MEETING OF THE PARLIAMENT

Thursday 18 January 2007

Session 2

£5.00

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by Astron.

CONTENTS

Thursday 18 January 2007

Debates

Oral Answers

Scottish Parliament

Thursday 18 January 2007

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

Business Motion

The Presiding Officer (Mr George Reid): Good morning. The first item of business is consideration of business motion S2M-5423, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Criminal Proceedings etc (Reform) (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during Stage 3 of the Criminal Proceedings etc. (Reform) (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, that 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 in the morning and afternoon being called) or otherwise not in progress:

Groups 1 to 3:	50 minutes
Groups 4 to 8 :	1 hour 45 minutes
Group 9:	2 hours 5 minutes
Groups 10 to 11:	2 hours 55 minutes
Groups 12 to 15:	3 hours 25 minutes.—[*George Lyon.*]

Motion agreed to.

Criminal Proceedings etc (Reform) (Scotland) Bill: Stage 3

09:15

The Presiding Officer (Mr George Reid): The next item of business is stage 3 consideration of the Criminal Proceedings etc (Reform) (Scotland) Bill. In dealing with the amendments, members should have with them the bill as amended at stage 2, which is SP bill 55A, the marshalled list, which contains the amendments that I have selected for debate, and the groupings that I have agreed. For the first division on an amendment, the division bell will sound and proceedings will be suspended for five minutes. 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 be allowed 30 seconds.

Section 1—Determination of questions of bail

The Presiding Officer: Group 1 is on bail: miscellaneous amendments. Amendment 20, in the name of the minister, is grouped with amendments 21 to 25.

The Deputy Minister for Justice (Johann Lamont): Amendment 20 is made for the sake of clarity and has no substantive effect on the provisions in section 1. It makes it clear that in section 23B(3) of the Criminal Procedure (Scotland) Act 1995, as inserted by section 1 of the bill, the question that is to be determined by the judge is whether bail should be granted to an accused person under section 23B(1) of the 1995 act.

Amendment 21 makes a minor change to section 24 of the 1995 act, which deals with bail conditions. Section 24(4)(b)(ii) of the 1995 act currently provides that the court, when granting bail, may impose further conditions on the accused to ensure that he or she participates in an identification parade. Amendment 21 provides that any further conditions may require the accused to participate in an identification parade or other identification procedure. Given that other forms of identification procedure are increasingly used by the police in place of the traditional ID parade, it will be important to ensure that an accused can be compelled to participate in such procedures as a condition of bail, in the same way that he or she would currently be required to participate in an ID parade.

Amendment 21 will also ensure that pressure can be brought to bear on the accused to participate in the identification procedure, as failure to do so could be regarded as breach of a bail condition. Although the amendment has no

effect on general bail policy, it will allow the law to keep up with the developments in practice and ensure that the accused is under a condition to participate in identification procedures in future.

Amendments 22 to 24 clarify the effect of provisions in section 5 of the bill, but the policy behind the section is not changed. Section 5 provides that bail applications must be dealt with before the end of the day after the date on which the person accused or charged is first brought before the court. Often such applications are continued to allow investigations to be made into the bail address given by the accused person, for example. However, the provision as introduced could be construed as requiring the court to sit on a Saturday, Sunday or court holiday in order to process bail applications before the end of the next day. That is not the intended policy. It is not the norm for courts to sit at the weekend.

Section 8(1) of the 1995 act provides in general terms that a court is not required to sit on a Saturday, Sunday or court holiday. Amendments 22 to 24 are provided for the sake of clarity in this context. They put it beyond doubt that when the accused first appears, the court must make a decision on bail by the end of the next day on which it is sitting. Courts will not need to sit on a Saturday, Sunday or court holiday unless they choose to do so.

Amendment 25 makes a minor procedural change to the way in which a particular type of bail appeal is processed. Following amendments at stage 2, in almost all cases an appeal against refusal of bail in the sheriff or district courts is lodged with the court that dealt with the bail application. That is a sensible process, as a clerk of that court can then send a note of appeal to the High Court of Justiciary along with the full papers for the case to ensure that the High Court has all the papers that it needs to consider the case fully.

The one exception to that is in section 200 of the 1995 act, which details the procedures to be followed in cases where a court has adjourned the case against an accused for an inquiry into his or her physical or mental condition and has remanded the accused in custody or committed them to hospital. In such cases, the appeal against refusal of bail is lodged with the High Court, which then has to refer the matter back to the original court for the papers, which causes delay.

Amendment 25 brings the process for appealing against a refusal of bail under section 200(9) of the 1995 act into line with all the others in the 1995 act. It provides that the note of appeal must be lodged with the clerk of the court from which the appeal is to be taken and that the clerk of that court must send the papers, without delay, to the clerk of justiciary, to ensure that the High Court is in possession of all the papers relating to the case.

I move amendment 20.

Stewart Stevenson (Banff and Buchan) (SNP): It will be no great surprise to the minister that we will be supporting the amendments in this group. I thank the minister for the helpful briefing note on the Executive's amendments, which will speed our progress as the day continues. I hope that it sets a benchmark for what the Executive does in future bills. Next time, it would be even more helpful if the amendment numbers were given alongside the explanations. However, that is just a counsel of perfection. I seek always to give the Executive helpful advice where appropriate.

Amendment 20 agreed to.

Section 2—Bail and bail conditions

The Presiding Officer: I invite Johann Lamont to move amendments 21 to 25 en bloc.

Amendments 21 to 25 moved—[Johann Lamont].

The Presiding Officer: Does any member object to a single question being put? Does Margaret Mitchell object?

Margaret Mitchell (Central Scotland) (Con): I pressed my request-to-speak button during the debate on the previous group but was not called before you asked the minister to move amendments 21 to 25.

The Presiding Officer: That is fine. Thank you.

Amendment 21 agreed to.

Section 5—Time for dealing with applications

Amendments 22 to 25 agreed to.

Section 6—Liberation on undertaking

The Presiding Officer: Group 2 is on liberation on undertaking: rank of officer required to attach special conditions. Amendment 26 is the only amendment in the group.

Johann Lamont: Amendment 26 makes a change to the procedure concerning the addition of special conditions to an undertaking, in recognition of concerns that the Justice 1 Committee raised on the subject at stage 2. When an accused person is released on an undertaking to appear at court, the terms of the undertaking will always contain the condition that the accused must attend a specified court on a given date and at a given time. The bill currently provides that police officers may also attach additional conditions to an undertaking and that the Scottish ministers may make regulations setting out the rank or other description of police officer who will be required to authorise the imposition of additional conditions on an undertaking.

Those conditions fall into two types. First, there are the standard conditions, which mirror the standard conditions that would be imposed by a court on an accused who is given bail—namely, not to offend, not to interfere with witnesses and not to behave in a way that causes, or is likely to cause, alarm or distress to witnesses. Our view, which was backed by the committee at stage 2, is that those conditions are not unduly onerous and any accused person who is required to attend court on an undertaking should be able to abide by them. We are therefore of the view that it is not necessary to stipulate that the conditions can be imposed only by police officers of a certain rank.

The second category of conditions covers specific conditions that are imposed on a particular accused and are designed to secure compliance with the standard conditions. Those are sometimes referred to as special conditions in the bail context and may include, for example, a condition of curfew or a condition that the accused must not approach or contact a particular person or enter a named street or area. Such conditions will generally be more onerous and restrictive and will need to be imposed with discretion and sensitivity by police officers.

Members of the committee will recall that an amendment that was lodged by the convener at stage 2 sought to place in the bill a requirement that an officer of the rank of inspector or above must authorise the imposition of special conditions to an undertaking. At the committee meeting on 22 November 2006, I gave an assurance that ministers would ensure that an officer of the rank of inspector or above must authorise the imposition of special conditions to an undertaking. Having considered the position further, I acknowledge the concerns that the convener and other members of the committee expressed about the imposition of special conditions to an undertaking and agree that that process must be carefully regulated with the involvement of a senior officer.

Amendment 26 therefore provides in the bill that the imposition of special conditions must be authorised by a police officer of the rank of inspector or above. It also removes the regulation-making power in proposed new section 22(1E) of the 1995 act, as that will no longer be necessary. The law will clearly state that any officer may apply the standard conditions to an undertaking, but the imposition of special conditions must be authorised by a police officer of the rank of inspector or above. I am sure that members of the committee in particular will welcome my response to the issues that they raised.

I move amendment 26.

Stewart Stevenson: We support amendment 26, which is sensible. I am glad that the Executive has responded to the Justice 1 Committee's concerns.

On the general issue of liberation on undertaking, it is fair to say that the evidence that has been given has not yet been wholly convincing about the practical effects of the proposed measures. However, that is not to say that we do not support the amendment—we do. That said, I hope that the Executive will measure carefully whether the provisions have had the desired effect in speeding things up and reducing the overall resources that are used in the criminal justice system. The evidence from the police in particular was not wholly convincing that that would be the case. However, the proposal is certainly worth trying.

Pauline McNeill (Glasgow Kelvin) (Lab): I welcome what the minister has said this morning in response to the committee's concerns. It is worth saying at stage 3 that our debate at stage 1 and stage 2 on what the liberation on undertaking process is about has been cleared up.

It is important to note that the undertakings procedure is a crucial part of the reforms that will speed up the system, which were the centrepiece of the McInnes report. I thank the Crown Office on the record for the discussions that we had with it alongside our discussions with ministers to try to understand how the liberation on undertaking procedure will work.

Amendment 26 specifies the ranks of officer whose authority will be required before conditions are imposed. It is important to note that the special conditions that police officers will be able to apply are new powers that the police do not currently have. Those powers can make a difference. The minister has given the example of being able to apply a curfew, which can be important. It is also important to note that if a special condition has been wrongly applied—if a curfew has been imposed in a street in which someone needs to see a doctor, for example—it can be recalled under the appeal procedures.

I welcome the approach that the Executive has taken in listening to the committee and I support amendment 26.

Margaret Mitchell: I, too, welcome the clarification that amendment 26 provides and the fact that the minister has listened to the committee's concerns about the ranks of officers who can decide whether special conditions can be imposed. However, I still have reservations, although they will not stop me voting for the amendment. In its stage 1 report on the bill, the committee asked how realistic it was for a junior officer to determine

"whether someone should be liberated on undertaking and whether or not conditions should be attached to that undertaking."

Many issues that have arisen may be determined and clarified in the Lord Advocate's guidance, but that guidance will not be published until the bill has been passed. Will the minister comment on the matter?

Mike Pringle (Edinburgh South) (LD): At stages 1 and 2, there was considerable discussion about undertakings and how the process will work. The procedure is new. I welcomed the proposals at stage 1 but, as members have said, the committee was concerned that the proposals might be onerous on police constables who had to try to impose special conditions in the street. In that context, Pauline McNeill lodged an amendment. I am delighted that the Executive has taken that amendment into account and that the authority of an officer no lower than the rank of an inspector will be required.

Special undertakings will not be too frequent. Therefore, they must be carefully considered by an inspector in a police station, who will have to take everything into consideration. Undertakings could be given out in the street in normal circumstances, but it is important that special undertakings should be carefully considered. I, too, welcome what the minister said.

09:30

Johann Lamont: I thank members for their responses and for welcoming the amendment, but we should not overstate what is being done. Imposing standard conditions is not an onerous task—I think that people accept that doing so is fairly straightforward.

We recognise that special conditions require more consideration. We have discussed matters with the police, who are happy that the appropriate ranks will be involved and that those ranks will have the appropriate training and awareness of all the issues. However, we should not forget that we are trying to make the system more rational and effective. The provisions will speed up the system; at the very least, they will not slow it down. I assure Stewart Stevenson that we, the police and others will keep a close eye on the matter.

Amendment 26 agreed to.

Section 8—Manner of citation

The Presiding Officer: Group 3 is on the role of judicial officers. Amendment 10, in the name of Kenny MacAskill, is grouped with amendments 11 to 19.

Mr Kenny MacAskill (Lothians) (SNP): Such is the pace of change in our legislative process that, when I first embarked on these amendments, I think that we were talking about sheriff officers and messengers-at-arms. Changes have since taken place and we now have judicial officers. Whatever the officers are called, they go back a long time and they have served our judicial system well.

Changes that the bill will introduce and changes that have been initiated by the minister and by Elish Angiolini, both in her current office as Lord Advocate and in her previous office as Solicitor General for Scotland, will improve how witnesses are notified, cited and brought to court and will make improvements in other areas. Progress has been and continues to be made.

I differ from the minister in that I believe that the current system works well. Sheriff officers—or judicial officers as we now call them—deal with witness citations in civil proceedings; in criminal proceedings, they deal with citations on behalf of the defence. We may create a bureaucracy that works clinically and efficiently, but we already have a system that has served us well in civil matters and in defence citations. We have qualms and worries about e-mail and postal citations, but the ethos of all members—ministers and back benchers—is to stop the waste of police resources. We have a system that serves us well and we should retain it.

There seem to be two arguments against using judicial officers. There is a worry about how vulnerable witnesses are dealt with. However, judicial officers are well versed in dealing with people in difficult circumstances, such as children whom they have to cite in civil matters or people who have been traumatised. They are well trained and well regulated.

The second argument relates to costs, and is clearly legitimate. People have been worried that the costs for various services would be a huge burden, but judicial officers have made it clear—the amendments emphasise this—that there would be a different set of tables and different arrangements. There has been no suggestion that existing rates for the processing of witness citations would be the same if prosecution citations were passed to judicial officers. With the caveat that we meet the needs of vulnerable witnesses and address the costs to the public purse, we believe that we should retain a system that has served us well and continues to serve us well, and that we should seek to enhance the profession rather than seek to create a new profession and all the apparatus that goes with it.

I move amendment 10.

Margaret Mitchell: As Kenny MacAskill said, judicial officers, sheriff officers and messengers-at-arms have a special place in Scots law. They are experienced, have an excellent track record and have proved themselves to be professional. Such officers are certainly equipped for the 21st century.

Currently, citations are served by the police or the Crown Office and Procurator Fiscal Service by post. There is no doubt that the police, the Association of Chief Police Officers in Scotland, the Association of Scottish Police Superintendents and the Scottish Police Federation are in favour of messengers-at-arms or sheriff officers—now judicial officers—taking over that role, which would free up time for front-line duties that police currently spend on discharging that duty. There is an advantage to be had here. I have sympathy with Kenny MacAskill in that, as the judicial officer system is established, there would be no start-up costs as there will be for fines enforcement officers. Also, judicial officers' fees are regulated and, as has been stated, open to negotiation.

The crucial point to remember is that the creation of fines enforcement officers will not in itself ensure that the legislation is used. If we wanted any proof of that, we need only look to the fact that existing legislation does what the Executive seeks to do in cases of wilful fine default. Arrestment of earnings is allowed under sections 214(6) and 221 of the Criminal Procedure (Scotland) Act 1995. Direct deduction of income support can be achieved under section 24 of the Criminal Justice Act 1991. My central point is that the creation of fines enforcement officers in itself will not ensure that more wilful fine defaulters will be dealt with in the way the bill envisages or that they will not be imprisoned, which is clearly not in anyone's best interest. Does the minister envisage enhancing the role of judicial officers or is she saying that fines enforcement officers will replace judicial officers? Her answer will determine how we vote.

Johann Lamont: I will come back to Margaret Mitchell's point at the end of my contribution—whether fines enforcement officers are effective is a separate point. Although there is a crossover, the amendments in group 3 deal with something slightly different.

Kenny MacAskill's amendments 10 to 19 would provide that only judicial officers—formerly known as sheriff officers and messengers-at-arms—would be able to carry out certain functions, such as serving citations personally on witnesses and accused persons in criminal proceedings. At the moment, those citations can be served by officers of law, who include judicial officers but also the police, authorised civilian employees of the police and prison officers.

If, as I think Kenny MacAskill said, the objective of the amendments is to reduce the amount of police time that is required to serve citations, I assure members that we agree with that aim and are working hard to achieve it. I do not believe that the amendments are the best way to achieve further progress. I will outline some of the work that is under way before explaining why the amendments could be extremely damaging to the operation of Scotland's criminal justice system.

Since 2003, the Crown Office and Procurator Fiscal Service, which is responsible for the citation of the accused and prosecution witnesses, has issued postal citations for most witnesses in summary cases, which covers the vast majority of cases before the courts. In April 2006, that use of postal citation was extended to civilian witnesses in sheriff and jury cases with the important exception of witnesses with special requirements, such as children, vulnerable adults and witnesses whose first language is not English. Those special classes of witnesses need some form of police involvement.

Postal citation has proved to be an extremely effective system. It is more convenient for witnesses than traditional citation in person. Since 2003, about 76,000 citations have been issued each year by ordinary post to civilian witnesses, who responded to them positively. By virtue of the fact that the witness signs and returns a receipt for postal citation, the witness is giving a personal commitment. That underlines the importance of witnesses attending court to give evidence.

The bill already provides for additional methods of citation for witnesses and accused in order to reduce the need for citation in person. The accused as well as witnesses will be able to be cited by first-class post. E-mail citation is an option that we will also consider and develop, although there must be confidence in that process. It has already been piloted with success for police witnesses in one city-centre division in Glasgow. Over 18,000 citations were sent by e-mail leading to savings in police time and resources. Less police overtime was needed as notification of the case came earlier, which allowed more time to accommodate the alteration of shift patterns. On average, officers received their citations five days earlier than before and less police time was wasted at court as there was earlier notification of cases that would not go ahead. That made it possible for police officers to be on the front line rather than stuck in court for cases that were not called. The wider roll-out of the pilot is now planned.

A number of police forces are now using civilian staff to serve their witness citations, which ensures that police time is freed up to deal with higher priorities. I welcome that practice and hope that it will develop further.

In a number of cases in which personal citation is required, the police already have information or intelligence as to the whereabouts of the individual in question, which they can use to ensure that the citation is served effectively. There will always be some cases where postal citation of civilian

witnesses will not be successful. Some civilian witnesses are reluctant to attend court for a number of reasons. The retention of police delivery of citations to such witnesses allows the witness to ask questions of the police. The police are well placed to offer reassurance and assistance should that be required.

The bill allows citations to be effected by judicial officers. The effect of Kenny MacAskill's amendments would be to put judicial officers in a monopoly position. Service could be effected only by judicial officers. Is it right that it should only be private businesses that can play that important part in the criminal justice system? Police officers could no longer serve any citations and prison officers could no longer serve documentation, including indictments, on accused people who are in prison. Judicial officers would have to be instructed at a cost to come from their office into the prison, walk past the prison officer who used to be able to serve documents and serve the indictment. That would be good work for the judicial officers but not good value for the public purse.

There are other serious problems with the practicality of the amendments. Not every court district has resident judicial officers and some of the island courts and more remote areas do not have judicial officers nearby. The police, by their very nature, have some form of local presence. Would court business have to be programmed to accommodate visits to such courts from judicial officers?

In summary cases where the accused appears from custody, a judicial officer would have to be in the custody area of the court to serve the complaint on the accused. What if there were no resident judicial officer who could serve the complaint? Would the court have to wait until the judicial officer attended from his office, which might be miles away? Would the accused have to be liberated until a judicial officer could attend?

The bill as introduced provides for additional methods of service on the accused; it does not rule out the use of judicial officers. In no way does our position refuse to acknowledge the work and expertise of judicial officers. It is important to keep our options open in this area, while seeking to ensure that police involvement is minimised. That is what we are working on. Amendments 10 to 19 would build in delay and risk and would place private companies in a monopoly position at a time when we are developing the service of citations through a variety of initiatives.

Margaret Mitchell and others will be aware that the role of fines enforcement officers goes far beyond simply delivering a citation. They manage cases, look at the person in the round, consider their other debts and whether fines are due to other courts, and carry out the critical job of separating those who cannot pay from those who will not pay. The role of fines enforcement officers ought not to be misunderstood. Although there is a role for judicial officers, I do not support what Kenny MacAskill proposes in these amendments. I ask him to withdraw amendment 10 and not to move the other amendments in his name.

