will work out effectively for communities in the Borders. They add facilities for further and higher education access in the Borders, which is to be welcomed. There is now mix and match in further and higher education. Someone can do an HND then go on to do a university course. Access is possible at different times. If that makes education more viable for people in the Borders, it is to be welcomed.

The knock-on effect on the local economy could be good. We must ensure that we safeguard existing lecturing and administrative jobs and so on. We must not diminish what already exists in the area. The funding for the Hawick campus and the increase in the number of students should have a knock-on effect on jobs in those communities. Importantly, it will mean that those communities are noticed further afield. When good education is available in an area, it tends to help make that area more vibrant. I hope that that is what happens in the Borders.

Now that the future of the education campus and the school of textiles and design is secure in the Borders, I hope that the area's reputation for textiles can be maintained. The industry has gone, but this could bring about regeneration. On the

back of all of these developments, I hope that people can put their minds to that.

17:22

Derek Brownlee (South of Scotland) (Con):

Others have touched on the history of the institutions concerned and their links to the Borders. There are probably few of us with connections to the Borders who do not have family or friends who have been through or who intend to go through some of them. The importance to the Borders of such educational opportunities should not be understated.

The broader issue is the learning opportunities that we provide in the Borders, not only to our young people but to the whole community. Jeremy Purvis was right to talk about the significant number of people who will leave the area to pursue further and higher education. That is to some extent a natural function of growing up, but I sense an increasing trend—through choice or necessity—towards studying closer to home. That trend presents opportunities, which we should not be afraid to grasp, to expand education provision to those who might not be able to take advantage of it in their immediate post-school years. The projects being undertaken represent some great opportunities.

Chris Ballance talked about the tension—that might be putting it too strongly—between Gala and Hawick. There is a sense of imbalance there—perhaps Euan Robson will talk about that in more depth. The regeneration of Hawick, which we all realise is fundamentally important, is a much broader and deeper issue than can be solved simply by education facilities. Over the past 10 years, Galashiels has changed from being a place where almost every house was for sale or to let to one that is positively booming—although that is creating its own problems for local people. The change has been driven by a number of factors. Regeneration throughout the Borders should be viewed quite broadly.

Others have talked about the significance of the textile industry to the Borders. There has been an undeniable decline in the relative importance of textiles, given the number of people employed in it, but it is an important niche for the Borders, particularly if we capture the higher-value end of the market. Securing the textiles faculty at Galashiels is important in that regard. It is a shame that Karen Whitefield is not here today to hear Jeremy Purvis, whom she derided last week as the “man at C&A”, talk about high fashion and catwalks.

There are similar initiatives at the Crichton campus in Dumfries to broaden out the provision of education, bring together different sectors and,

as far as possible, get rid of the sometimes artificial dividing lines between sectors of education. In view of the increasing links between councils and other organisations in Dumfries and Galloway and the Borders, I hope that educational links can be enhanced too. I am sure that both campuses have something to learn from each other, particularly in relation to the challenges that they face.

The co-location will be a great achievement for the Borders when it is realised. We must not underestimate the importance of providing educational opportunities locally. It is a great achievement for Heriot-Watt University and Borders College.

17:26

Euan Robson (Roxburgh and Berwickshire)

(LD): I congratulate my colleague Jeremy Purvis on securing the debate. I agree entirely with the terms of the motion and look forward to the major changes for the better that the co-location of Borders College and Heriot-Watt University will bring about and the investment in the community college facilities in Hawick. The Borders will benefit from the two linked projects and the future of further and higher education will be secured for the region.

We have come a long way from the worrying and somewhat dismal prospects of 2003. I vividly recall a range of meetings, both public and private, before and after the most recent elections to the Parliament, in which we had to argue vigorously the case for the Borders—not only for Galashiels but for Hawick. At one stage, it looked as if the college would be entirely centralised in Galashiels and that Heriot-Watt would move the school of textiles and design to Riccarton. I am pleased to say that wiser counsel prevailed.