Mr MacAskill: I have listened with interest to the minister and we sympathise and agree fully with much of what she said—our dispute is simply to do with the method by which we achieve it. However, it is a bit rich to castigate the creation of a monopoly of private outfits given what has happened with prison transfers. If that is such a matter of objection, we might need to reconsider whether Reliance should have a monopoly. I will press amendment 10.

The Presiding Officer: The question is, that amendment 10 be agreed to. Are we agreed?

Members: No.

The 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.

09:43

Meeting suspended.

09:48

On resuming—

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

FOR

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Brownlee, Derek (South of Scotland) (Con)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Davidson, Mr David (North East Scotland) (Con)
Douglas-Hamilton, Lord James (Lothians) (Con)
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
Gibson, Rob (Highlands and Islands) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Lochhead, Richard (Moray) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Mather, Jim (Highlands and Islands) (SNP)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
McLetchie, David (Edinburgh Pentlands) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Morgan, Alasdair (South of Scotland) (SNP)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
Neil, Alex (Central Scotland) (SNP)
Petrie, Dave (Highlands and Islands) (Con)
Robison, Shona (Dundee East) (SNP)
Scott, John (Ayr) (Con)
Stevenson, Stewart (Banff and Buchan) (SNP)

Swinney, Mr John (North Tayside) (SNP)
Tosh, Murray (West of Scotland) (Con)
Watt, Ms Maureen (North East Scotland) (SNP)
Welsh, Mr Andrew (Angus) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

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)
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, Marlyn (North East Scotland) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
Gorrie, Donald (Central Scotland) (LD)
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)
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)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Murray, Dr Elaine (Dumfries) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Pringle, Mike (Edinburgh South) (LD)
Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
Radcliffe, Nora (Gordon) (LD)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
Scott, Tavish (Shetland) (LD)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Iain (North East Fife) (LD)
Smith, Margaret (Edinburgh West) (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

Fox, Colin (Lothians) (SSP)
Kane, Rosie (Glasgow) (SSP)

The Presiding Officer: The result of the division is: For 31, Against 65, Abstentions 2.

Amendment 10 disagreed to.

Amendment 11 moved—[Mr Kenny MacAskill].

The Presiding Officer: The question is, that amendment 11 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Brownlee, Derek (South of Scotland) (Con)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Davidson, Mr David (North East Scotland) (Con)
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)
Johnstone, Alex (North East Scotland) (Con)
Kane, Rosie (Glasgow) (SSP)
Lochhead, Richard (Moray) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Mather, Jim (Highlands and Islands) (SNP)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
McLetchie, David (Edinburgh Pentlands) (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)
Scott, John (Ayr) (Con)
Stevenson, Stewart (Banff and Buchan) (SNP)
Swinney, Mr John (North Tayside) (SNP)
Tosh, Murray (West of Scotland) (Con)
Watt, Ms Maureen (North East Scotland) (SNP)
Welsh, Mr Andrew (Angus) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

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)
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, Marlyn (North East Scotland) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
Gorrie, Donald (Central Scotland) (LD)
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)
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)
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)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
Murray, Dr Elaine (Dumfries) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Pringle, Mike (Edinburgh South) (LD)
Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
Radcliffe, Nora (Gordon) (LD)
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)
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 Presiding Officer: The result of the division is: For 32, Against 65, Abstentions 0.

Amendment 11 disagreed to.

Amendment 12 moved—[Mr Kenny MacAskill].

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

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Brownlee, Derek (South of Scotland) (Con)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Davidson, Mr David (North East Scotland) (Con)
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)
Johnstone, Alex (North East Scotland) (Con)
Kane, Rosie (Glasgow) (SSP)
Lochhead, Richard (Moray) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Mather, Jim (Highlands and Islands) (SNP)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
McLetchie, David (Edinburgh Pentlands) (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)
Scott, John (Ayr) (Con)
Stevenson, Stewart (Banff and Buchan) (SNP)
Swinney, Mr John (North Tayside) (SNP)
Tosh, Murray (West of Scotland) (Con)
Watt, Ms Maureen (North East Scotland) (SNP)
Welsh, Mr Andrew (Angus) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

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)
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, Marlyn (North East Scotland) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
Gorrie, Donald (Central Scotland) (LD)
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)
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)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
Murray, Dr Elaine (Dumfries) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Pringle, Mike (Edinburgh South) (LD)
Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
Radcliffe, Nora (Gordon) (LD)
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)
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 Presiding Officer: The result of the division is: For 32, Against 67, Abstentions 0.

Amendment 12 disagreed to.

Section 14—Proceedings in absence of accused

The Presiding Officer: Group 4 is on proceedings in absence of the accused. Amendment 1, in the name of Margaret Mitchell, is grouped with amendments 2 to 6, 27 and 7 to 9.

Margaret Mitchell: Amendment 1 would amend the bill's provisions on trials in absence of the accused in order to establish a consistent approach to such proceedings in both solemn and summary procedures. Before the Criminal Procedure (Amendment) (Scotland) Act 2004 was passed, the Criminal Procedure (Amendment) (Scotland) Act Bill was amended with the effect that a trial in absence can proceed only if an accused fails to appear after evidence has been led that implicates him or her substantially in respect of the offence with which they are charged, and if the trial judge is satisfied that to proceed will be in the best interests of justice. Anecdotal evidence suggests that that provision in the 2004 act has worked well in the High Court. Amendment 1 would provide the same provision for the summary justice system, which—together with the strengthening of the bail conditions that will happen under section 1—would go a considerable way towards addressing non-attendance without compromising Scots law's fundamental principle that the accused has the right to a fair trial.

Under the Criminal Procedure (Scotland) Act 1995, in summary proceedings a trial can take place in the absence of the accused in limited circumstances, such as when the proceedings relate to non-imprisonable statutory offences. Amendment 1 would extend those limited circumstances and would ensure that the altered status of the solicitor-client relationship that flows from a solicitor representing an accused in his or her absence was acknowledged in statute. I hope that the minister and Parliament will accept amendment 1 in the interests of fairness and natural justice, and in the knowledge that, by so doing, we would avoid the impact that the bill's current provisions on trial in absence could have on victims and witnesses, which is that they may face retrials as a result of procedural defects during trials in absence. Amendments 2 to 9 are consequential on amendment 1.

I move amendment 1.

Johann Lamont: This group of amendments is important. I will deal briefly with Executive amendment 27 and then deal with the issues that Margaret Mitchell has flagged up.

Amendment 27 will make a minor change to section 14(4), which will insert proposed new section 150(A) into the Criminal Procedure (Scotland) Act 1995, on proceedings in the absence of the accused. The policy of section 14 will be unchanged. Subsection (10) of proposed new section 150(A) of the 1995 act provides that an accused cannot be sentenced to imprisonment in his or her absence if he or she is an adult, or to detention in a young offenders institution, remand centre or other establishment if he or she is a young person. After further consideration, it was decided that the words

"young offenders institution, remand centre or other establishment"

are unnecessary, because section 207 of the 1995 act makes it clear that "detention" means detention in a young offenders institution. There is therefore no need to qualify the reference to detention in section 14, so amendment 27 will delete that qualification.

Amendments 1 to 9, in the name of Margaret Mitchell, would provide that no summary trial could commence in the absence of the accused and that a trial could continue in absence only after evidence had been led that substantially implicated the accused. That approach mirrors the provisions on solemn proceedings in the Criminal Procedure (Amendment) (Scotland) Act 2004. My predecessor as Deputy Minister for Justice set out at stage 2 the reasons why such an amendment would be undesirable, but I will do so again.

It might superficially seem to be sensible for the same rules to govern trials in absence in both summary and in solemn procedures. However, in practical terms, trials under those procedures

operate quite differently. If amendment 1 were agreed to, we would severely limit the possibility of a trial in absence taking place in a summary case and we would defeat the aim of section 14, which is to reduce the number of accused who wilfully fail to attend for trial, safe in the knowledge that proceedings will be adjourned, to the inconvenience of the courts, the victims and the witnesses who have turned up for the case. The issue is not natural justice, as Margaret Mitchell said; the fundamental right to a fair trial is protected.

However, there is a feeling that on occasions our legal and judicial system rewards the ingenuity of the accused instead of ensuring that a case is heard fairly. The failure of the accused to turn up has significant implications for the victims and witnesses who take their responsibilities seriously and must confront the situation in which they find themselves. We ought not to overstate what is being done in section 14, but we should acknowledge that the approach is about fairness, justice and protection of people's rights.

Unlike solemn trials, the vast majority of summary trials start and finish on the same day. If that happens, the situation does not arise in which the accused fails to turn up for the trial the day after evidence that substantially implicates them is led. Therefore, for trials that are to be dealt with in a single day, amendment 1 would rule out the possibility of any part of the trial proceeding in the absence of the accused.

Amendment 1 would also rule out the possibility of a part-heard trial in absence. Under the current provisions, a judge could decide that the accused should be present for at least part of the case, but that evidence from witnesses who turned up at the right time, such as expert or vulnerable witnesses, could be heard in the absence of the accused, thereby allowing progress to be made and saving the witnesses from the inconvenience and stress of having to turn up again later. That approach seems to be fair and just. The court could hear the relevant evidence, adjourn the case to a later date and issue a warrant for the arrest of the accused in order to ensure that he or she would be present for the remainder of the trial. The amendments in Margaret Mitchell's name would make that impossible.

I ask members to bear it in mind that when a trial diet and intermediate diet is fixed, the accused will be notified of the dates and told that if he or she fails to appear the trial may proceed in his or her absence, so that he or she can be in no doubt that that might happen. There are further safeguards. For example, before a trial in absence can take place, the judge must be satisfied that it is in the interests of justice for the trial to proceed and that the accused is aware of the date and place of the diet. In assessing whether it is in the interests of justice to proceed, the court will still be required to ensure that the accused receives a fair trial, as well as to consider the interests of witnesses and victims.

The McInnes report pointed out that in 2002-03, around 4,000 summary hearings had to be adjourned because of the failure of the accused to appear. Can it be right that victims and witnesses attend court time and again, only to be told that the accused has decided not to turn up, so they cannot give their evidence? As the then Solicitor General for Scotland suggested at stage 1—and as Mike Pringle said at stage 2—there is strong anecdotal evidence to suggest that often, in cases that involve multiple accused persons, one of the accused persons does not turn up for trial on one date and another does not turn up on the next date, safe in the knowledge that the trial will not proceed. That can result in cases being abandoned because witnesses are no longer available or are unable to recall events. Should we allow that to continue?

10:00

If the accused has a solicitor who is prepared to continue to act, the court may allow him or her to do so. As the intermediate diet becomes more robust, cases will continue to trial on the basis that the solicitor is properly and fully instructed about the position and line of defence of the accused. The solicitor will therefore be in a good position to act at trial in the interests of the accused, despite his or her absence. If the solicitor declines to act, the court may appoint a solicitor to act in the interests of the accused. We think that solicitors will be prepared to do so. Members should bear it in mind that decisions on whether a trial should take place in the absence of an accused and on whether it would be in the interests of justice for that to happen will always rest with the court. We acknowledge that circumstances arise in which people are genuinely unable to attend court.

As my predecessor made clear at stage 2, section 14 was considered carefully prior to its introduction and is designed to facilitate wider use of trials in absence while ensuring that appropriate safeguards exist to protect the rights of the accused. The provisions are part of a range of measures, which I hope will mean that accused persons turn up when they are supposed to—that is what we all want. Agreement to amendment 1 might allow some accused persons to continue wilfully to frustrate the ends of justice, and to cause upset and inconvenience to victims and witnesses, delays in the court system and wasted effort for the prosecution and the defence. I am surprised that the Tories want to associate themselves with such an approach.

The approach in amendment 1 was considered by the Justice 1 Committee at stage 2 but was heavily defeated. Amendments 2 to 9, also in Margaret Mitchell's name, would make consequential changes to the bill. I urge members to reject amendments 1 to 9.

Stewart Stevenson: Amendment 1 offers us a beguiling invitation but, whn we consider whether to support it, the key test is whether failure to attend court is a decision that is in the hands of the accused. I think that members are instinctively uncomfortable with trials in the absence of the accused, but the saving grace of the measure is that an accused who chooses not to attend court understands the consequences of his or her decision. That is a situation that we can address. The approach already exists in England and we have not yet heard an outcry about injustice from across the border, so we can accept it.

However, there are other reasons why we should not support amendment 1. The drafting of the amendment is strange and would defeat the objective that Margaret Mitchell is trying to achieve, in that only one complaint would have to substantially implicate the accused before a trial could proceed in his or her absence. It would be perfectly possible for a situation to arise in which a trial in absence could proceed in which no evidence whatever had been led in all but one of a string of complaints. If Margaret Mitchell is arguing that it is unjust for a complaint to proceed in the absence of evidence having been led that "substantially implicates the accused", I presume that the approach should apply to all complaints. It cannot be just to proceed on the basis that evidence on only one complaint implicated the accused, when no evidence was led that implicated the accused in relation to other complaints. The fact that evidence was led on one complaint should not magically make it fair to proceed. Amendment 1 would not, therefore, deliver the approach that Margaret Mitchell wants, although when she sums up she might tell me that I am incorrect.

On a more general point on amendment 1, proposed new subsection (4) of proposed new section 150(A) of the 1995 act appears to offer solicitors a blank cheque, in that it would require a solicitor to act

"in accordance with his own professional judgement",

without defining what that would mean. Mr MacAskill's professional judgment as a lawyer, for example, might differ from that of other lawyers.

Unless Margaret Mitchell makes compelling arguments when she sums up, we will not support amendments 1 to 9.

Pauline McNeill: Too many people fail to attend for their own court cases—4,000 a year, according to the McInnes committee. The Justice 1 Committee has stated clearly that that is not acceptable behaviour when people have been cited properly. Obviously, the reasons why people do not appear will vary, although I am not altogether clear whether the McInnes committee tried to look behind those reasons.

Some cases involve many accused persons. In one such case in my casework, a different person failed to appear in court on different occasions. The case was eventually abandoned on the third occasion, after all the witnesses had attended.

There will be people who deliberately fail to appear, and there will be people who lead chaotic lives—perhaps due to drug or alcohol addiction—and who do not appear for that reason. The latter is not an excuse for not appearing, but we have to acknowledge that the 4,000 people who fail to appear will not have the same reasons. The Justice 1 Committee has said clearly that we want more research to be done into why people do not appear. Work on that should be done in the reform of the criminal justice system, but work should also be done to ensure that more people attend their own court cases.

If we were to reform the current system to allow trials to proceed in the absence of the accused, the courts should not use that provision widely. I would like the minister to assure us that she would not expect the courts to do so. As she says, a fair trial is essential. We cannot reform the criminal justice system without ensuring fairness.

Amendment 1 was also debated at stage 2. I did not support it then and I cannot support it today. Although I understand what Margaret Mitchell is trying to achieve, I agree with the minister that it is not really appropriate to translate trials under solemn procedure—which, in essence, are much longer—to trials under summary procedure. I attempted at stage 2 to narrow the bill's provisions with an amendment, but I had to accept that my amendment was not workable.

I would, however, still like assurances that the minister will do other things, apart from reforming the law, to look behind the reasons why people do not attend their own court cases. I accept that the bill's provisions set out tests to ensure that a judge has to consider whether it is just to hold the trial in the accused person's absence. The lawyer representing the accused has also to be sure that he or she can fairly represent the accused in his or her absence. As we know, lawyers have been worried about the effect of the Anderson case; they will want to ensure that they are not criticised for not properly representing their clients.

It is important to note that the reforms in the bill will mean that no one will be sentenced to custody—or to any sentence requiring their

agreement, such as a community sentence—without their being present. Will the minister clarify how that will work? I presume that a warrant will be issued for the accused's arrest to bring him or her before the court for sentencing, but I do not want just to presume that, so I would be grateful for clarification.

In conclusion, I cannot support the amendments, but I would like assurances from the minister on the issues that I have raised.

Bill Aitken (Glasgow) (Con): People not turning up for trials is undoubtedly a problem. I will tell members why the problem exists: for too many years, far too casual an attitude has been taken in the execution of warrants. When the accused has failed to appear and when the judge has been satisfied that the accused was aware of the trial diet, a warrant has been issued. Those warrants have then lain in the procurator fiscal's office for weeks or months—in fact, many of them have ultimately been binned. That approach is known to people who want to escape justice, which is why we have the problem.

The Executive seeks to remedy the problem by introducing something that, to be frank, verges on oppression. That will not work. It will not have escaped the minister's notice that in many instances, in summary trials in particular, identification is a key factor in evidence. If the accused is not present at the trial, he cannot be identified. That is a real problem.

What happens if the accused does not turn up for a fairly acceptable reason? A case is called; the accused is not present; the lawyer says, "Well, I saw him last Wednesday and he was aware of the trial diet. I tried to contact him this morning, but without success." It transpires that, while the accused was making his way to court, he was injured in an accident or was taken seriously ill and is in hospital. Such events might not happen frequently, but they happen. The Executive is putting through blanket legislation that runs the real risk of causing injustice.

Everything could have been sorted out if the Executive had ensured that a much more robust approach was taken to execution of warrants. If that had been done, there would have been no need for us to come to the chamber today.

The Deputy Presiding Officer (Murray Tosh): Before I ask Margaret Mitchell to wind up, I will call the minister to respond to the debate.

Johann Lamont: I appreciate that very much, Presiding Officer—although I have to say that I am almost lost for words at what the new Tories now claim is their attitude. Anyone who could accuse me of being oppressive is perhaps offering a challenge too far.

Bill Aitken does not help his case by hugely overstating what the Executive is doing, by hugely overstating its consequences, and by hugely understating the significance of the problem when people wilfully seek not to take responsibility for their own actions and do not appear at court.

The provisions in the bill would be a deterrent. People who thought they could benefit by not bothering to turn up at court now know that their actions will have consequences. However, the bill also contains safeguards. It is in the interests of justice—a reasonable test—that there should be a means of appeal if a person is knocked down by a bus and cannot come to court.

Identification was mentioned. Clearly, it would not be appropriate to hold trials that involve dock identification in the absence of the accused, but no one is suggesting that that would happen. Why, however, when identification has already been made, when some witnesses are vulnerable and when professional witnesses can give professional evidence regardless of whether the accused is there, is it not possible for that trial to continue? I do not think that the alternative case has been made. There will be an appeal mechanism and we have considered the interests of justice.

Bill Aitken's position is ludicrous and is entirely out of step with those who want to ensure that the justice system serves the interests of the accused and the interests of victims and witnesses. He made points about warrants but refuses to challenge people to take responsibility for their own behaviour. The issue is not simply one of warrants not being issued. Even if it were, problems would arise over the time it takes to issue warrants.

I turn now to the points that were made by Pauline McNeill. Although there could be a trial in absence, there cannot be a sentence in absence. Once a trial has taken place, the court will be adjourned, a warrant issued—

Bill Aitken: Will the minister take an intervention on that point?

Johann Lamont: Yes.

Bill Aitken: I fully concede that it is a problem when someone irresponsibly fails to turn up at court. However, does the minister agree that if a warrant were issued, the accused brought immediately to court because the warrant was executed immediately and was then remanded in custody pending the trial, that would be a much greater deterrent?

Johann Lamont: For a start, some summary cases last only one day—the procedure that Bill Aitken suggests would inevitably extend such cases beyond one day. Professional witnesses and others would have to appear and there would

be delays in the process. We are not saying that the only approach is to hold the trial in absence, but there are sufficient safeguards in the bill to address Bill Aitken's points.

I will finish the point that I was making in response to Pauline McNeill. If the accused was not present in court, the court would be adjourned, a warrant for their arrest issued and the accused brought to court for the announcement of the sentence. That situation is not all that far from other situations in which courts defer sentencing in order to obtain more information.

I reassure Parliament that the test that a trial in absence must be in the interests of justice is written into the bill, as is the fact that trial in absence will not go ahead if there are issues specifically to do with identification. Along with the fact that there is an appeal, that should allay members' concerns. It should be acknowledged that people not appearing at their own trials is a significant problem. By failing to confront their responsibility to appear, they put everyone else at huge inconvenience.

10:15

Margaret Mitchell: The minister's main contention in continuing to press the provision in the bill appears to be that the end justifies the means. It does not. The fact that there is wilful non-attendance in summary courts does not mean that all people who attend court should be penalised, which is what the provision in the bill will mean. By rejecting amendment 1, which would provide the minister with a workable and sensible compromise between what is proposed in the bill and the present arrangements, the minister will miss the opportunity to ensure consistency in solemn and summary procedures.

The system that I propose, which has already been tested in the High Court, would lead to clarity. Although I accept that a much higher volume of cases are subject to summary procedure, the minister does not seem to be aware that such cases can go on for two or three days and that it is not the case that everything happens in one day. Such cases will still be caught by the bill.

To address Stewart Stevenson's contention that my proposal contains an anomaly and a contradiction, that is covered by judges' ability to decide whether it is in the interests of justice to proceed. Judges will make such decisions based on the available facts on the circumstances of cases.

The minister and the Executive have opted for the nuclear option, even though stage 2 amendments would have provided that both the accused and their solicitor had to be notified of the trial diet. Such amendments were lodged because it was fully recognised that many of the people who appear in summary courts are among the most vulnerable individuals in society. They have chaotic lifestyles, are dependent on drugs and alcohol and are not organised.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): Will Margaret Mitchell tell Parliament what her proposal would mean for the victims of crime who were waiting for the trial?

Margaret Mitchell: I am happy to do so. For victims and witnesses, my proposal would mean that they would not face the uncertainty of a procedural technicality arising because the accused's not being present meant that there had to be a retrial.

I urge Parliament to support amendment 1 and, in doing so, to preserve a fundamental principle of Scots law, which is the right to a fair trial.

The Deputy Presiding Officer: The question is, that amendment 1 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Brownlee, Derek (South of Scotland) (Con)
Curran, Frances (West of Scotland) (SSP)
Davidson, Mr David (North East Scotland) (Con)
Douglas-Hamilton, Lord James (Lothians) (Con)
Fox, Colin (Lothians) (SSP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Johnstone, Alex (North East Scotland) (Con)
Kane, Rosie (Glasgow) (SSP)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Petrie, Dave (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
Alexander, Ms Wendy (Paisley North) (Lab)
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)
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)
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)
Gibson, Rob (Highlands and Islands) (SNP)
Gillon, Karen (Clydesdale) (Lab)

Glen, Marlyn (North East Scotland) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
Gorrie, Donald (Central Scotland) (LD)
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)
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)
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)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
Murray, Dr Elaine (Dumfries) (Lab)
Neil, Alex (Central Scotland) (SNP)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Pringle, Mike (Edinburgh South) (LD)
Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
Radcliffe, Nora (Gordon) (LD)
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)
Swinney, Mr John (North Tayside) (SNP)
Wallace, Mr Jim (Orkney) (LD)
Welsh, Mr Andrew (Angus) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)
Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 15, Against 82, Abstentions 0.

Amendment 1 disagreed to.

Amendments 2 to 6 not moved.

Amendment 27 moved—[Johann Lamont]—and agreed to.

Section 15—Failure of accused to appear

Amendment 13 not moved.

Section 21—Service of documents through solicitor etc

Amendment 7 not moved.

After section 25

Amendments 14 and 15 not moved.

After section 28

Amendment 16 not moved.

Section 28A—Jury citation

Amendment 17 not moved.

Section 30—Evidence on commission

The Deputy Presiding Officer: Group 5 is on further miscellaneous amendments to the Criminal Procedure (Scotland) Act 1995. Amendment 28, in the name of the minister, is grouped with amendments 57, 56, 58, 60 and 61.

Johann Lamont: Amendment 28 is a purely technical drafting amendment to section 30. Section 30 adds new subsections to section 271I of the 1995 act that relate to the taking of evidence on commission. Amendment 28 seeks to shorten the wording of one of those subsections to make its meaning clearer. The effect of the provision remains the same and the policy behind section 30 is unchanged.

Amendments 56 to 58, 60 and 61 are technical in nature and will not change the substance of the bill. Paragraphs 7 to 17 of the schedule to the bill seek to amend and repeal various sections of the 1995 act to ensure that the provisions of the bill will operate effectively. To improve readability, the amendments should appear in ascending order of the section of the 1995 act to which they relate. Under the current drafting, several provisions are out of sequence. Amendments 56 to 58, 60 and 61 seek to correct that.

I move amendment 28.

Amendment 28 agreed to.

Section 31A—Intimation to respondent of certain applications to the High Court

The Deputy Presiding Officer: Group 6 is on intimation of certain applications to the High Court. Amendment 29, in the name of the minister, is grouped with amendments 30 and 31.

Johann Lamont: Amendment 29 seeks to make a minor change to section 31A. Section 31A will insert into the 1995 act new section 298A, which deals with the procedure to be followed when bills

of advocation, petitions to the nobile officium or orders of the High Court relating to those bills or petitions—which are all forms of appeal—are intimated.

Amendment 29 will allow the intimation of those documents to be carried out by serving documents on the respondent or on the respondent's solicitor, which should help to improve the process of communicating the documents and to ensure that the appeal process goes smoothly. The documents in question are often technical in nature, so it makes sense to allow them to be sent to the respondent's solicitor, when that is appropriate. Increasing the number of ways in which the documents can be served will improve the progress of appeal proceedings. Practically speaking, it is the solicitor, in consultation with the respondent, who will need to consider the approach to be taken to the appeal as a matter of urgency, so getting the appeal documentation to him or her as quickly as possible makes sense.

Amendments 30 and 31 are consequential to amendment 29. Amendment 30 will make it clear that when those documents are served on the respondent's solicitor, that service is to be effected by post. Amendment 31 seeks to update a reference in section 298A(10), which deals with modifications to section 141 for the purposes of section 298A, to ensure that it applies only to service on the respondent. The substantive law relating to such appeals is not affected by amendment 31.

I move amendment 29.

Amendment 29 agreed to.

Amendments 30 and 31 moved—[Johann Lamont]—and agreed to.

After section 32

Amendment 18 not moved.

Section 34—Sheriff summary: particular statutory offences

The Deputy Presiding Officer: Group 7 is on the maximum sentence for wildlife offences. Amendment 32, in the name of the minister, is the only amendment in the group.

Johann Lamont: Amendment 32 is technical in nature. Section 26A of the Wildlife and Countryside Act 1981 allows powers under section 2(2) of the European Communities Act 1972 to be used to impose a higher maximum sentence, on summary conviction, than would usually be available under that act for crimes associated with the implementation of the habitats directive.

However, as presently framed, those powers cannot be used for offences that relate to the protection of the species of animal that were added to annex IV of the habitats directive after the accession to the European Union of Austria, Finland and Sweden in 1997. That is because section 26A of the 1981 act refers to the form and content of the habitats directive only up to the time of those countries' accession. The directive has subsequently been amended to take account of other new states that have joined the European Union. It is therefore necessary to ensure that enforcement of those amendments can be supported by the higher penalty.

Amendment 32 is necessary because of the amendment of the habitats directive by the act concerning the accession of the Czech Republic—and those of other new member states—which extends the protection of the directive to species that are native to those new member states. The amendment increases the maximum custodial sentence on summary conviction that can be imposed for crimes against those species from three months to six months. That will bring sentencing for crimes against those species into line with that for all other species that are listed in annex IV of the directive. This is not a change in sentencing policy; rather, we are correcting a technical deficiency under which the appropriate level of penalty cannot be applied to certain offences simply because they relate to species of the newer EU member states.

Amendment 32 will have the effect of making section 26A of the 1981 act ambulatory, which will allow any future amendments to the habitats directive to be taken account of. That will ensure that the correct maximum level of penalty can be applied to all offences that are created in pursuance of the directive in the future.

I move amendment 32.

Stewart Stevenson: I have no difficulties with amendment 32. However, given that the amendment involves a change to our law when directives are changed in Europe without our direct involvement—I suspect that that is the case in other parts of our law—how will we be made aware of any consequential effects on Scots law when that happens?

Johann Lamont: I emphasise that amendment 32 is a technical amendment. The issue of the communication and awareness of changes in the law is a challenge that we all face. I am sure that the Executive and those who are involved in the legal process and our committee structure will ensure that important opportunities are made by which we can keep ourselves well informed and ensure that the issues are properly communicated.

Amendment 32 agreed to.

Section 35—Sheriff summary: other statutory offences

The Deputy Presiding Officer: Group 8 is on penalties: applications of statutes. Amendment 33, in the name of the minister, is grouped with amendment 34.

Johann Lamont: Amendments 33 and 34 are technical amendments. They clarify the definition of "relevant enactment" in sections 35(6) and 36A(7). The policy behind those sections remains unchanged.

Section 35 makes provision for increasing the maximum period of imprisonment that may be imposed in respect of all statutory offences that are triable under either solemn or summary procedure to 12 months on summary conviction. Section 36A and section 37 increase the maximum fine that may be imposed in respect of all statutory offences that are triable either way to £10,000 on summary conviction. Those maxima are being increased to allow the sheriff summary courts to deal with a wider range of appropriate business.

The purpose of amendments 33 and 34 is to make absolutely clear the enactments to which sections 35 and 36A will apply. Those sections will apply to a relevant enactment, which is defined as an act that is passed before the bill is passed. Amendments 33 and 34 make it clear that, for the limited purposes of sections 35 and 36A respectively, an act of the Scottish Parliament will be treated as having been passed when the bill for that act is passed by the Parliament at stage 3.

The amendments in the group will in no way affect the time at which the provisions of any act of the Scottish Parliament may come into force. Provisions in acts come into force only after royal assent has been given. The amendments simply make it clear that the provisions in sections 35 and 36A apply to offences, or powers to create offences, that are contained in any act of the Scottish Parliament that has completed its parliamentary procedure before the passing of the bill. That will ensure that, should any act that contains a lower summary maximum be passed before the bill, it can be uprated. That is in line with the policy of allowing the sheriff summary court to deal with an appropriate level of more serious business in the future.

I move amendment 33.

Amendment 33 agreed to.

Section 36A—Fine level

Amendment 34 moved—[Johann Lamont]—and agreed to.

After section 36A

Amendment 19 not moved.

After section 37

The Deputy Presiding Officer: Group 9 is on justice of the peace courts: drug treatment and testing orders and community service orders. Amendment 35, in the name of Mary Mulligan, is grouped with amendment 36.

10:30

Mrs Mary Mulligan (Linlithgow) (Lab): When proposals for the bill were being considered at committee, the future of the district courts was also discussed. I am pleased that the bill that is before us provides for the continuation of the district courts, albeit that they will be known in future as justice of the peace courts. The process has given members the opportunity to consider the role and powers of the new JP courts. Amendment 35 seeks to remove from the Criminal Procedure (Scotland) Act 1995 the need for ministers to notify the new JP courts before the courts can begin to use drug treatment and testing orders.

When members of the Justice 1 Committee met members and officials of the West Lothian district court and subsequently met a number of JPs prior to Christmas, we heard—indeed, it was stressed to us—how useful DTTOs would be as a disposal in the new JP courts. As everyone said, a large percentage of the accused who come before the present district courts are there as a result of drug-related offences. In light of the success of DTTOs as a community disposal in the sheriff courts, I believe—in common with many others—that it would be beneficial to give the new JP courts the power to make DTTOs. In a similar vein, amendment 36 would allow the new JP courts to have as a disposal community service orders. Amendment 36 would remove the need for ministers to notify the new JP courts that they can use community service orders as required under the 1995 act.

During the progress of the bill, we have extended the role of the procurators fiscal and the disposals that are available to them. It seems logical for the disposals that are available to PFs to be made available to the new JP courts. That would be in line with the move to increase community-based disposals. I hope that the minister understands why I lodged amendments 35 and 36. They are supported by many people who give their time to make our district courts an effective part of our judicial system.

I move amendment 35.

Stewart Stevenson: The district courts, which will become the JP courts, are an important part of

our criminal justice system. Of course, in tapping into the voluntary effort of people in our communities, they provide an effective link between the criminal justice system and wider society. As parliamentarians, we should always encourage the idea of getting something for nothing; it means that money is left available for the things that we have to pay for. To be serious, the McInnes report put the district courts under some attack. There is a wide sense of relief across the chamber that we are now in a position of building on the success of the district courts in the JP courts. I welcome Mary Mulligan's amendments 35 and 36.

Of course, given the antipathy on the Conservative benches to DTTOs, I am particularly interested to hear what Margaret Mitchell will say about giving DTTOs to the JP courts. That antipathy is entirely consistent with the line of swinging this way and that that the Tories have taken on drugs policy. I am glad that the Tories are visiting the excellent clinic in Oldmeldrum today to learn—as every other party has done—about the excellent work that is done there. I hope that the visit leads to greater consistency on those benches in that policy area. I also hope that Tory members will join the rest of the chamber in supporting Mary Mulligan's amendments 35 and 36, which are worthy of consideration.

Margaret Mitchell: I am grateful to Stewart Stevenson for highlighting the inconsistency in SNP policy. He appears not to know, although he should know, that the Conservatives have argued consistently for the district courts—the new JP courts—to have DTTOs as an available disposal.

I welcome the amendments in the group, which Mary Mulligan lodged in response to an appeal that was made by the District Courts Association. I hope that the minister will accept them. That said, it must be pointed out that the amendments were not necessary. At any time, the Minister for Justice could have introduced DTTOs under the existing legislation. That would have made sense, given the need for early intervention in trying to solve the serious problem of drug abuse.

I also very much welcome the proposal to enable community service orders to form part of the disposals that are available to justices of the peace. However, that still leaves a gap in the range of disposals: we should ensure that supervised attendance orders are a disposal of first instance instead of being used only when someone has defaulted on a fine. I would welcome the minister's comments on that.

Johann Lamont: The Executive takes the view that it would not currently be appropriate to extend the use of DTTOs and CSOs in the way in which amendments 35 and 36 envisage. That is not to say that we do not recognise the role and value of the district courts or the potential for such extension in the future. Our first priority for DTTOs was to roll them out in sheriff courts first, and it is heartening that they have been as successful as they have been. Moreover, although we might want to consider broadening the options for disposals in district courts, it is not necessary to support amendments 35 and 36. We are alive to the possibility of broadening the options and are willing to consider it further.

Less than 1 per cent of district court cases outside the stipendiary magistrate courts result in custodial sentences. Currently, CSOs and DTTOs are explicitly regarded as alternatives to custodial sentences. Therefore, there are very few cases at present in which it would be appropriate for district courts to impose such orders. However, that might not be the case in the future, as district courts might take on work that is more appropriate for custodial sentences and, therefore, the use of CSOs and DTTOs could perhaps be extended.

It is worth noting that district courts currently have access to a number of community sentences. For example, they can and do impose probation orders. In addition, supervised attendance orders for fine defaulters have been available to district courts for many years. We are exploring how the range of community disposals that is available to district courts might be extended. For example, the use of SAOs as a disposal of first instance is being piloted in Renfrewshire and West Dunbartonshire. Mary Mulligan and other members will know that we are, as ever, alive to imaginative and creative ways of developing and using community disposals. We are also piloting the use of community reparation orders as disposals for dealing with acts of antisocial behaviour in three areas. Both sets of pilots are being independently evaluated and the findings will inform decisions on wider roll-out. If wider roll-out is thought to be appropriate, it could be achieved by an administrative circular rather than by amending primary legislation.

The current sentencing practice of district courts suggests that there is little need for additional disposals that provide direct alternatives to custody. However, if a significant change to the current situation were to occur as a result of the bill's other provisions, we could and would think again about whether there was a need to reconsider the availability of DTTOs and CSOs in the district courts. If such a move was thought to be appropriate, it could be achieved administratively without a need for legislative change. For that reason, the current position seems to us to be preferable to amendments 35 and 36.

We are not saying that we should never widen the use of DTTOs and CSOs, nor are we

disregarding the opportunities that the district courts provide. The use of DTTOs and CSOs could be widened in the future and we do not consider amendments 35 and 36 to be necessary or appropriate at this stage. Therefore, I invite Mary Mulligan to withdraw amendment 35.

Mrs Mulligan: I was aware that the minister already had powers to extend the use of DTTOs and CSOs. However, given that those powers had not been used, it was important that we have the debate, because it provided us with an opportunity to consider what powers district courts—or JP courts, as they will become—will have in the future.

I note that the minister says that, at present, DTTOs and community service orders are used as alternatives to custody. However, the point has been made that they could also be used as a means of early intervention and, therefore, I welcome the minister's comment that the Executive will consider such use. I also welcome the fact that she referred to the pilot projects that are under way, which could inform us further about how to ensure that the appropriate disposals were available to all sections of our judicial system.

On that basis and knowing that, should the evidence that would provide for the extension of the orders be found, the minister has the powers under the 1995 act to implement such an extension, I seek leave to withdraw amendment 35.

The Deputy Presiding Officer: Do members object to the withdrawal of amendment 35?

Members: Yes.

The Deputy Presiding Officer: In that case, the question is, that amendment 35 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)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Byrne, Ms Rosemary (South of Scotland) (Sol)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Douglas-Hamilton, Lord James (Lothians) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
Gibson, Rob (Highlands and Islands) (SNP)
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)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
McLetchie, David (Edinburgh Pentlands) (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)
Scott, John (Ayr) (Con)
Stevenson, Stewart (Banff and Buchan) (SNP)
Swinney, Mr John (North Tayside) (SNP)
Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
Welsh, Mr Andrew (Angus) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Baird, Shiona (North East Scotland) (Green)
Baker, Richard (North East Scotland) (Lab)
Ballance, Chris (South of Scotland) (Green)
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)
Ferguson, Patricia (Glasgow Maryhill) (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)
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)
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)
McNeill, Pauline (Glasgow Kelvin) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
Murray, Dr Elaine (Dumfries) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Pringle, Mike (Edinburgh South) (LD)
Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
Radcliffe, Nora (Gordon) (LD)
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)
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

Curran, Frances (West of Scotland) (SSP)
Fox, Colin (Lothians) (SSP)
Kane, Rosie (Glasgow) (SSP)

The Deputy Presiding Officer: The result of the division is: For 28, Against 67, Abstentions 3.

Amendment 35 disagreed to.

Amendment 36 not moved.

Section 39—Fixed penalty and compensation offers

The Deputy Presiding Officer: Group 10 concerns miscellaneous amendments on penalties as an alternative to prosecution. Amendment 37, in the name of the minister, is grouped with amendments 38 and 41 to 46.

Johann Lamont: Amendments 37, 41, 43 and 44 make minor wording changes: where the phrase "liability for conviction" occurs in sections 39 and 40, they change it to "liability to conviction". The change ensures consistency with existing provisions in the 1995 act and the effect of sections 39 and 40 is unchanged.

Amendments 38 and 42 make minor changes to section 39. They substitute the current form of wording in proposed new sections 302(4) and 302A(4) of the 1995 act, which section 39 would insert, with more detailed provision.

Proposed new sections 302(4) and 302A(4) set out when notification should be given to the procurator fiscal by the clerk of court of whether the offer of a fiscal fine or compensation offer has been accepted, deemed to have been accepted or rejected. Those sections currently place a requirement on the clerk of court to notify the procurator fiscal about the outcome of an offer of a fiscal fine or compensation offer upon the expiry of the 28-day period or such longer period as may be specified in the offer.

Having considered the issue further, we think that the use of the word "upon" in that context may create some administrative difficulties. It suggests an immediate obligation on the clerk of court to notify the outcome of an offer to the procurator fiscal as soon as the time period has expired. If notification by the clerk had to take place immediately, it could create difficulties for the information technology systems that are operated by the clerk, the procurator fiscal and the Scottish Criminal Record Office.