I recall endless working group meetings in Hawick about the position there—I will come on to the issue of the community college in a moment. I congratulate Jeremy Purvis on the amount of work that he put into the co-location proposal; he chaired umpteen meetings. I agree with him that the £30 million project and the structural funding package is a tribute to the college, the new ways partnership, Heriot-Watt University, the funding council, Jim Wallace and Nicol Stephen—the ministers who backed it—and Allan Wilson, who has provided his support throughout.

I want to concentrate my remarks on Hawick. The process of obtaining agreement for the new building, which I cannot mention in this public forum, is being considered by one of the agencies today, and will be considered by another later this month. However, suffice it to say that the £3.7

million investment is a major step forward, given that we were looking at closure.

It is clear that the community college in Hawick will be a state of the art facility, which will offer a range of vocational courses. It is important that a close link will be established between the college and Hawick high school, which, when I was involved in the Education Department, I was pleased to see being one of the first schools in Scotland to be awarded school of ambition status.

The Henderson building, which will be left behind, will present a fine redevelopment opportunity for the town, as it is in a key commercial location. I am sure that Scottish Enterprise Borders, the council and others will endeavour to attract new business to the area—I certainly will. Much has been said about the prospects for the textiles industry. Those who say that it is gone and finished are not correct. It is particularly important to note the recent investment by Hawick Cashmere and the launch of a new collection. I wish the company well in its endeavours to secure sales of the collection, which will be marketed in the far east and worldwide.

I, too, look forward to the opening ceremonies in 2008, both at the co-located campus and at the Hawick site. I am sure that Jeremy Purvis will be there as the MSP for Tweeddale, Ettrick and Lauderdale, and that Christine Grahame will be there, too, to repeat the peripheral role that she has played so far in the story.

17:31

Fiona Hyslop (Lothians) (SNP): I am struck by how much grace and modesty has been exhibited during the debate.

I congratulate Jeremy Purvis on securing the debate and the Deputy Minister for Enterprise and Lifelong Learning on his stamina, as he has gone through a robust stage 3 and remained to respond to the debate. I declare an interest as a member of the colloquium of Heriot-Watt University and as a former postgraduate student at the Scottish College of Textiles.

I am delighted with the progress that is being made at Netherdale, as Galashiels is a fantastic place to study. I was there many years ago, but I can say that it has a special feel to it for students. The relationship between the town and the students is healthy. I was impressed by the talent, expertise, energy and sheer spirit in Galashiels and by the contribution that the college made—I know that that is still the case. I studied business studies, but I was conversant with the issues and concerns that faced the hard-working textiles and design students. The fashion show that the school and Heriot-Watt University put on is certainly the

highlight of the year. I urge anyone who receives an invitation to go, because it is a showcase for Scotland and for the students.

I congratulate everybody who is involved in the fantastic developments, which will result in a sea change. We have campaigned for the reopening of the Waverley line. I often travelled from Galashiels to visit my parents on dark winter nights and I know about having to leave at midday on a Sunday to travel over Middleton moor in a cold and draughty bus to get back to Galashiels on a Sunday evening. That experience will be transformed for the students of the future. As members have said, the changes are not only about keeping talent in the Borders; they are also about attracting talent to the college so that people can have the experiences that I had.

Derek Brownlee talked about families. We must reflect—and I hope that the minister will—on the fact that we have a strong Scottish qualifications and credit framework. One of the ideas about the articulation between colleges and universities is that, for those who come from deprived backgrounds and did not have a chance to access university, sometimes a further education college provides a foot in the door. Many of those who worked for the textiles companies that have now unfortunately gone are older women and I would like them to have the opportunity to come back into education through the further education college and then perhaps to move seamlessly on through the education system, perhaps achieving degrees with Heriot-Watt University. Christine Grahame talked about the articulation with the qualifications framework. The new campus is an interesting model—many of us will want to consider and examine its progress in years to come.

I congratulate everybody who is involved in the changes. A phoenix may have arisen from what could have been ashes. The support for the retention of the school in Galashiels came not only from local members—members from throughout the parties wanted the special spirit to be retained. I look forward to seeing progress. We need to ensure that the co-location works for everybody. People in the Borders and elsewhere will examine it closely.

17:34

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): I, too, congratulate Jeremy Purvis on his success in gaining this debate and on the characteristically modest and fashionable way in which he has conducted himself.