Amendments 38 and 42 substitute more detailed provision that makes it clear that the clerk is required to notify the procurator fiscal of acceptance or deemed acceptance of an offer after the expiry of the relevant period, rather than immediately upon its expiry. They also make it clear that the clerk of court does not have to wait for the expiry of the relevant period before notifying the procurator fiscal that an offer has been actively refused by an alleged offender. That would build in an unnecessary delay to subsequent action by the prosecutor.

Amendments 38 and 42 allow the clerk to intimate the outcome of an offer when it is practicable to do so. I stress that the change will have no direct impact on the accused. The obligation in question requires the clerk of court to advise the fiscal of the outcome of an offer of an alternative to prosecution so that the fiscal can update the case records and take appropriate action.

Amendments 45 and 46 make very minor changes to proposed new section 303ZA(9) of the 1995 act, which section 40 would insert and which relates to work orders. The expressions "the alleged offender" and "an alleged offender" in subsection (9) are exchanged, as a general reference to "an alleged offender" is more appropriate at the first occurrence of the words "alleged offender", and a specific reference to "the alleged offender" is more appropriate at the second occurrence of the words "alleged offender". I hope that that is clear. The proposed changes have no effect on the bill's policy.

I move amendment 37.

Amendment 37 agreed to.

Amendment 38 moved—[Johann Lamont]—and agreed to.

10:45

The Deputy Presiding Officer: Group 11 is on penalties as an alternative to prosecution: general. Amendment 39, in the name of Pauline McNeill, is grouped with amendments 40, 67, 47, 65 and 66.

Pauline McNeill: During the committee's stage 2 consideration on 15 November, I lodged an amendment that was intended to limit the maximum fiscal fine to £300, rather than setting it at £500, as the McInnes report proposed. That amendment provided the flexibility to increase that level in future should it be considered appropriate. It was lodged as a result of my and the committee's concerns about the prospect of an increase in the fiscal fine level from £100 to £500.

On a number of occasions, we heard from the Crown Office about the types of cases that might be covered by such an increase in the fiscal fine level. Although the committee agreed with the principle of the approach, it was not convinced that the significant increase from £100 to £500 was justified. The committee was told that the vast majority of fiscal fines would be no greater than £250. Although we were prepared to accept that an increase in the maximum fiscal fine would be appropriate, the committee's general view was that the case for a substantial increase had not been made. I was pleased that Hugh Henry, who was then Deputy Minister for Justice, indicated that he was prepared to support the aims behind my stage 2 amendment, subject to some drafting changes.

I have now been able to reconsider the issue, and I will be pleased to move amendments 39 and 67, which provide that the maximum level of fiscal fine that may be prescribed is £300, subject to any future increase, which will require to be made by statutory instrument. The then Deputy Minister for Justice informed the committee that

"a level of £300 would allow prosecutors to deal with the vast majority of cases"—[*Official Report, Justice 1 Committee*, 15 November 2006; c 4009.]

that are suitable for fiscal fines.

Amendment 67 provides that flexibility, as it allows that the maximum level of fiscal fine may be increased by order in the future. Such an order will be subject to the affirmative procedure, which will ensure that the Parliament can properly scrutinise and approve any increase in the maximum level of fiscal fine. That will occur only if the case for such an increase is made and if the evidence suggests that the increased use of fiscal fines, for which the bill provides, has proved effective.

Some members might have noticed that amendment 67 was lodged as a manuscript amendment—I am sure that Stewart Stevenson did, as he usually notices such things. It is intended to replace amendment 40, which makes identical provision to amendment 67, with the exception of the choice of procedure to which the proposed order-making power will be subject. After I lodged amendment 40, it became apparent that the order-making power to which it relates would be subject to the negative procedure, but it was always my intention for the power to be subject to the affirmative procedure, which I am sure the Parliament will support. I therefore lodged amendment 67 to rectify the position, and I intend to move amendment 67 when it is called and not to move amendment 40.

I move amendment 39.

Johann Lamont: Amendment 47 inserts a new section into the bill to insert new section 303ZB into the Criminal Procedure (Scotland) Act 1995, and provides that the procurator fiscal may set aside the offer of a fiscal fine, compensation offer, work offer or work order in certain circumstances. The procurator fiscal will be able to set aside an offer or order when he or she considers that the original offer or order should not have been made because, subsequent to making it, information has come to light that renders the basis of the decision to do so untenable. That power applies whether or not an offer has been accepted or is deemed to have been accepted.

When an offer or order is set aside, the procurator fiscal will give notice of that fact to the alleged offender, as well as notice that he or she cannot be prosecuted for the alleged offence to which the offer or order relates. That provision will be useful where offers are occasionally made and accepted and, for various reasons, the accepted offer turns out to be unreliable. An example of that could be where a person provides false details to the police and, as a result, the offer is sent to the wrong person. If the fact that false details were given comes to the attention of the procurator fiscal, he or she, by use of the power, will be able quickly to remedy the situation with the minimum inconvenience to the innocent third party.

Amendment 47 provides a further safeguard in the new system of alternatives to prosecution, in addition to the recall procedures that are already provided for in the bill. Those procedures were strengthened at stage 2 following a number of helpful observations by the Justice 1 Committee in its stage 1 report. The additional provision bolsters the safeguards that are in place to ensure that, where appropriate, an accepted offer of an alternative to prosecution can be set aside, which will help to ensure that the system is both just and efficient. I hope that members will be further reassured by amendment 47. The opt-out scheme that the bill introduces will provide a credible, effective and efficient system of alternatives to prosecution while ensuring that the system is fair and protects the interests of the alleged offender.

I am grateful to Pauline McNeill for lodging amendments 39 and 67, and I am happy to support them. My predecessor made it clear to the Justice 1 Committee when the equivalent amendment was introduced at stage 2 that we supported it in principle, subject to some minor drafting alterations. We are firmly of the view that it is important to give prosecutors increased scope for the use of alternatives to prosecution. That, in turn, will enable better use to be made of court time.

We also accept the Justice 1 Committee's concern that, at this stage, the argument for an increase in the maximum fiscal fine to £500 has not been made. I am grateful to the committee for

its constructive approach to the issue. My understanding is that a maximum fiscal fine of £300 should, in the majority of cases, allow procurators fiscal to deal quickly and proportionately with alleged offenders where a fiscal fine is thought to be the best way of dealing with the matter. I therefore support amendments 39 and 67.

On amendments 65 and 66, in the name of Margaret Mitchell, section 39 makes changes to the process of accepting fixed penalties, otherwise known as fiscal fines, and makes provision in relation to compensation offers, which are a new alternative to prosecution. Section 40 creates the work order, which is a further alternative to prosecution. Amendment 65 would compel a future Executive, as a matter of law, to produce a report on the operation of the changes that are being introduced to the system of alternatives to prosecution under sections 39 and 40.

Amendment 66 would cause sections 39 and 40 to cease to have effect within five years of the provisions coming into force and would, in practice, compel a future Executive and Parliament to reconsider the provisions for alternatives to prosecution. Depending on the result of that consideration, the Parliament would have to make further provision through primary legislation if it wished to retain the changes that are being made now by sections 39 and 40. Additionally, amendment 66 would leave us with an untidy system on the statute book.

In opposing the amendments in the name of Margaret Mitchell, I make it clear that we are committed to developing an effective system for monitoring and evaluating the changes that the bill and the wider summary justice reform programme will make. That was alluded to previously by Stewart Stevenson. However, we must do that in a way that helps further improvements to be made to the system, not in a way that forces us to look in a blinkered manner at one particular aspect of the package, which may or may not be worthy of such detailed attention at a point in the future. There is limited benefit in considering one part of the summary justice system in isolation. Many people made that point during the considerations that led to the introduction of the bill—and have done so throughout its passage—which is why we asked Sheriff Principal McInnes to prepare a report on the entire summary justice system, end to end, and why the bill deals with all aspects of the system. To commit a future Parliament to review one part of the package would rather miss the point.

Of course, the Executive as a whole is accountable to Parliament. Members of any future Parliament will be free to ask questions about the operation of the new legislation and its practical impact, just as they are free to do in other areas. Future committees of the Parliament may wish to take up that issue. New legislation is not required to hold the Executive to account on legislation or matters of policy.

Amendments 65 and 66 would mean that a future Parliament would be compelled to use some of its time to reconsider this area of the law and to make further legislative provision, even if the existing provisions were working well. Amendment 66 would negate the effects of sections 39 and 40 five years after they had come into force. That might be a waste of time for the future Parliament, which no doubt will want to address its own priorities rather than issues that its predecessor thought might be a priority.

Amendment 66 would also create a degree of uncertainty for those who implement the reforms. New systems and changes to existing systems will be required to ensure that the operation of fiscal fines, fiscal compensation offers and work orders is effective in future. Amendments 65 and 66 would leave a shadow hanging over the bill.

As I am sure Justice 1 Committee members will recall, sections 39 and 40 were the subject of much debate at stages 1 and 2—debate that led to a number of changes. At the conclusion of stage 2, I think that the majority of the Justice 1 Committee were of the view that the provisions in those sections struck the right balance between fairness and efficiency. However, the issues are complex, and any future parliamentary scrutiny would need to be similarly detailed.

I firmly believe that we should let members of a future Parliament exercise their own judgment as to what issues are important to them, which may mean members enacting new legislation or amending provisions in this bill when enacted to deal with any concerns that arise. However, that is a judgment for the future, not for today. If members believe that sections 39 and 40 should be passed, they should pass them in the usual way. If my checks are correct, with the exception of the convener of the Justice 1 Committee, I am the only member who has lodged amendments to these sections at stage 3. I assure members, however, that that was to further improve them and not because I am in any doubt.

I reassure members that the information that we will need to monitor the operation of alternatives to prosecution will be forthcoming from the Crown Office, the police and the Scottish Court Service. Also, I remind members that other provisions in the bill place the Crown Office inspectorate on a statutory footing. That body will have the power to inspect the operation of the Crown Office and Procurator Fiscal Service, including its detailed procedures and practices. Structures and systems will be in place to ensure that those new measures are effectively and appropriately used.

Alternatives to prosecution have been part of our justice system for almost 20 years, in the form of fiscal fines. They are well understood and they work. In appropriate cases, those accused of minor offences can avoid picking up a criminal record, and the courts are left free to deal with more serious cases. The introduction of the fiscal compensation offer and work order will further improve that system. We want to build on that system using the recommendations that have been made by an expert committee and which have been scrutinised and supported by this Parliament.

Amendments 65 and 66 have the potential to create exactly what the entire bill seeks to eliminate—wasted effort. They would force detailed work on one aspect of a much wider programme and force a future Parliament to spend its time on issues that it might not consider to be a priority. For those reasons, I encourage the chamber not to support the amendments in Margaret Mitchell's name.

Margaret Mitchell: Amendment 65 introduces a sunset clause into the legislation and amendment 66 is consequential.

Amendment 65 relates to the provisions that deal with alternatives to prosecution, whereby an offer of an alternative to prosecution will be deemed to have been accepted unless the accused gives notice to the clerk of court within 28 days that he or she is refusing the offer. The opt-out provision is, therefore, a radical departure from current practice. I acknowledge that the minister has gone a considerable way towards ensuring that the necessary checks and balances are in place to avoid a situation in which an individual who, for various legitimate reasons, is unaware of the notice is deemed to have accepted the alternative. Nevertheless, in the interests of justice, it would be sensible, after a reasonable period of time has elapsed, to review the provision.

Amendment 65 therefore provides for the creation of a research project to analyse the operation of the provision and for that research to be laid before Parliament within three years of the provision coming into force. It further provides that the relevant sections of the bill will cease to have effect five years after the date of commencement. That means that the full impact of the provision could be properly assessed and debated in the context of the detailed analysis of its operation over an appropriate period of time. I hope that the minister will have second thoughts on this issue.

With regard to amendment 39, I do not consider that the case has been made for the substantial increase in the level of fiscal fines to £500. I believe that £300 is an adequate limit in relation to the offers that are envisaged, therefore I will be supporting amendment 39.

11:00

Stewart Stevenson: I commend Pauline McNeill on her prescience and attention to detail and the entirely justified assumption that I am, of course, infallible.

I support amendments 39 and 67 which, it is clear from the debate, have widespread support. They strike a better balance between the previous arrangements and the original figure of £500.

With regard to amendment 65, in the name of Margaret Mitchell, there is a precedent for such a provision. When Margaret Curran was the Minister for Communities, she accepted two amendments from me to the Antisocial Behaviour etc (Scotland) Bill that inserted a requirement to report on aspects of the operation of that bill once enacted, so there is no principled reason not to accept amendment 65. I am minded to support amendment 65 because the change from a presumption that someone has not accepted something to a presumption that someone has accepted something is an important change. I and other committee members have wrestled with that and, at the end of the day, we will simply have to support it—perhaps we will debate the issue further when we debate the bill as a whole.

However, amendment 66, which would automatically delete the provision after five years, is a very unusual construction and proposal from the Tories. The blunt position has to be that, if Parliament votes to support a provision in a bill, that is what it does, and if it is minded to overturn it, it should take the necessary action by lodging an amending bill to delete it from the act.

The proposal is uncomfortable, although there are, of course, precedents. The prevention of terrorism legislation is now 100 years old, and the Westminster Parliament has had to reinforce and restate it. However, we in the Scottish Parliament should not go down the road of saying, "We are supporting what is in the bill, but not really, because we are going to delete it automatically after five years."

I hope that Margaret Mitchell will not move amendment 66. We are content with the minister's amendments.

Johann Lamont: I reassure everyone that the Executive is committed to monitoring and effectively reviewing its work and recognises that its approach has to be holistic. However, even if that were not the case, we have a parliamentary process that is committed to scrutiny and can conduct inquiries into matters at any time. In fact, this Parliament has a good record in relation to legislation coming from communities, going into the committee system and on to the statute book. Our process is such that the situation is not necessarily comparable with the situation that

pertains at Westminster. Equally, the precedent that Stewart Stevenson talked about is not proportionate, given that we are talking about summary cases. We do not want to overstate what has been done in relation to these matters.

Members should be alert to the fact that, on occasion, a requirement in legislation for a report to be written has meant that time has been spent producing a report at an entirely inappropriate time. For example, in relation to the right-to-buy policy, a report had to be written before the changes in the right-to-buy process could be properly evaluated. It would have been more informative to consider the matter at a slightly later stage.

We have a Parliament and an Executive that are committed to monitoring, reviewing and taking effective action if necessary. I concur entirely with what was said about the inadvisability of a sunset clause that would force Parliament to revisit the matter even if it were working well. We know that, even if there is more legislative time in this Parliament than elsewhere, it remains precious and should be used to deal with the priorities of the Parliament of the day.

The Deputy Presiding Officer (Trish Godman): I call Pauline McNeill to respond to the debate.

Pauline McNeill: There is nothing further to add. I have said everything that I need to say.

Amendment 39 agreed to.

Amendment 40 not moved.

Amendment 67 moved—[Pauline McNeill]—and agreed to.

Amendments 41 to 43 moved—[Johann Lamont]—and agreed to.

Section 40—Work orders

Amendments 44 to 46 moved—[Johann Lamont]—and agreed to.

After section 40

Amendment 47 moved—[Johann Lamont]—and agreed to.

Amendment 65 moved—[Margaret Mitchell].

The Deputy Presiding Officer: The question is, that amendment 65 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)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Curran, Frances (West of Scotland) (SSP)
Douglas-Hamilton, Lord James (Lothians) (Con)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
Fox, Colin (Lothians) (SSP)
Gallie, Phil (South of Scotland) (Con)
Gibson, Rob (Highlands and Islands) (SNP)
Grahame, Christine (South of Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Ingram, Mr Adam (South of Scotland) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Kane, Rosie (Glasgow) (SSP)
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)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
McLetchie, David (Edinburgh Pentlands) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Morgan, Alasdair (South of Scotland) (SNP)
Petrie, Dave (Highlands and Islands) (Con)
Robison, Shona (Dundee East) (SNP)
Scott, Eleanor (Highlands and Islands) (Green)
Stevenson, Stewart (Banff and Buchan) (SNP)
Swinney, Mr John (North Tayside) (SNP)
Tosh, Murray (West of Scotland) (Con)
Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
Watt, Ms Maureen (North East Scotland) (SNP)
Welsh, Mr Andrew (Angus) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Baker, Richard (North East Scotland) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
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)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Finnie, Ross (West of Scotland) (LD)
Gillon, Karen (Clydesdale) (Lab)
Glen, Marlyn (North East Scotland) (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)
Lamont, Johann (Glasgow Pollok) (Lab)
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)
McNeill, Pauline (Glasgow Kelvin) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
Murray, Dr Elaine (Dumfries) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Pringle, Mike (Edinburgh South) (LD)
Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
Radcliffe, Nora (Gordon) (LD)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Iain (North East Fife) (LD)
Smith, Margaret (Edinburgh West) (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)

The Deputy Presiding Officer: The result of the division is: For 40, Against 54, Abstentions 1.

Amendment 65 disagreed to.

Section 43—Fines enforcement officers and their functions

The Deputy Presiding Officer: Group 12 is on fines enforcement: miscellaneous amendments. Amendment 48, in the name of the minister, is grouped with amendments 49 and 50.

Johann Lamont: Amendment 48 makes a minor addition to new section 226D(11)(g) of the Criminal Procedure (Scotland) Act 1995, as inserted by section 43. New section 226D(10) of the 1995 act provides that ministers may make regulations in connection with the seizure of vehicles by a fines enforcement officer. Section 226D(11) lists—[*Interruption.*]

The Deputy Presiding Officer: Order.

Johann Lamont: Thank you, Presiding Officer.

Section 226D(11) lists what those regulations may cover, and paragraph (g) states that they may make provision as to the payment of fees, charges or other costs in relation to the seizure of vehicles. Amendment 48 adds a qualification to section 226D(11)(g) to the effect that any provision made in regulations will relate to the payment of reasonable fees, charges and other costs. The addition of the word "reasonable" follows comments made by the Subordinate Legislation Committee. Although I do not think that the addition of the word changes the policy effect of the provision, as any regulations made under it would have sought to recover only reasonable costs, I am happy, given the committee's suggestion, to include the word "reasonable" in the bill. I thank the committee for its comments.

Amendments 49 and 50 make small technical additions to section 43 to ensure that enforcement action in respect of unpaid financial penalties can be taken forward as effectively as possible. The bill as introduced provided that, if court-imposed financial penalties were transferred from one court to another and it became necessary for the outstanding fines to be referred back to court for some form of action, the court to which the outstanding fines were referred would be either the court in which the fine was imposed or, if the fine had been transferred to another court, the court to which it had been transferred.

That provision will ensure that any follow-up court action needed in respect of unpaid fines can take place in a single court hearing in the area where the offender lives. The fines enforcement officer and the clerk of court would ensure that all fines were transferred to the sheriffdom in which the accused lived before any court action took place, avoiding the need for multiple hearings in different parts of Scotland in respect of a single offender's unpaid fines. Multiple hearings would be a waste of court time and would not benefit the offender, whose outstanding fines should be considered all together by his or her local court, not in a piecemeal way.

On further examination of those technical provisions, it became clear that the bill as introduced would not provide the same flexibility in respect of non-court-imposed fines, such as fiscal fines and fixed penalties for road traffic offences. In those cases, any subsequent court action would always have to take place before the court whose clerk issued the penalty—even if it was a speeding fine issued in Inverness against someone who lived in Dumfries but happened to be driving that way.

That is not a sensible position. It would frustrate attempts to ensure that all outstanding penalties against an individual could be dealt with at a single court hearing in the area where the defaulter resides, should subsequent court action prove necessary.

Amendments 49 and 50 rectify the position by extending the provision that applies to court-imposed fines so that it will also apply to non-court-imposed fines. Any subsequent court action in respect of the penalty will fall to the court to which the penalty had been transferred if a transfer has taken place, not the court of issue. Amendment 50 also ensures that that flexibility can be applied to any relevant penalty specified by ministers in future, which will ensure that the provisions can adapt to deal with new or amended penalties introduced after the bill comes into force.

I move amendment 48.

Amendment 48 agreed to.

Amendments 49 and 50 moved—[Johann Lamont]—and agreed to.

Section 49—Area and territorial jurisdiction of JP courts

The Deputy Presiding Officer: Group 13 is on justice of the peace courts. Amendment 51, in the name of the minister, is grouped with amendments 52 to 54 and 62.

Johann Lamont: Amendments 51 and 52 are technical and clarify the provisions relating to a JP's jurisdiction and powers. The current wording of section 49(5A) could be interpreted as meaning that a JP could not exercise signing functions in their own sheriffdom. Such an interpretation would be contrary to our policy intention. Amendment 52 puts it beyond doubt that JPs can exercise their signing functions anywhere within Scotland, including the sheriffdom in which they sit as a JP.

A JP's power to sign documents that relate to criminal proceedings within their sheriffdom is set out in section 49(5). That allows JPs to sign documents such as warrants and judgments relating to proceedings in their sheriffdom. Although the power conferred on JPs by the section is to sign certain documents, it must be stressed that the signature of such documents is part of the JP's judicial functions and not a part of their more general signing functions. It would be helpful to state clearly in the bill that the functions are of a judicial nature, so that there can be no doubt that it is only JPs, not other people who have more limited signing powers, who may sign the documents listed in section 49(5).

Amendment 51 makes that position clear by stressing the judicial nature of the functions. It does not change the substance of section 49 in any way and is proposed for the sake of clarity.

Amendment 53 changes the specified purposes for which an order can be made under section 51(4) to repeal any or all provisions of the District Courts (Scotland) Act 1975. The bill currently states that ministers may make such an order

"to such extent as they consider to be appropriate in connection with the disestablishment of district courts."

The Executive anticipates that the provisions of the 1975 act will be repealed not only for the purpose of disestablishing the district courts as they are replaced by JP courts, but to enable reforms to be made to the system of lay justice in Scotland.

For example, the new system requires some amendments to the process by which tribunals for JPs are established. The current wording of section 51(4) refers only to the disestablishment of the district courts. It could therefore be argued that the section does not currently allow the 1975 act to be repealed for the purpose of reforming lay justice. That would be contrary to our policy intention and could frustrate the process of reform. Amendment 53 therefore changes the wording of section 51(4) to put it beyond doubt that the power to repeal the 1975 act can be used for the purpose of reforms to the lay justice system as well as for disestablishing the district courts.

Amendment 54 removes provisions in the bill amending section 2 of the Public Records (Scotland) Act 1937 and inserts a new section 2A into that act in order to make appropriate provision for the preservation of JP court records in future. The provisions are similar to those that are in place for sheriff court records, although our view is that extending in their entirety the existing requirements for sheriff court records in section 2 of the 1937 act to JP court records would be unduly onerous.

11:15

JP court records will be the relevant sheriff principal's responsibility, unlike the records of their predecessors—district courts—which were the relevant local authority's responsibility. Accordingly, it is necessary to arrange for their preservation by the keeper of the records of Scotland.

The main differences in treatment between sheriff court and JP court records will be that JP court records will be transferred once they are 10 years old; the order to transfer them will be made by the relevant sheriff principal rather than the Lord President; and records will be transferred within six months of the date of the order.

Amendment 62 makes a minor change to the Public Appointments and Public Bodies etc (Scotland) Act 2003 and is a consequence of the proposed changes to the lay justice system. A recommendation to be appointed as a JP is currently made by a justices of the peace advisory committee—a JPAC. Ministers make appointments to JPACs, so the office of the commissioner for public appointments in Scotland regulates those appointments. JPACs are listed in schedule 2 to the 2003 act as specified authorities that are subject to the code of practice for ministerial appointments to public bodies in Scotland.

Appointments to the offices and bodies that are listed in schedule 2 to the 2003 act are made by the Scottish ministers or on their recommendation. We propose that sheriffs principal, rather than ministers, will appoint people to JPACs, so it will no longer be appropriate for JPAC appointments to come under the scope of that schedule, which, as I mentioned, deals with appointments that are

made by or on the recommendation of the Scottish ministers. Amendment 62 therefore removes the reference to JPACs from the schedule.

I move amendment 51.

Amendment 51 agreed to.

Amendment 52 moved—[Johann Lamont]—and agreed to.

Section 51—Abolition of district courts

Amendment 53 moved—[Johann Lamont]—and agreed to.

Section 71—Commencement and short title

Amendment 66 moved—[Margaret Mitchell].

The Deputy Presiding Officer: The question is, that amendment 66 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Curran, Frances (West of Scotland) (SSP)
Douglas-Hamilton, Lord James (Lothians) (Con)
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
Fox, Colin (Lothians) (SSP)
Gallie, Phil (South of Scotland) (Con)
Kane, Rosie (Glasgow) (SSP)
Leckie, Carolyn (Central Scotland) (SSP)
Petrie, Dave (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Baird, Shiona (North East Scotland) (Green)
Baker, Richard (North East Scotland) (Lab)
Ballance, Chris (South of Scotland) (Green)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
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)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Finnie, Ross (West of Scotland) (LD)
Gibson, Rob (Highlands and Islands) (SNP)
Gillon, Karen (Clydesdale) (Lab)
Glen, Marlyn (North East Scotland) (Lab)
Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Grahame, Christine (South of Scotland) (SNP)
Harper, Robin (Lothians) (Green)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Ingram, Mr Adam (South of Scotland) (SNP)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lochhead, Richard (Moray) (SNP)
Lyon, George (Argyll and Bute) (LD)
MacAskill, Mr Kenny (Lothians) (SNP)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
Maclean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Mather, Jim (Highlands and Islands) (SNP)
Matheson, Michael (Central Scotland) (SNP)
Maxwell, Mr Stewart (West of Scotland) (SNP)
May, Christine (Central Fife) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
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)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
Murray, Dr Elaine (Dumfries) (Lab)
Neil, Alex (Central Scotland) (SNP)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Pringle, Mike (Edinburgh South) (LD)
Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
Radcliffe, Nora (Gordon) (LD)
Robison, Shona (Dundee East) (SNP)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
Scott, Eleanor (Highlands and Islands) (Green)
Scott, Tavish (Shetland) (LD)
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)
Swinney, Mr John (North Tayside) (SNP)
Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
Wallace, Mr Jim (Orkney) (LD)
Watt, Ms Maureen (North East Scotland) (SNP)
Welsh, Mr Andrew (Angus) (SNP)
White, Ms Sandra (Glasgow) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)
Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 11, Against 91, Abstentions 0.

Amendment 66 disagreed to.

Schedule

MODIFICATION OF ENACTMENTS

Amendment 54 moved—[Johann Lamont]—and agreed to.

Amendments 8 and 9 not moved.

The Deputy Presiding Officer: Group 14 is on compensation for miscarriages of justice. Amendment 55, in the name of the minister, is the only amendment in the group. I ask the minister to move and speak to amendment 55. It would help to have some silence.

Johann Lamont: Indeed. Amendment 55 is a minor and technical amendment that updates a cross-reference in the Criminal Justice Act 1988. Section 133 of that act requires the Scottish ministers to pay compensation in certain circumstances when the High Court determines that a miscarriage of justice has occurred.

The Scottish Criminal Cases Review Commission refers cases to the High Court, which used to be a function of the secretary of state before the SCCRC was established. The amendment simply corrects an out-of-date cross-reference to reflect the fact that all references to the High Court following a suspected miscarriage of justice are made by the SCCRC and not the secretary of state. At present, one out-of-date cross-reference suggests that the secretary of state and not the SCCRC refers cases to the High Court. The amendment has no substantive effect on the policy that relates to miscarriages of justice, the payment of compensation or the SCCRC's functions.

I move amendment 55.

Amendment 55 agreed to.

Amendments 57, 56 and 58 moved—[Johann Lamont]—and agreed to.

The Deputy Presiding Officer: Group 15 is on extended sentences for sex and violent offenders. Amendment 59, in the name of the minister, is the only amendment in the group.

Johann Lamont: Amendment 59 ensures that extended sentences can be imposed for the offences that the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 recently created. As Parliament will recall, that act created new offences of grooming children for the purpose of engaging in unlawful sexual activity; of paying for the sexual services of a person who is under 18; and of causing, inciting, controlling, arranging or facilitating child pornography or the provision of sexual services by children.

Section 210A of the Criminal Procedure (Scotland) Act 1995 allows the courts to impose extended sentences on some sex offenders and violent offenders when they consider that necessary to protect the public from serious harm. That extends the period during which the offender is on licence and under supervision once released from prison. Extended sentences are available for a range of sexual offences that are specified in section 210A.

The courts should be able to impose extended sentences in appropriate cases for the new offences that were created in 2005. The 2005 act did not make the necessary amendment to section 210A of the 1995 act to allow that to happen. We are now taking the opportunity to ensure that extended sentences can be imposed following conviction for one of the new offences, when the court thinks that appropriate. The amendment will not change the provisions of the 2005 act; it will simply ensure that the courts have the option of imposing an extended sentence in appropriate cases.

I move amendment 59.

Stewart Stevenson: I welcome and support amendment 59. In concluding this part of proceedings, I commend to Ms Curran, the Minister for Parliamentary Business, the provision of information to all the parties, which facilitated speedy dealing with the amendments at stage 3. I hope that that will be repeated in the interests of good governance and good parliamentary procedure.

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

Johann Lamont: I will just glow.

Amendment 59 agreed to.

Amendments 60 to 62 moved—[Johann Lamont]—and agreed to.

The Deputy Presiding Officer: That ends consideration of amendments.

11:24

Meeting suspended.

11:40

On resuming—

Question Time

SCOTTISH EXECUTIVE

General Questions

Building (Historic Sites)

1. Donald Gorrie (Central Scotland) (LD): To ask the Scottish Executive whether it will strengthen the national controls available to prevent historically important sites, such as battlefields, being built on. (S2O-11724)

The Minister for Tourism, Culture and Sport (Patricia Ferguson): The Scottish ministers are currently consulting on a series of Scottish historic environment policy documents that set out how the historic environment will be protected and managed. A policy document on battlefields will be put out to consultation during 2007-08.

Donald Gorrie: That is encouraging.

Several historians have recently commented on the fact that we are still losing or spoiling important historic sites, of which battlefields are one type. Although planning is a local issue, the minister perhaps needs to take an interest in specific issues until the better policy that she mentions emerges. For example, there is currently a big local dispute in central Scotland on whether housing should be allowed on the site of the battle of Bothwell bridge or whether it should be kept and developed as a memorial to the covenanters. I hope that the minister can get involved in such issues and preserve the heritage by influencing planning decisions.

Patricia Ferguson: Mr Gorrie is correct to identify the importance of the planning system. In fact, battlefields are already protected under local authority planning guidelines. The Bothwell bridge proposal is possibly a case in point, as I understand that the proposal will be the subject of a local planning inquiry in the near future.

It is important to recognise that battles in Scotland tended to be relatively small in scale and often involved a certain amount of, as it were, skirmishing around the edges. That makes it very difficult to delineate battlefields clearly. That problem is usually exacerbated by the fact that records are limited and no proper maps exist for many of our battlefields. Historic Scotland has commissioned a gazetteer of battlefield sites, which will be used in taking forward the work that can be done to try to protect and give due recognition to our battlefields.

Mr Stewart Maxwell (West of Scotland) (SNP): I welcome the minister's comments on the work of Historic Scotland. What international research has it undertaken to find out how other countries protect their sites of historic interest and how effective those countries' systems are? Secondly, does she agree that the protection of historic sites would give local communities the opportunity to attract more visitors to their areas? Does she accept, therefore, that extending protection to a wide range of sites in Scotland would provide a boost to our tourism industry?

Patricia Ferguson: It is possible that such an extension could have the effect Mr Maxwell describes.

Many of the international examples of how battlefields have been protected and used as tourist attractions relate to relatively recent battles, for which there is a great deal on record that it is possible to explore as well as, on occasion, maps and other memorabilia that allow such sites to be properly shown and interpreted. I think that the new interpretation centre that is being built at Culloden will be a world leader. The new centre might teach us other lessons about how battlefields in general can be promoted and interpreted to the public.

As I said to Mr Gorrie, many of the battles that happened in Scotland took place hundreds of years ago and are not well recorded. Often, the delineation of the battlefield is a matter of dispute. Such matters are often researched by historians and archaeologists. There have been several notable occasions in recent years when a battle site has been proven to be somewhere other than where it was originally thought to have been.

We are keeping the matter under active consideration.

Dave Petrie (Highlands and Islands) (Con): I thank the minister for mentioning Culloden, which is, coincidentally, the subject of my question.

Can the minister confirm whether any battlefields such as Culloden moor are likely to be victims of wind farm developments?

Patricia Ferguson: I am not aware that there are plans for such a development at Culloden. I am particularly heartened by the fact that the new facility at Culloden will be world class, which will have the effect that Mr Maxwell rightly mentioned: it will encourage tourism, a clear recognition of our history and a regard for history and its accurate portrayal. The Culloden site has a number of listed monuments, as physical structures and graves are located there. Those matters would have to be taken into consideration if anyone were to suggest building a wind farm on the site.

Anticipatory Health Care Pilot Schemes

2. Mr Duncan McNeil (Greenock and Inverclyde) (Lab): To ask the Scottish Executive what assessment has been made of the operation of anticipatory health care pilot schemes. (S2O-11703)

The Deputy Minister for Health and Community Care (Lewis Macdonald): Full evaluation will be undertaken from March onwards. Follow-up research with patients who have been invited in for health checks as part of the initial pilot in North Lanarkshire suggests that the keep well programme is succeeding in engaging with its target group of people who are not frequent users of health services but may suffer significant health risks.

Mr McNeil: The minister will be aware of my disappointment that my constituency, with its particular public health challenges, was not selected to pilot this valuable initiative. However, now that the programme is deemed to be successful, will the minister assure me that anticipatory health care will be extended to Greenock and Inverclyde, where I am confident it will make real improvements to my constituents' health and quality of life?

Lewis Macdonald: I look forward to the lessons learned from the initial pilots being applied in disadvantaged communities throughout Scotland. Duncan McNeil is right to highlight the existence of such communities in his constituency. Greenock and Inverclyde is one of the areas that we are considering actively for a second wave of pilot programmes of keep well during this year. We will make an announcement on the issue shortly.

999 Calls

3. Mr Charlie Gordon (Glasgow Cathcart) (Lab): To ask the Scottish Executive whether it has any plans to redirect 999 calls to NHS 24. (S2O-11690)

The Deputy Minister for Health and Community Care (Lewis Macdonald): No—999 emergency ambulance calls will continue to be answered by the Scottish Ambulance Service's emergency medical dispatch centres. Scottish Ambulance Service call handlers will continue to use the clinical algorithms that support decisions about the priority of the call and the nature of the response that is required.

The vast majority of calls require an ambulance to be sent, but a number do not. At present, a caller who does not require an ambulance may be asked to hang up and contact their own general practitioner or NHS 24. In future, it will be possible for the call details to be passed electronically to NHS 24, to enable an appropriate adviser to call the patient back without the patient having to repeat the information that he or she has already provided.

Mr Gordon: I am grateful to the minister for that answer. Does he appreciate that the perception that has been created recently among the public on the matter has caused alarm and consternation, especially among senior citizens?

Lewis Macdonald: I am aware of some of the press reports that appeared to confuse with wider issues the change that will benefit the small minority of callers who do not require an ambulance to be sent. I am pleased to have the opportunity to clarify the position in Parliament today. I hope that Mr Gordon's constituents and anyone else who has been concerned by reports that they read in the press will be reassured.

Shona Robison (Dundee East) (SNP): Given NHS 24's difficult history of dealing with its core business, can the minister assure us that it is ready and able to take on the additional work to which he refers without that affecting its core business?

Lewis Macdonald: I was pleased to visit NHS 24 in Aberdeen between Christmas and new year and to see its operations at a very busy time of year for the organisation. I am pleased to report to Parliament on the efficiency, high morale and effective response to patients that I found on my visit. The same is true of NHS 24 throughout the country. I am confident that it will be able to deliver this additional measure to assist those who call for medical advice and assistance. I repeat the assurance that I gave Charlie Gordon: people who call 999 because they need an ambulance will get an ambulance.

Seafield Waste Water Treatment Works

4. Susan Deacon (Edinburgh East and Musselburgh) (Lab): To ask the Scottish Executive what progress has been made in tackling odour emissions from Seafield waste water treatment works. (S2O-11686)

The Deputy Minister for Environment and Rural Development (Sarah Boyack): Stirling Water, the operator of the Seafield works, and Scottish Water have made significant progress to reduce instances of odour emissions in recent years. Capital and operational investment amounting to some £8 million has been implemented to date. That was designed to improve the overall works performance and has had a beneficial effect on the levels of odour emissions. That is clearly demonstrated both by the falling trend in the number of odour events recorded since 2001 and in the conclusions of research into public perceptions of odour pollution from the works. However, there is still a problem. I

will therefore meet Scottish Water next month to discuss further progress.

Susan Deacon: I take this opportunity to welcome the minister to her new portfolio. I know that she has a greater insight into the issue than most—it spans many years—and am sure that she shares my frustration and that of many hundreds, if not thousands, of other people in Edinburgh that a sustainable solution to the problem has not yet been put in place. When she meets the chair and chief executive of Scottish Water later this month to discuss the issue—I very much welcome the fact that she is doing so—will she ensure, while she acknowledges the work that has been done, that she looks at the independent research commissioned by Scottish Water that shows the continuing extent of the problem? Will she make it crystal clear to Scottish Water that a lasting solution to the problem, which has gone on for too long, must be put in place as a matter of urgency?

Sarah Boyack: As Susan Deacon says, I am well aware of the history of the issue and of the frustration that has built up on it. There has previously been enforcement action, and a petition on the matter was considered by the Transport and the Environment Committee. The Scottish Executive code of practice on odour was produced as a result of that lobbying. There has also been investment to tackle the issue across the country. I assure Susan Deacon that I will read the research to which she refers and that I am determined to make urgent progress on the issue. I know that the matter is complex and that some improvements have already been made, but more needs to be done. My purpose in meeting Scottish Water next month is to press it to ensure that the problem is sorted out.

Healthy Food (Dundee)

5. Kate Maclean (Dundee West) (Lab): To ask the Scottish Executive what measures are in place to encourage convenience stores and retailers in Dundee to promote healthy food. (S2O-11696)

The Deputy Minister for Health and Community Care (Lewis Macdonald): We are funding the healthy living programme that is run by the Scottish Grocers Federation to increase the availability of healthy foods in local neighbourhood shops, especially in low-income communities. Phase 3 of the programme, which Andy Kerr launched on 18 December 2006, is designed to expand the initiative as widely as possible. It now includes a number of convenience stores in the city of Dundee.

Kate Maclean: Does the minister agree that making healthy food available in deprived communities does not in itself change the culture of unhealthy eating? Is he aware of the great work that the Dundee healthy living initiative is doing to teach people basic cooking skills on a budget and to allow them to experiment and try healthy food at no cost to them? Unfortunately, that successful scheme has no long-term funding. Does the minister acknowledge the importance of community-based support? Will he agree to meet me to discuss the long-term future of the scheme, to enable those in our most deprived communities to benefit from the SGF healthy living programme?

Lewis Macdonald: I agree that it is not simply a matter of making healthy food available and that retailers and others can do a number of things to assist consumers to make healthy choices. I am aware of the Dundee healthy living initiative, of the good work that the group is doing in Dundee and of the success that it has had in making a difference to those whom it has supported. I am happy to meet Kate Maclean to discuss the future of the project. NHS Health Scotland is taking an interest in the work that it is doing and in the sustainability of projects that seek to promote healthy living in disadvantaged communities. I expect that to continue.