The economy of the Scottish Borders continues to flourish, despite some setbacks. It has one of

the highest performing labour markets in Scotland. A statistic that I did not know until today—so that is another success for Jeremy Purvis—is that the population of the Borders has increased by nearly 110,000 in the last 10 years. We all know that the area is beautiful and scenic, so I can easily understand why so many folk are proud to call themselves Borderers.

No area is immune from the consequences of economic change, of course, and there have been a number of redundancies in the news recently. That is always regrettable. However, the best way to help people regain employment—and everything that goes with employment—is to have a buoyant economy and a buoyant labour market. I cannot think of any better way of doing that than by investing in a knowledge-based economy that is not susceptible to the magnet effect of cheaper labour. In that context, the point that Fiona Hyslop made about sub-degree qualifications is important, because that is one of the routes by which we can attract people—not only women, as was mentioned, but people whose experience of the traditional education system has not been great—back into learning in order that they might get the qualifications and skills that are necessary to compete in the changing economy.

That is not to say that the Borders has not been successful with regard to the labour market. Unemployment in the region is now only 1.7 per cent, which is significantly lower than the Scottish average of less than 3 per cent. The number of people who own their own business is almost double the Scottish average. It is against that positive economic background that we see this groundbreaking collaborative venture between Borders College and Heriot-Watt University.

In the college sector alone, we are now seeing nothing less than the complete regeneration of the estate—I see that in every college that I go to across Scotland. New college buildings, sometimes whole new campuses and new state-of-the-art facilities have been completed, with many more to follow at Dundee College, Telford College, Langside College, Stevenson College—which I visited last week—Motherwell College, John Wheatley College, North Glasgow College, Jewel and Esk Valley College. The list of colleges that have been or are being transformed into world class learning facilities seems endless. All that work is encouraging people to return to learning and to help us build that knowledge-based economy.

The Executive is continuing to provide record resources to help all that take place with, for example, no less than £150 million being allocated to modernise the learning and teaching infrastructure in the higher education sector over the three years to 2007-08. I had a quiet chuckle

to myself when Chris Ballance asked how we could guarantee that investment. I say to him that I can guarantee it for as long as the Liberal Democrats and Labour are in power. However, I hope that we would not give any succour to nationalist extravagance in that regard. The £1.7 billion that it would cost to write off student debt is 10 times the total capital allocation that I mentioned. I would not encourage Chris Ballance along that route.

Scotland's history has shown that, when people leave—or have to leave—our rural areas to continue their education, they often do not come back. Derek Brownlee talked about that. Those young people leave because of a lack of opportunities and facilities and because—if I dare say it—in the past, Governments have lacked the commitment to stem that tide. However, this Executive does not lack that commitment. We have stemmed that tide and we see opportunities for all in the modern Borders.

That is why, for example, we continue to work with the UHI Millennium Institute, which is continuing to expand and develop higher education opportunities in the north of Scotland to support its ambitions for university title and it is why we have actively supported the development of the Crichton campus, bringing higher education to the people of the south-west of Scotland. It is also why I am delighted, this afternoon, to welcome what I am certain will be seen as a showpiece development that will bring a completely new approach to the delivery of learning. It will deliver unprecedented opportunities, allowing people to access locally a wide range of subject areas. Further, it will be a key driver of progression—not merger—between college and university.

It is not only in Galashiels that we see such developments, although I look forward to visiting Galashiels in due course to see another good example—the Scottish manufacturing advisory service, which helps to drive forward the manufacturing sector. For a moment, however, I move our focus slightly further down the A7 and highlight the complementary development in Hawick, which will bring an entirely new community college to the town.

Hawick, too, has had its share of challenges in years gone by, so I welcome Borders College's plan to build an entirely new community college in the town, which is clear evidence of a strong commitment to Hawick. The new college will help to meet the needs of learners and it will be a focus for skills development, which is important in encouraging parity of esteem between vocational education and training and academic routes into employment. I believe that the new college will be

an important instrument in the continuing regeneration of the town.

Meeting closed at 17:41.

I congratulate Jeremy Purvis again on securing this debate, which heralds the start of an exciting period for learners in the Scottish Borders. I commend the motion to everyone in the chamber and wish them well in the weeks, months and years to come.

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