Neurological Conditions (Polio)

6. Alasdair Morgan (South of Scotland) (SNP): To ask the Scottish Executive what consideration it has given to the treatment of neurological conditions among those who have survived a polio attack earlier in life. (S2O-11675)

The Deputy Minister for Health and Community Care (Lewis Macdonald): The treatment of any condition is a matter for clinical judgment. In that context, NHS Quality Improvement Scotland is carrying out a stocktake of services that are provided to those with any kind of neurological condition. That work will pave the way for the drafting of clinical standards for neurological conditions, including post-polio syndrome.

Alasdair Morgan: Does the minister accept that the level and quality of treatment available to this group of patients is too variable throughout Scotland and that we need a national approach, starting with an acknowledgement that there is a specific syndrome? I hope that the minister's answer means that the national health service in Scotland now recognises post-polio syndrome.

Lewis Macdonald: It is fair to say that post-polio syndrome is a well recognised clinical condition—there is no issue with that. Mr Morgan raises an important point about ensuring quality of service for sufferers of the syndrome, of whom there are relatively few, which means that there is not the same focus as there is with larger groups. Because there are relatively few sufferers of the syndrome, this is an appropriate area for consideration of a national service. National services should be available when the number of

people involved is small, but there are significant cost implications or significant implications for patients.

The chief medical officer and the chief scientist in the Health Department have responded to inquiries in this area to indicate that they would be happy to discuss with those who represent patients with the syndrome how they might take part in drawing up a clinical guideline, which would be applicable throughout Scotland and would help ensure the quality of service to which Mr Morgan refers.

Glasgow Housing Stock Transfer (Second Stage)

7. Patrick Harvie (Glasgow) (Green): To ask the Scottish Executive how the change in personnel at the Glasgow Housing Association and in the communities ministerial team will impact on progress towards second-stage transfer of housing stock. (S2O-11670)

The Minister for Communities (Rhona Brankin): Scottish Executive ministers and the Glasgow Housing Association remain committed to taking forward the second-stage transfer of housing stock in Glasgow. We will do that on the basis of the way forward set out by Malcolm Chisholm in his letter to the GHA board of last December.

The Deputy Minister for Communities and I will work closely with the GHA board and other partners to make progress on this, both now and once a new GHA chief executive has been appointed.

Patrick Harvie: I am sure that we all wish the new ministerial team well, particularly in relation to this issue. Before the new year, we were beginning to get an indication that the Executive recognised that additional money would be required if second-stage transfer was to go ahead and that some progress would be possible before the end of this parliamentary session. Many people in Glasgow—housing associations, residents, tenants and voters—want to have clarity and to know that progress will be made before the election. Will the minister confirm whether that is possible?

Rhona Brankin: We have a meeting coming up with the board of the GHA, but we have also to consider the joint team report that was delivered before Christmas, a key conclusion of which was that to achieve an affordable second-stage transfer policy that meets our core objectives, we have to consider carefully the structure of the local housing organisations in Glasgow, in discussion with them.

We have made huge, genuine improvements in Glasgow: we have provided 28,500 central heating systems, 9,800-plus new windows, 10,600-plus new kitchens and 10,600-plus new bathrooms, and nearly 33,000 homes have new secured by design doors. There has been a huge step change in investment and we are proud of what we are delivering in Glasgow.

Paul Martin (Glasgow Springburn) (Lab): Will the minister join me in paying tribute to the 600 volunteers who have been responsible for ensuring that the investment has been best spent? Will she ensure that we focus on supporting local housing organisations towards the full empowerment that they deserve, rather than on being concerned about the future chief executive of the Glasgow Housing Association?

Rhona Brankin: I assure the member that I know of his interest in this issue. My interest—and that of Des McNulty and the rest of the Executive—is in improving the quality of life of people in the social rented sector in Glasgow, which we will do over a 10-year period. The Glasgow stock transfer will see some £1.5 billion of investment in the quality of people's lives. We are proud of what we are doing in Glasgow.

Tricia Marwick (Mid Scotland and Fife) (SNP): It is almost a year since the joint working team was set up to take forward second-stage transfer. Does the minister understand the anger and sense of betrayal that is felt by the tenants of Glasgow, who were promised second-stage transfer at the time of the ballots? Will she, even now, give those tenants some indication of when the first second-stage transfer will take place?

Rhona Brankin: It is not possible to give a definitive date. As I said, I will meet the GHA. We are keen to progress second-stage transfers as soon as possible. Doing so has been a complex matter. Financial complexities are involved and major challenges must still be overcome, but I reiterate that we have made huge steps forward in Glasgow, and we will continue to invest. We will meet the GHA next week and local organisations in the future.

First Minister's Question Time

12:00

Prime Minister (Meetings)

1. Nicola Sturgeon (Glasgow) (SNP): To ask the First Minister when he will next meet the Prime Minister and what issues they will discuss. (S2F-2655)

The First Minister (Mr Jack McConnell): I have no immediate plans to meet the Prime Minister.

Nicola Sturgeon: The First Minister knows that getting drug addicts into treatment is vital in the fight against crime in our communities. I remind him that, last April, I expressed concern about the length of time that addicts who have been referred for treatment must wait simply to be assessed. He promised then that the problem was being tackled. Why have the waiting times continued to rise since then?

The First Minister: I recognise that all parties are concerned about those waiting times—the Executive parties do not have a monopoly of concern in that respect—and that both the main Opposition parties and others have expressed concerns about them. We all know that they affect individual families and the communities in which crime takes place.

We must ensure not only that budgets are increased—they have increased for several years—but that there are more places for rehabilitation and that the effectiveness of those places is improved. That is the essential ingredient in reducing the waiting times and why we have moved to double the number of locations in which rehabilitation is available and to almost double the number of places from which rehabilitation services are available. We have continued to secure increases in the budget in order to ensure that those who are responsible for referring people for rehabilitation can do so without financial constraint.

Nicola Sturgeon: We may return to budgets later, but I want to concentrate first on the scale of the problem.

I draw the First Minister's attention to the most recent figures that my office has obtained from the Government's statistics department, which show that, in the last quarter for which figures are available, 1,246 addicts waited for more than six months to be assessed. The figure is up by a third since I previously raised the issue. Even worse, 600 of those addicts waited for more than a year to be assessed, which is a 60 per cent increase since last year. Why has the First Minister failed to keep the clear promise that he made in the chamber last year to increase the availability of initial assessments?

The First Minister: The availability of initial assessments is important, but it is not the only issue. We must ensure that there are places to which people can go, which is why investment in treatment has nearly doubled in five years and why, in 2005-06, £23.7 million was specifically made available to health boards for drug treatment. That amount compares with the £12.3 million that was available back in 2001. Some £3 million is specifically earmarked for projects that are designed to reduce waiting times.

I can give Ms Sturgeon examples of the progress that has been made. We are all frustrated by the speed at which progress can take place, but it is not only the allocation of resources that is important—the availability and effectiveness of places are important too.

The new clinic in Edinburgh will reduce waiting times from the current 44 weeks, which is totally unacceptable, to four weeks. I see Mr Morgan, who is at Ms Sturgeon's side, complaining. He should be pleased about the three new projects in Dumfries and Galloway, which will reduce waiting times there from 18 weeks to two weeks.

It is essential that we do not simply throw money at the issue. We must ensure that places are available and that appropriate referrals take place in order to ensure that people are rehabilitated and kept off drugs and that they do not simply maintain a drug-related lifestyle that can continue to cause problems for them and for others.

Nicola Sturgeon: Let us turn to budgets and rehabilitation places. I suggest to the First Minister that, bad though the waiting times for assessment are, the problem does not stop there. Is he aware that, according to the most recent figures, the number of addicts waiting more than one year after being assessed to get access to rehabilitation has gone up by 64 per cent since I last raised the issue with him in the chamber?

There is no doubt that the figures will increase concern about the Government's decision, reported by the BBC this morning, to withdraw funding from a drug addiction project in Aberdeen. Do not the figures raise an even more serious question? The First Minister mentioned budgets. In light of the new figures, will he explain why next year's budget proposes a real-terms cut in spending on drug treatment and rehabilitation programmes?

The First Minister: There are two fundamental points at the heart of Ms Sturgeon's question. The first relates to the specific project that she mentioned. She should be wary about repeating in the chamber claims that are reported elsewhere

without checking her facts. It is simply not true that the Executive has withdrawn funding from the incite project in Aberdeen. The project was funded, as promised, from 2003 to 2005, and all the funding was delivered. Project staff identified funding for a further six months up until the end of the year. Even this year, when additional funding could have been considered, it was not the Executive but the local drug action team in Aberdeen that made decisions about that funding. It is absolutely right that such decisions are made locally. To repeat such a claim, as Ms Sturgeon did, without checking the facts demeans the debate and this discussion—we should check our facts first.

My second point is that, against the backdrop of the increase in funding and places and the improvement that is now taking place throughout Scotland because of the greater clarity of the objective to secure drug-free lifestyles, Ms Sturgeon must answer questions about her plans to reduce local authority expenditure in Scotland by £1 billion. That would have a direct impact on authorities' ability to buy the available places, and the overall economic impact of her plans for an independent Scotland would result in fewer available resources, not just for drug treatment and rehabilitation but for other services. Until she answers those questions, she has a cheek coming here and asking anybody about anything.

Nicola Sturgeon: I remind the First Minister that he had two opportunities in the past week to debate live on television with the Scottish National Party and pitch his policies against ours. On both occasions, he ducked the opportunity. I also remind him that this is First Minister's question time: it is his opportunity to answer questions about his record, not to repeat untruths about the SNP that he does not have the courage to back up in debate.

Is it not the case that, on drugs, the Government has been long on promises and very short on delivery? I remind the First Minister that back in 2004 he promised

"a comprehensive improvement of drug rehabilitation services".

However, all we see today are increasing waiting times and funding cuts in the Government's proposed budget. After eight years of broken promises, do not the communities that live with drug addiction and drug-related crime day in and day out now need a new Government with the drive, energy and commitment to tackle this massive national challenge?

The First Minister: Once again, I will correct the facts. It was said two years ago that there would be a review and an improvement. I said that in the chamber after meeting a family from Aberdeen—[*Interruption.*] The Scottish nationalists might sigh because they think that such matters are not important, but families are affected by them. The parents of that family had to buy heroin for their daughter while she waited for treatment so that she did not get involved in prostitution. I was touched by that story, as any human being would be, and determined to improve the situation.

The reality is that, in the years since then, funding has gone from £12.3 million to £23.7 million and we have virtually doubled the number of places in, and the number of locations of, free rehabilitation services. The reality is that the drug strategy in Scotland, which includes tackling supply, increased seizures, tougher sentences and seizing drug dealers' assets, has led to a decrease in the number of individuals who present themselves at such services. The number of new clients who report heroin use is down, although the percentage of new clients who report cocaine use has increased, which is why we must tackle cocaine. Crucially, the number of youngsters in our schools who present is, at last, after many years of increase, reported to be stable. It is the outputs that matter, such as the number of rehabilitation places and the number of people whom we take from a drug lifestyle to a drug-free lifestyle. The number of people throughout Scotland who get involved in a drug lifestyle in the first place has come down. It is the outputs that matter; not the party politics that we witness regularly in the Parliament from the SNP.

Cabinet (Meetings)

2. Miss Annabel Goldie (West of Scotland) (Con): To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-2656)

The First Minister (Mr Jack McConnell): The Scottish Cabinet will discuss matters of importance to Scotland.

Miss Goldie: I hope that the Cabinet will discuss the increasing drug abuse that we have just heard about, which is a serious issue afflicting Scotland today. I sincerely hope that the First Minister is aware that there is a drug-related death almost every day in Scotland and that, every day, 37 new patients seek treatment for their addiction. If I heard correctly, he said a moment ago that cocaine addiction is increasing. Will he therefore explain why the discontinuance of the project in Aberdeen for dealing with cocaine addiction represents progress in the fight against drugs?

The First Minister: I am sorry, but I thought that Annabel Goldie was in the chamber when I addressed that point earlier. I apologise if she did not hear my answer to Ms Sturgeon, which, for the sake of avoiding any confusion, I will repeat. First, it is not true for Opposition parties or the BBC to

suggest that the Executive has in recent months withdrawn funding from the project in Aberdeen. Secondly, it is true that every project in Scotland that receives money, either locally or nationally, should be assessed for its effectiveness, because, as I thought Miss Goldie and I agreed previously, we want to secure more effective drug treatment and rehabilitation services in Scotland. The aim is that fewer people will simply continue their dependent lifestyle and more people will have a drug-free lifestyle at the end of their treatment.

It is precisely because treatment and rehabilitation are so important that we have increased the number of treatment places and the number of locations where they are available. We have also allocated extra resources and, at the same time, secured the important review of the nature of treatment, with the aim of ensuring that more people who go into treatment end it successfully.

Miss Goldie: I suppose that we should be familiar with a First Minister who does not answer questions; he certainly did not answer the question that I asked. I did not mention the Scottish Executive cutting funding; that was not what I averred. I asked whether, in the light of the increasing cocaine addiction in Scotland, it makes sense strategically to withdraw or discontinue a resource that has apparently been used to cope with that increase.

Leaving that issue to one side, I find it utterly depressing that drug abuse is scarring communities the length and breadth of the nation. The problem is not just the dozens of new people who seek treatment every day; it is the fact that drug-related crime is soaring. We need to assess what help is available to deal with the growing epidemic. I agree with the First Minister's comment that the important points about facilities are the availability of places and their effectiveness. Will he establish a directory of Scottish drug rehabilitation facilities so that we can quantify what we have got and how many more we need?

The First Minister: Yes. We understand that that directory will be complete by May. That suggestion, which Miss Goldie made in public and during a meeting with the Minister for Justice, and other suggestions that Miss Goldie has made in recent months have been constructive and helpful. We took up her specific suggestion about a directory and I think that the national drugs forum has been given the task of compiling a far more accurate and comprehensive national directory in Scotland.

Miss Goldie: Like the temperature in the Arctic, we move from one extreme to the other when the First Minister answers questions. I am uplifted, because something positive has at long last been announced. I genuinely pay tribute to the First Minister. Tardiness is an art form for him, but never mind—we have an answer now.

The First Minister referred to what his Executive has endeavoured to invest in rehabilitation facilities. The amount is clearly inadequate, given the extent of the problem that we know is out there. Today, my party pledged to invest an extra £100 million per year in drug rehabilitation facilities. That would be a tremendous investment and the most significant step ever taken in Scotland to deal with drug abuse. As I think that the First Minister knows, estimates show that an investment of £100 million to combat drug abuse with rehabilitation facilities could save up to £1 billion in health care, police and legal costs. Will he join us in acknowledging that we are in danger of losing thousands of our people to drugs, and will he agree that our initiative is a welcome start to addressing that appalling problem?

The First Minister: The Conservatives' conversion is better late than never and I am delighted that they have made that commitment, although, as with any pledge of that sort by the Opposition parties, we need to see the figures and find out where the money will come from.

I repeat that rehabilitation is only one part of the strategy. If we are to tackle drugs in Scotland, we must tackle supply and demand. We must improve rehabilitation—in scale and in quality—but we must also tackle the people who sell drugs. The announcement on Monday by the Minister for Justice about the new national serious crime campus at Gartcosh represents a further step in the right direction. That will boost the work of the Scottish Crime and Drug Enforcement Agency and ensure that the agency can continue to achieve improved seizure and conviction rates and, ultimately, get to the people who prey on vulnerable people in Scotland and secure ridiculous riches for themselves as a result.

Tackling supply on one hand and demand on the other should be our national strategy. If we are moving towards a national consensus among the parties, I welcome that.

Cabinet Sub-committee on Sustainable Scotland (Meetings)

3. Robin Harper (Lothians) (Green): To ask the First Minister when the Cabinet sub-committee on sustainable Scotland last met. (S2F-2659)

The First Minister (Mr Jack McConnell): I will give the member the precise date: the sub-committee last met on 27 June 2006.

Robin Harper: The Cabinet sub-committee on sustainable Scotland was supposed to drive change across the Executive, but it is disappointing that it has not met since June. It

seems that climate change and sustainability have slipped off the First Minister's agenda. The sub-committee should have provided an opportunity for joined-up thinking across the Executive. Climate change emissions from transport and domestic energy emissions have increased since the First Minister took office. However, there is good news. I welcome the Executive's proposal—

The Presiding Officer (Mr George Reid): Ask a question, Mr Harper.

Robin Harper: Will the First Minister support the screening of "An Inconvenient Truth" on national television and join political leaders in a public debate on climate change immediately after the screening?

The First Minister: I would certainly welcome the showing of the film. This week, we announced an initiative to ensure that it is shown in Scotland's schools and I hope that youngsters in Scotland will learn much from it. I have no doubt that national television companies will want to show the film in due course, whenever they have the rights to do so.

We will not tackle climate change across the world or even here in Scotland by having committee meetings.

I genuinely believe in the work that we have undertaken, particularly in the past year. We have set new targets in Scotland that are more stretching than those in the rest of the United Kingdom and in many other parts of Europe and beyond; we have ensured that we continue with the progress that we have made on key environmental issues such as renewable energy and recycling; and we have ensured that, inside the Executive, we take seriously our own responsibilities and the need to show a lead. Those actions are far more important than any individual sub-committee meeting. However, I can assure Robin Harper—if he believes that it matters all that much—that the sub-committee will meet again in March.

Robin Harper: I still ask the First Minister why—if he feels that having committee meetings on the environment is a waste of time—the Executive set up the committee in the first place.

Will the First Minister answer the other question that I put to him? All praise to the First Minister—he has already encouraged schools across Scotland to screen the Al Gore film. Will he now make climate change an urgent priority and a matter of open public debate in the run-up to the election? Will he support the screening of "An Inconvenient Truth" on national television and will he join political leaders in a public debate on climate change immediately afterwards?

The First Minister: I am sure that there will be many matters for debate in the run-up to the election.

For the sake of clarity, I will say that at no time did I say that the sub-committee had been "a waste of time". My point was that holding a committee meeting is not the way to tackle climate change. However, the sub-committee does indeed drive change and assist us inside the organisation—partly because it has such effective external members on it. The sub-committee has had a key role in looking at the Cabinet's policies in relation to sustainable development, in ensuring that sustainability is at the heart of our transport strategy and in ensuring that the Executive's strategy on climate change covers a breadth of policies and is not just narrowly focused.

The sub-committee has driven our progress towards our targets on recycling. When those targets were announced five years ago, they were ridiculed in some quarters. Today we are very close to securing them.

Act of Union (300th Anniversary)

4. Iain Smith (North East Fife) (LD): To ask the First Minister how the Scottish Executive is marking the 300th anniversary of the Act of Union. (S2F-2665)

The First Minister (Mr Jack McConnell): The Executive is supporting a range of events to commemorate the anniversary of the Act of Union. They include book launches and debates by the National Library of Scotland, an exhibition by the National Archives of Scotland, a display of artefacts by the National Museums of Scotland and a display of relevant portraits and new video work by the National Galleries—[*Interruption.*]

I am interested to hear that some members in the chamber think that our national cultural institutions are there to be mocked. I think that those institutions are there to educate and enlighten us—to teach us about our past as well to inform us for our future. I am very proud that they do so—unlike the members who seem to think that the institutions are in some way a joke. It is those members who are the joke.

The Executive is also supporting, along with this Parliament, a schools competition about the impact of the union. I am sure that Scottish children will benefit from that.

Iain Smith: Does the First Minister agree that, 300 years on, and after two sessions of the new Scottish Parliament, the time is now right for a serious debate about the future of Scotland's Parliament? Is he aware that the most popular option for the people of Scotland is neither separation nor stagnation but the option proposed by the Liberal Democrats of giving this Parliament

more powers? Those would be the right powers to serve Scotland. Does he agree with the words of Donald Dewar, who said that devolution was not an event but a process? The anniversary of the union is the ideal time to move that process on.

The First Minister: I believe that devolution is a process, but I also believe that it has a purpose—to improve Scotland. We should not be diverted from that by the stagnation that would come not from the status quo but from spending three or four years debating an independence bill, which is what the SNP wants us to do, and from having an uncertain referendum that would affect investment and jobs in Scotland.

I believe that Scotland's future lies not in separation or stagnation, but in education—education and learning to give our population the best possible start in life and the best possible chance in the face of international competition. I am certain that that view is shared by the majority of Scots.

Alex Neil (Central Scotland) (SNP): I draw the First Minister's attention to reports from the Joseph Rowntree Foundation and Save the Children this morning. After 300 years of union and 10 years of a Labour Government, more than half our children in many parts of Scotland are living in dire poverty. In the Craigneuk ward of the First Minister's constituency, 56 per cent of the children are living in dire poverty. Is that part of the union dividend of which he is so proud?

The First Minister: Alex Neil gave us a great slogan—was it "Free by 93"? He should tell us what he thinks of the strategy of his front bench to hide its plans for an independence bill and a referendum and to seek somehow not to make that the issue for the coming election campaign.

The actions of this devolved Government and of the United Kingdom Government over the past 10 years have made a significant difference to child poverty in Scotland. We are leading the way in the UK in tackling child poverty and if members had any soul, they would be proud of that. The reality is that we have lifted more than 100,000 Scottish children out of relative poverty and more than 200,000 of them out of absolute poverty in those years. We know that one in three people in Scotland lived in poverty in 1997, but today only one in four live in poverty, and that figure is coming down year after year.

The way to tackle poverty is to have a Government in the UK that is committed not just to better benefit systems, but to getting people into work and giving them and their families a decent chance in life, and a Parliament here that gives people the skills, the child care and the opportunities that get them and their families into work and which lift children in Scotland out of poverty. Those are the solutions, not the nonsense that we get from the Scottish National Party, which, rather than tackling child poverty and giving people the education that lets them get on in life, wants to waste all its efforts over three or four years on an independence bill and a referendum.

John Home Robertson (East Lothian) (Lab): As the constituency successor of Andrew Fletcher of Saltoun and a family descendant of another of the 67 members of the old Scottish Parliament who were not bought or sold for English gold, I ask the First Minister to highlight the crucial distinction between the incorporating union of 1707, which abolished Scotland's Parliament, and our new constitutional settlement, which combines home rule in this Parliament with all the benefits of the successful partnership of the United Kingdom. Can he think of words to describe the folly of a party that seeks to tear up a union that now gives Scotland the best of both worlds—home rule and the union dividend? Incidentally, what about the threat to Scotland's security and what about defence jobs?

The Presiding Officer: Briefly, please.

The First Minister: I suspect that the Presiding Officer is thinking that if I took time to answer all those points, I could be here for quite a while.

The key point is that today we in Scotland enjoy the best of both worlds. We have the union dividend from being part of that larger family of the United Kingdom and we also have a devolution dividend that gives us the power to make our own decisions in the Parliament and to drive forward change and progress in Scotland. We have the ability not just to tackle child poverty, but to make our country more prosperous.

As I said earlier this week at the annual event of the Chartered Institute of Bankers in Scotland, we can see what impact the SNP's plans for Scotland would have on just one sector—financial services, which provides 200,000 jobs in Scotland. First, the SNP's plan for independence would break off our financial services companies from their number 1 market, which is south of the border. It would require the creation of a whole new system of regulation and legislation, separate from that which governs the City of London, and would create uncertainty about the currency in an independent Scotland, just as Alex Salmond did earlier this week. He suggested that even if we were independent, at best we would tie our currency to the English pound and let England make all the decisions anyway. That is nonsense for financial services, for the Scottish economy and for Scotland, which is why it will be rejected by the people of Scotland in May.

Private Sector Growth

5. Christine May (Central Fife) (Lab): To ask the First Minister, in light of the growth in the private sector in 2006, what action is being taken to help increase output and competitiveness. (S2F-2657)

The First Minister (Mr Jack McConnell): We are pleased that recent surveys and independent statistics reports show that Scotland continues to have higher employment and lower unemployment than the rest of the UK and that our gross domestic product growth is now consistently above Scotland's long-term trend rate. Output and competitiveness will be improved by public and, crucially, private investment in infrastructure and research, by commercialising new ideas more effectively and by improving skills.

Christine May: I welcome the recent surveys and reports. Since 2003, growth has picked up pace, but more still needs to be done to improve the proportion of Scots who are prepared to take a risk and start their own businesses. Although in recent years employment in my constituency and across Fife has gone up to 77 per cent, there are still too few business start-ups. Will the First Minister indicate what will now be done to increase the business start-up rate and say how that work could be threatened by the proposals from some allegedly pro-business political parties to abolish agencies such as Scottish Enterprise?

The First Minister: Although much of what is required needs to be done by individual entrepreneurs and people with their own drive, imagination, energy and skill, there are two main things that the Executive can do in relation to business start-ups.

First, we need to create a better culture of ambition and aspiration among our youngsters, together with an understanding of business and a willingness to take risks. Determined to succeed, our national programme of enterprise education—which is a leading programme not only in the United Kingdom but everywhere else in the world—is changing the culture of Scotland's schools and will change the culture in future generations. That will lead to more business start-ups, more people making a success of their business and more people willing to fail at the first opportunity and try again.

Secondly, we need to have better financial support systems. The stream of financial support—from very small to very large amounts of money—that is being invested in new ideas and enterprise in Scotland is crucial. That is why Scottish Enterprise and the Executive have refined it over recent years. Those who want to cut the Scottish Enterprise budget or to abolish the agency will have to answer for the amount of money that would be taken away from Scottish business as a result in the months ahead.

The Presiding Officer: My apologies to Stewart Stevenson. This is the first time in a long time that we have not reached question 6.

12:32

Meeting suspended until 14:15.

14:15

On resuming—

Question Time

SCOTTISH EXECUTIVE

Justice and Law Officers

The Deputy Presiding Officer (Murray Tosh): Question 1 has been withdrawn.

Small Claims Procedure

2. John Home Robertson (East Lothian) (Lab): To ask the Scottish Executive whether it has given any further consideration to the case for increasing the threshold for claims by consumers that can be dealt with under the small claims procedure. (S2O-11691)

The Deputy Minister for Justice (Johann Lamont): There is a clear case for increasing the small claims limit. We are continuing to consider all the arguments and representations on the correct levels for jurisdiction limits to ensure that any increase has the clear support of Parliament.

John Home Robertson: I refer the minister to the replies that I received from her predecessors since first I raised the issue with Jim Wallace in 2002. In November 2004, Hugh Henry said:

"We need to act sooner rather than later".—[*Official Report*, 11 November 2004; c 11830.]

In June 2005, he said:

"There is no excuse for the delay".—[*Official Report*, 23 June 2005; c 18358.]

I could go on.

The threshold for small claims in England is £5,000, but Scottish consumers who have complaints about dodgy goods above the value of just £750 still cannot use the small claims procedure. It is expensive and complicated to use the higher courts. Why is the Executive allowing Thompsons Solicitors to use its political influence to delay a reform that is urgently needed by Scottish consumers? It must be possible to give justice for consumers without causing problems for personal injury claims.

Johann Lamont has a reputation for getting things done in various departments. I hope that she can deliver where others have failed—

The Deputy Presiding Officer: Have you finished your question?

John Home Robertson:—in the Justice Department.

Johann Lamont: I will resist the temptation to be flattered into saying something on which I cannot make a commitment. It is clear that the issue is serious. Given the pedigree of my predecessors in post, I know that if there were a simple solution it would have been found by now.

It is important that all the jurisdiction limits in the system fit together: there would be consequences if we were to change one without changing the others. There is clear recognition and acknowledgment of that. I know that John Home Robertson has a long-standing interest in the matter. We have announced that there will be a review of civil justice. It is clear that the matter could usefully be explored further during that review so that all the competing interests, concerns and arguments can be addressed and a solution found.

Mike Pringle (Edinburgh South) (LD): I apologise for being late. I, too, have been concerned about the issue for a long time. Will the minister ask her department to take it a little more seriously and address it more urgently? It has been going on for a considerable time and we need resolution sooner rather than later. Given the current rate of progress, we will not get a resolution even before the next election.

Johann Lamont: It is most unjust to imply that because of lethargy among officials no progress has been made on the matter, and it would be entirely inappropriate for a minister to park responsibility where it does not lie. The issue has been on-going since at least 2002, but it has not just been parked. People have wrestled with it but have, for example, been unable at one stage in the parliamentary process to secure parliamentary support for the approach that was being taken.

A clear and compelling case has been made, but it is essential that we get the limit right. Dealing with the matter during the review of civil justice will ensure that all the bits of the process marry up with each other and make sense. That will deal with the issue that John Home Robertson has highlighted.

Domestic Abuse Courts

3. Maureen Macmillan (Highlands and Islands) (Lab): To ask the Scottish Executive what assessment its Justice Department has made of the impact of the Glasgow domestic abuse court. (S2O-11697)

The Minister for Justice (Cathy Jamieson): We commissioned an independent evaluation of the pilot domestic abuse court in Glasgow and we expect to publish it in March 2007. The early indication from the pilot is that cases come to trial much more quickly. We will build on the findings of the evaluation in order to further improve our justice system.

Maureen Macmillan: It is generally agreed that the specialist domestic abuse court has been of

benefit in dealing with the perpetrators of domestic violence. Does the minister agree that domestic violence occurs in rural areas as well as in urban areas? Will she agree to meet the Minister for Communities and me to discuss how a pilot for a rural domestic violence court could be progressed, possibly through the use of modern communications technology?

Cathy Jamieson: I acknowledge that Maureen Macmillan has had a long-standing interest in this issue, as have several other members. At the invitation of Cathy Peattie MSP, I was able to attend a Parliament cross-party group event at which Maureen Macmillan was also present. The Lord Advocate, the Solicitor General for Scotland and I went along last week to speak to and hear from the cross-party group on men's violence against women and children. A number of positive comments were made about the need to drive forward this agenda.

It is important that we have the full evaluation and that we learn lessons from it. It might well be that it is not simply a case of replicating what is done in Glasgow elsewhere in Scotland. I am interested in Maureen Macmillan's suggestions about how we might be able to use the lessons from the Glasgow experience and deploy them in a different way to benefit rural areas. Maureen Macmillan is, of course, absolutely correct that, in many circumstances, women in rural communities are at risk of domestic violence. Irrespective of whether it happens in a rural community or urban area, domestic violence is wrong and the Executive wishes to continue to tackle it.

I will happily try to facilitate discussions with the appropriate ministers and interested MSPs once the evaluation is ready to be published.

Margaret Mitchell (Central Scotland) (Con): Given the minister's encouraging comments about the Glasgow domestic abuse court as a specialist court for tackling that vexing issue, will she now consider extending specialist youth courts to 14 and 15-year-olds in an effort to tackle the escalating incidence of offending among that age group?

Cathy Jamieson: I appreciate that that question is not specifically about domestic abuse courts but about youth courts, but it is important to place on the record what people should know, which is that we have taken the decision in principle to set up three more youth courts and to build on the success of the current ones. They are targeted at a particular age range. There is a provision in the current adult justice system for some 15-year-olds to be referred to the youth courts. What Margaret Mitchell suggests would require a fundamental shift in how we deal with the youth justice agenda although, of course, further work is being done on the children's hearings system. I hope that we have the whole-hearted support of members of the Conservative party as we try to fight antisocial behaviour and crime, and I look forward to their support this afternoon for our work on the Criminal Proceedings etc (Reform) (Scotland) Bill.

The Deputy Presiding Officer: I should have ruled that supplementary question out of order. I hope that members found the minister's answer useful.

Knife Crime (Sentencing)

4. Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): To ask the Scottish Executive why it rejects custodial and community-based sentences of longer than four years for repeat offenders convicted of possession of a knife. (S2O-11726)

The Minister for Justice (Cathy Jamieson): The Executive is taking forward an unprecedented range of measures to tackle the scourge of knife crime. The Police, Public Order and Criminal Justice (Scotland) Act 2006 doubled the sentence for carrying a knife in public from two to four years and the Custodial Sentences and Weapons (Scotland) Bill, which is currently before Parliament, will implement the remaining parts of the First Minister's five-point plan on knife crime. Additionally, the Lord Advocate's tough new guidelines on prosecution of knife crime mean that most repeat offenders who are charged with carrying or using a knife will be dealt with under solemn procedure. That could mean that they will face sentences well in excess of four years, in the most serious cases.

Jeremy Purvis: I thank the minister for her reply, especially the final part of it about longer sentences. She will be aware of the three attempted murders with a knife that occurred in Scotland this week. It is not just an urban issue; there was a vicious attack in the Yarrow valley in my constituency before Christmas. For many rural communities, knife crime is a continuing menace.

Does the minister agree that there is now a stronger case for longer sentences—custodial and community—and for repeat offences of knife possession to be dealt with in statute such that we can go further than the Police, Public Order and Criminal Justice (Scotland) Act 2006 allows? I acknowledge the Executive's work in this regard, but much more needs to be done.

Cathy Jamieson: I agree that much more needs to be done, but the problem cannot be solved by one simplistic solution. That is why we want a number of measures to be put in place. Of course, it is important to accept that when someone is caught carrying a knife, the police will treat that as a custody case. That is a quick and effective reminder, for people who are lifted by the police, of the seriousness of the offence.

I am well aware of the problems of knife crime. Although there has been a reduction in homicide rates across Scotland, there is still more to do. I hope to receive the whole-hearted support of Jeremy Purvis and his colleagues for the measures in the Custodial Sentences and Weapons (Scotland) Bill, which will deal with the ending of automatic early release and will ensure that we have more effective sentences, both in custody and in the community. The package of measures that we have put in place is what we should build on, rather than simply trying to extend one part of the proceedings.

Knife Crime

5. Mr Adam Ingram (South of Scotland) (SNP): To ask the Scottish Executive what measures it is taking to curb the rising incidence of knife crime in Ayrshire and across Scotland. (S2O-11718)

The Minister for Justice (Cathy Jamieson): Knife crime remains a serious problem that needs long-term action in Ayrshire and in other parts of Scotland. Working with the police and other organisations, we took significant steps in 2006 to reduce the impact of knife crime in our communities, with robust new laws, revised prosecution guidelines, tough enforcement action and an awareness-raising multimedia campaign. We will continue to build on that action in 2007 and beyond to tackle those who use weapons and to give further protection to the law-abiding public.

Mr Ingram: I thank the minister for her answer. It is, however, a fact that the number of emergency admissions to Ayrshire hospitals of people who have been victims of assault with knives or other bladed weapons has risen steadily over the devolution years. Half the homicides in Scotland are caused by attacks with sharp instruments, mostly by drunken perpetrators. The minister will be aware of the tragic case of Corporal Charles McBlain, an Iraq veteran who was stabbed to death on the streets of Saltcoats on new year's day while on leave from his regiment. Does the minister agree that the booze-and-blades culture remains resistant to her best efforts, and that further policy initiatives and resources are required to turn the tide? What ideas does she have in that regard?

The Deputy Presiding Officer: I think that it would be important not to refer to the specific case, minister.

Cathy Jamieson: Indeed, Presiding Officer, it would be entirely inappropriate for me to refer to specific cases, although I am acutely aware of the tragic consequences for families and for wider communities, not only when people suffer tragic deaths because of knife crime but in cases where young people are literally scarred for life. That is why a considerable part of our effort is devoted to trying to divert young people away from carrying knives. I launched one of the strands of work that we are doing at Kilwinning academy in Ayrshire, and work is going on in schools across Scotland to highlight the dangers of knife crime, with young people who have been victims, and their families, talking about their experiences. That is sending a hard-hitting message to young people.

I am also acutely aware of the situation in relation to hospital admissions and homicide rates, but it is important that we continue our efforts. I think that we have enough elements of our strategy in place to combat the problem of knife crime, but it is important to sustain that effort, which is why we are working with the violence reduction unit to undertake further campaigning work in the coming year, as well as ensuring that there is tough enforcement action.

John Scott (Ayr) (Con): The minister and I both welcomed the knife amnesty in Ayrshire last year. However, in terms of education and notwithstanding the provisions of the new bill, does she have any further specific national plans for raising awareness of the danger, consequences and penalties of carrying knives? If so, how and when will those plans be implemented in Ayrshire?

Cathy Jamieson: I referred to the way in which we want to develop some of the work on the let's not scar another generation campaign. I hope that members have seen the materials that are available—there was information in the local media as well as posters and so on. I call on every member of Parliament to do whatever they can to get that message across in their work. Tackling knife crime is something on which Government can do so much work; we can set the agenda and change the legislation and the prosecution service and police can clamp down but, at the end of the day, we also have to change the culture. Sadly, some people in some parts of Scotland still see it as being acceptable for people—young people in particular—to carry knives. That problem will not be solved overnight, so we must sustain our work. I assure John Scott that we will take further steps in the not-too-distant future to refresh the campaigning work and to try to get the message across.

Antisocial Behaviour (Fixed Penalty Notices)

6. Bill Butler (Glasgow Anniesland) (Lab): To ask the Scottish Executive what plans it has to extend to police forces throughout Scotland the power to issue fixed penalty notices for antisocial behaviour offences. (S2O-11684)

The Deputy Minister for Justice (Johann Lamont): We are currently considering the results of an independent evaluation of our 12-month pilot

of fixed penalty notices in Tayside. The pilot concluded in March 2006 and the final evaluation report was presented to the Executive in November 2006. Decisions on a national roll-out require careful consideration with the police and other criminal justice partners. An announcement will be made in the near future.

Bill Butler: I take encouragement from that answer and hope that the announcement is made soon and that it is positive. Will the minister share with Parliament whether the final evaluation report on the Tayside pilot confirms one of the main arguments for the use of fixed penalty notices to deal with low-level disorder and antisocial offences, namely that they free up police time and reduce the burden on the courts, both of which are much to be hoped for?

Johann Lamont: Obviously, we wish to await publication of the evaluation report before we give members the full flavour of what has been said and set out the next steps. I am sure that Bill Butler will look forward to receiving that information. However, I can say that the feedback, including that from Tayside police, is positive. Officers are keen on fixed penalty notices because, as the member suggested, they save time, as officers can often issue a notice on the street and do not have to go back to the station, and they allow officers to respond to low-level offences. Equally, it is clear that the public approve of the notices, because they deliver highly visible immediate justice and send a strong message to people who commit low-level offences that doing so is unacceptable. We have received positive responses on the pilot. More detail will be provided later.

Roseanna Cunningham (Perth) (SNP): The minister referred to the use of fixed penalty notices in the Tayside police area—they are in use in my constituency, in the city of Perth. Is the minister aware that there is a certain amount of evidence that, although the notices are effective against what might be called one-off offenders—the people who perhaps come out of a pub on a Friday night a bit overrefreshed, shall we say—they are somewhat less effective when used against persistent offenders, who often do not have the money to pay or will not pay? Regrettably, when such offenders do not pay, no action is taken against them by the local procurator fiscal. Will the minister ensure that the process is followed through completely in any future roll-out?

Johann Lamont: Fixed penalty notices are intended to be used for low-level offences and perhaps to deter people who offend on a first occasion from doing so in the future. We acknowledge that persistent offenders pose a greater challenge. In our general approach, we understand that there is progression in all such matters. We do not expect fixed penalty notices to be given inappropriately to persistent offenders. As the evaluation is considered, we will ensure that those issues are dealt with. Fixed penalty notices are not compulsory; they are a matter of judgment by officers. However, they are absolutely intended for first-time offenders and low-level offending and are not a substitute for the other options that are available to the police.

The Deputy Presiding Officer: Question 7 has been withdrawn.

Prisons

8. Brian Adam (Aberdeen North) (SNP): To ask the Scottish Executive when it will announce its plans for new prison facilities for the north-east. (S2O-11665)

The Minister for Justice (Cathy Jamieson): A number of factors will need to be considered, including the financial implications and the responses to the recent consultation, before a final decision is taken. The decision will also have to be taken in the context of the next spending review.

Brian Adam: Will the minister assure me that the facilities will include facilities for women prisoners as, currently, women from the north-east are sent to Cornton Vale and, I believe, Greenock?

Cathy Jamieson: Obviously, in advance of an announcement, I cannot state what the facilities might be. I know that Stewart Stevenson has been active in expressing his concerns in relation to the future of Peterhead prison and I am sure that Brian Adam and other members are concerned about the facilities in Aberdeen prison. However, we must acknowledge that the number of women prisoners is relatively small in comparison with the overall prison population.

I have heard it argued many times in the chamber that we must take into account the particular needs of women prisoners. In an attempt to do that, there has been investment in Cornton Vale to upgrade the buildings to ensure that they are appropriate, and to upgrade the programmes. I would not want that work to be undermined by simply transferring people into other units. I hear what members are saying and I understand the issues of geography and locality and the importance of family ties, but we do not want to address those issues at the expense of other important parts of the system.

Enterprise, Lifelong Learning and Transport

The Presiding Officer (Mr George Reid): Question 1 was not lodged.

A76 (Improvements)

2. Alex Fergusson (Galloway and Upper Nithsdale) (Con): To ask the Scottish Executive when the improvements to the A76 announced to date by its Transport Department will be completed. (S2O-11723)

The Minister for Transport (Tavish Scott): Tenders for the scheme at Glenairlie will be invited in May and construction should be completed by July 2008. In addition, Amey, on behalf of Transport Scotland, is carrying out safety improvements at a number of locations on the route. Works between Sanquhar and New Cumnock, involving the provision of high-friction surfacing at bends and signing and lining with vehicle-activated signs, are on-going. Twenty-five per cent of the work has been completed and the remainder will follow as soon as the weather permits.

Works to the north of the A75 junction at Lincluden and at the B743 junction at Mauchline are programmed to start as soon as the weather improves. They include high-friction surfacing, signing and lining and the cutting back of foliage. Safety-fence works are currently at the design stage; 10 sites will be upgraded to meet current standards by March 2007.

Alex Fergusson: I am grateful to the minister for that detailed response. He may know of a letter that I received from Transport Scotland assuring me that the works identified following the minister's acceptance of a petition from Dr Elaine Murray and me, which had been instigated by the *Dumfries & Galloway Standard*, would be completed by the end of last year. Indeed, there has been a members' business debate in my name on the dangers of the road, and the minister's department has announced a series of 18 low-cost improvements. I can only assume that the frenetic activity on the A76 since I lodged this question is entirely coincidental. Does the minister believe that the works will increase driver awareness? Given the accident record and—sadly—the death record on the road, will he agree to consider further low-cost measures that are aimed at increasing driver awareness?

Tavish Scott: I am sure that Mr Fergusson agrees that there would not be much point in carrying out the works unless they assisted in driver awareness. There cannot be any point in investing in small schemes—or indeed in larger schemes—unless they meet that objective as well as a number of other objectives in relation to safety on the trunk road network. I can assure Mr Fergusson that I am happy to consider any further programme. While I recognise the importance of that, I hope he accepts that it must be done in the context of accident prevention work and, indeed, the statistics, some of which he has drawn our attention to this afternoon.

Alasdair Morgan (South of Scotland) (SNP): I wonder whether the minister shares my frustration, and, I am sure, that of many other members, at the length of time it takes to get projects, which often have been approved or have no real planning difficulties, to the stage of being implemented—not just the A76 but other roads throughout Scotland. What assurance can he give us that the new Transport Scotland regime will speed up the process? Many of us cannot understand the delays that so many authorised projects encounter before they reach completion.

Tavish Scott: I saw nods from various members behind Mr Morgan. I agree that at times this is difficult to understand. It does not matter whether a scheme is a small safety scheme of the kind Mr Fergusson and Mr Morgan mentioned, or a motorway construction; in taking forward any scheme, a Government of whatever persuasion has to go through the processes that are laid down in statute. I can send Mr Morgan as much statute as he likes, if he wants it. We could reform the Roads (Scotland) Act 1984—that is an option open to any Government—but that course does not go without some complexity, and it would certainly take some considerable time in Parliament.

I will remain focused on ensuring that, in using Transport Scotland, we drive works forward as much as we can. We have the statutory processes that, as Mr Morgan knows, are used by many local people when they wish to object. If we were simply to remove those processes, I suspect that we would all come under some pressure. There are some balances in the arguments, although I accept that at times those balances seem difficult to understand.

Higher Education Funding

3. Mr Andrew Welsh (Angus) (SNP): To ask the Scottish Executive what action it is taking to ensure that higher education funding does not discriminate against newer Scottish universities, that Scottish universities can compete with English universities and that higher education is freely accessible to all Scots. (S2O-11716)

The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Nicol Stephen): The Executive, through strategic guidance, has specifically asked the Scottish Further and Higher Education Funding Council to develop responsive future approaches to funding. The council is currently collaborating with institutions to review its teaching funding methodology.

The Executive has increased annual investment in our higher education institutions by 41 per cent in real terms since devolution, to more than £1 billion next year. This massive new investment in

our universities has been achieved without introducing top-up fees and with tuition fees for Scottish students being scrapped.

Mr Welsh: The problem is the distribution of funding. Does the minister agree that Scotland's universities must be at the heart of Scotland's future prosperity and must be open to all who can benefit from them, with Government funding reflecting the universities' key and traditional role in Scottish society? Why has the current Government supported a funding system that discriminates against the five newest universities, which teach one third of Scotland's students? Why has it totally failed to produce a long-term and sustainable funding solution for all Scottish universities? Will the minister now institute an independent inquiry into longer-term, fair and sustainable funding throughout the Scottish university system?

Nicol Stephen: This Executive will take no lessons from the SNP. We have given record funding to our institutions; we have scrapped tuition fees in Scotland; we have rejected top-up fees; and we have brought back student grants for those on low incomes. In contrast, the SNP's policies are in chaos. In 10 years, the party has flip-flopped through nine different policies on student finance. We now hear a 10th policy—an independent review. I have great confidence in the track record of this Executive and the funding council.

Serious issues affect not only our universities but our colleges. For example, we have to consider the role of new universities and the position of colleges in rural areas—issues that are close to my heart. Of course we can make further improvements, but—in contrast with the SNP—this Executive is getting on with business and is delivering for Scotland's students.

Maureen Macmillan (Highlands and Islands) (Lab): Will the minister turn his mind to the University of the Highlands and Islands Millennium Institute, which is seeking university designation and has particular challenges because its network of colleges is so far flung? Will the minister assure us that he will give the utmost support—in funding and otherwise—to facilitate the designation of the UHIMI as a university in the near future?

Nicol Stephen: As Maureen Macmillan knows, I strongly support the University of the Highlands and Islands. I have met representatives of the UHI and I know that Maureen Macmillan strongly supports the move towards university status.

The issue is not all about funding. Current difficulties are not to do with funding but to do with the structure, governance and management arrangements of the UHI. Those issues are serious, and the Executive will do whatever it can to facilitate a solution and to help the UHI to make progress. The focus is now on a United Kingdom-wide body—one that is not directly responsible to the Executive. However, the Executive realises that it can play an important role in the overcoming of challenges. We will do whatever we can.

Highlands and Islands Enterprise, Highland Council and all elected representatives in the Highland area are anxious about the issue and show strong support for the institute. I am confident that the current challenges can be overcome quickly and that we can get back on track in the designation of the UHI as a university.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I recognise the independence of Scotland's universities old and new, but does the minister agree that sometimes we have to be wary of decisions that universities take? I am thinking of Heriot-Watt University's proposal two years ago to remove the school of textiles from the Borders and replace it with absolutely nothing. That situation was turned around by nearly £30 million of investment by the Executive into further and higher education in the Borders. Will the minister ensure that that level of support for our student base in the Borders continues?

Nicol Stephen: Yes. Jeremy Purvis makes a strong point. When decisions that would affect rural areas have been taken, the Executive has moved quickly to ensure that the interests of students are protected.

A similar situation potentially exists in relation to the decisions that the University of Glasgow may take about the Crichton campus. We are absolutely clear that the intention is to continue provision and to replace provision through the other Crichton partners—the University of Paisley and Bell College of Technology. As Jeremy Purvis knows, a similar approach was taken in the Borders. As a result of increased funding, we now have a good level of provision in the Borders, but I am anxious that we continue to ensure that students and young people in the rural parts of Scotland have genuine opportunities to study, whether at college or at university, in the communities in their areas.

Airdrie to Bathgate Rail Line (Blackridge)

4. Mrs Mary Mulligan (Linlithgow) (Lab): To ask the Scottish Executive what progress has been made to ensure that a station is provided in Blackridge on the Airdrie to Bathgate rail line. (S2O-11707)

The Minister for Transport (Tavish Scott): Transport Scotland officials have asked Network Rail to progress the work done on Blackridge station during the initial technical feasibility study. Transport Scotland aims to have that work

completed in time to allow the process of any necessary consultation and Scottish transport appraisal guidance analysis to start as soon as possible in the new session of Parliament.

Mrs Mulligan: As the minister knows, I was extremely disappointed that the private bill that is undergoing its parliamentary consideration did not include a proposal to build stations at Blackridge and at Plains in Karen Whitefield's constituency, but I was pleased to receive a letter from the minister in which he recognised the overwhelming case for having those stations.

I ask the minister to ensure that his officials—those at Transport Scotland and those at Network Rail—work with housing developers in the Blackridge area, who have offered to provide land and an access road to the station, to ensure that plans are progressed quickly and that we take advantage of planning gain to benefit the public purse and the people of Blackridge.

Tavish Scott: I would certainly be interested in proposals from the private sector on planning gain that would help with the costs of building the station to which Mary Mulligan refers. As she knows, we are considering using the Transport and Works (Scotland) Bill, which I hope will have completed its passage through Parliament, or a local measure—a compulsory purchase order mechanism that involves the local authorities concerned—to progress matters. I take the member's points about the wider funding issues, which will form an important part of the overall assessment of the case.

Mr Kenny MacAskill (Lothians) (SNP): In a letter to the Airdrie-Bathgate Railway and Linked Improvements Bill Committee, the minister has stated that no additional funding will be provided. If the Government's view is that a station at Blackridge can be paid for only out of savings that are achieved by the end of the project, who does it think will underwrite the cost of the station so that work on it can commence at the same time as the rest of the project? Will Network Rail, West Lothian Council, the Scottish Executive or some other body do that?

Tavish Scott: I would have thought that the Scottish National Party would be interested in a budgetary process that meant that we had a budget, that we kept to it and that we sought to deliver as much as possible from it.

Stewart Stevenson (Banff and Buchan) (SNP): And?

Tavish Scott: Many of Mr MacAskill's party spokesmen and colleagues—including Mr Stevenson, who shouts out from the front bench—tell me that we should not be spending money as we are; indeed, they want to cancel many of our transport projects. Perhaps for once they should applaud the fact that we are getting on and delivering transport projects.

A801 (Upgrading)

5. Cathy Peattie (Falkirk East) (Lab): To ask the Scottish Executive what meetings have taken place between the Executive and Falkirk Council, West Lothian Council or the south-east Scotland transport partnership regarding the upgrading of the A801 Avon gorge road. (S2O-11710)

The Minister for Transport (Tavish Scott): Officials in the Executive have been in continuing contact with officers from Falkirk Council and West Lothian Council about that local roads project, which has included regular correspondence with Falkirk Council on the grant for land acquisition that was made available in September 2005. The Executive has not met SESTRAN specifically to discuss the A801, although it meets the organisation regularly to consider a wide range of transport-related matters.

Cathy Peattie: The minister will be aware that there have been problems on the road for many years. A major tragedy is waiting to happen. Will he tell us the timescale in which the plans will be finalised and work will start?

Tavish Scott: I understand that the current position is that SESTRAN has committed £220,000 to land acquisition and design work. The estimated cost of completing the upgrade of the road link in question is some £9.5 million. It is important that progress is being made on the acquisition and design issues. I also understand that Falkirk Council has acquired land from three landowners. A deal of work is now being done. I am happy to write to Cathy Peattie with the latest estimates from the agencies involved.

Michael Matheson (Central Scotland) (SNP): The minister is well aware of the increasing use of the intermodal hub at Grangemouth, which is taking freight off our roads and putting it on to rail, and of the environmental benefits that come from that, but is he also aware that some hauliers who recently started to use the hub have to take a detour to get to the M8 because of the limited capacity of the Avon gorge road and its unsuitability for heavy goods vehicles? Is he aware that there is now a negative effect on the environment because of the extended route that hauliers have to take? Does the minister recognise the strategic importance of the road to the economies of West Lothian Council and Falkirk Council? Is he prepared to act to provide the financial support, not for the acquisition of land, but to ensure that the road is upgraded?

Tavish Scott: I am aware of the freight industry's concerns about the road. I assure the member that they have been brought to my

attention. Indeed, we discuss with the freight industry the issues and concerns it raises about roads right across Scotland. The member will not be surprised to hear that the Avon gorge road is not the only pinch point that the freight industry has identified. We deal with those issues as best we can in taking forward our roads programme.

I take the member's point about the interchange and the importance of the environmental calculation. I hope that he recognises that the whole purpose of setting up regional transport partnerships was to enable those partnerships to make good judgments on the transport priorities for spend and support in their areas. That is why I do not think that it is appropriate to brush off the commitment that SESTRAN has made—I hope he was not doing that; it is a positive step in taking the matter forward.

Stirling-Alloa-Kincardine Rail Line

6. Scott Barrie (Dunfermline West) (Lab): To ask the Scottish Executive when it expects a decision to be made on freight charging on the Stirling-Alloa-Kincardine rail line. (S2O-11681)

The Minister for Transport (Tavish Scott): Transport Scotland expects a response from the Office of Rail Regulation imminently.

Scott Barrie: The opening of the Stirling-Alloa-Kincardine rail line is keenly anticipated, not only because it will reinstate passenger transport to and from Alloa but, as far as my constituents are concerned, because it will enable coal to be brought by rail to Longannet power station—but the benefit of getting coal trains off the Forth rail bridge and the Fife circle line will happen only if there is a level playing field in freight charging. Will the minister assure me that there are no plans to levy a premium on the new track? Will the new line be used by freight traffic, as the Parliament envisaged when it passed the act?

Tavish Scott: It is important to recognise that the Office of Rail Regulation is the responsible body in this area. It is an independent body that was set up some years ago to act as the mechanism that Governments north and south of the border use in these situations. Because the ORR is independent of government, it can look at issues consistently across the country. As I said, the ORR will reach its decision imminently. Clearly, we will know the decision only at that time.

I accept Mr Barrie's points about the improvements that the new line will bring for freight movements around Scotland. As he knows, the new line will free up paths across the Forth rail bridge, the result of which will be better rail passenger connections from Fife and other areas.

Dr Sylvia Jackson (Stirling) (Lab): Does the minister have concerns about the viability of the line? When he hears from the ORR, will he communicate the information directly to all the MSPs who have a direct connection to the line?

Tavish Scott: I am happy to ensure that the Parliament is informed of the ORR's decision. I have no concerns about the viability of the line. It is important that sensible judgments are reached on the matter. We are investing heavily in the line not only because of the advantages it will bring for rail freight movements around the country, but because of the improvements it will bring for passenger travel.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I have two very simple questions for the minister. First, when—on what date—will the Stirling-Alloa-Kincardine rail line be opened? Secondly, are the Scottish Executive and Transport Scotland considering making charges to any rail franchise operators for using the line?

Tavish Scott: I would have thought that, by now, Mr Ewing would have worked out how the system works. He claims to be the Scottish National Party's transport spokesman, but all he does is flip-flop from one transport issue to the next. He should know how the system works. If he does not yet know that the Office of Rail Regulation has those responsibilities, I suggest that he goes away and finds out how it works. I do not know what the SNP's current policy on the Office of Rail Regulation is, but I presume that it will have changed by tomorrow, given its policy on everything else. However, if Fergus Ewing finds out what the Office of Rail Regulation's role is, he might be better informed and ask a better question next time.

Tricia Marwick (Mid Scotland and Fife) (SNP): I listened carefully to the minister's response to Scott Barrie on the Office of Rail Regulation. I welcome the fact that the decision will be made imminently. Given the importance of getting freight off the Fife circle line and the Forth rail bridge, has the minister made any representations to the ORR on the importance of not putting a premium on freight on the Stirling-Alloa-Kincardine line?

Tavish Scott: I thank Tricia Marwick for her much more considered question. She obviously has more knowledge of the matter than her colleague, Fergus Ewing, and I can only suggest that they have a meeting now and again to discuss their respective knowledge of it. I assure her that Transport Scotland, as the agency of the Government, regularly meets the Office of Rail Regulation to discuss a number of issues, including the one about which she asks.

Criminal Proceedings etc (Reform) (Scotland) Bill

The Deputy Presiding Officer (Murray Tosh): The next item of business is a debate on motion S2M-5337, in the name of Cathy Jamieson, that the Parliament agrees that the Criminal Proceedings etc (Reform) (Scotland) Bill be passed. I call Cathy Jamieson to speak to and move the motion.

The Minister for Justice (Cathy Jamieson): It is Johann Lamont.

The Deputy Presiding Officer: I beg your pardon. That is not what it says in my script.

14:56

The Deputy Minister for Justice (Johann Lamont): There you are. See what happens when we rip up the script.

The Executive has much to be proud of in the reforms to Scotland's justice system that it has delivered. Many of the proposals that were outlined in our criminal justice plan, which was published in 2004, are already making a positive difference to the lives of ordinary people up and down the country day in, day out. We have record numbers of police officers—an increase of nearly 1,500 since 1999—on our streets; more crimes are being solved than ever; serious violent crime is on the decrease; and serious criminals are being hit hard through the seizure and disposal of assets that are then put to use to further improve our communities.

We have reformed the operation of Scotland's High Court, leading to fewer adjournments and sparing thousands of witnesses the stress of unnecessary trips to court. Our antisocial behaviour legislation is making a real difference in tackling the scourge of antisocial behaviour and is helping people and communities to fight back and reclaim their local areas for the benefit of the law-abiding majority.

We have tackled the justice agenda from all angles, addressing the causes of crime, the effects of crime and, just as important, the systems that are needed to deal with crime and make Scotland safer. The Criminal Proceedings etc (Reform) (Scotland) Bill is an important part of that process and reflects the importance of not only the aspiration to reform, but the practical detail and procedure that must be developed to fulfil that aspiration.

Reform of the summary justice system is critical. The vast majority of offenders first come into contact with the criminal justice system at the summary level, so a quick and effective response to offending can stop a life of crime in its tracks. The summary process can and must play its part in reducing offending and reoffending, and the bill will allow it to do just that. It will ensure that public safety and the interests of the law-abiding majority are put first. It will improve the speed and efficiency of the system and ensure that it plays its part in reducing reoffending.

I thank the Justice 1 Committee for its detailed scrutiny throughout the bill's parliamentary progress. That scrutiny has led to a number of positive changes. I give the committee my personal thanks for tolerating me when I took on the final stage 2 meeting at short notice. I thank Hugh Henry, who preceded me as Deputy Minister for Justice and oversaw the process so effectively that there was little for me to worry about when I came into post. I also thank the bill team, which was able to ensure that I was briefed appropriately to pursue the last stages of the bill's progress.

The consensus that has emerged at stage 3 does not mean that we are dealing with issues that do not matter, but is a reflection of the fact that the committee team, the ministerial team and the bill team worked hard together to address the issues. That work has paid a dividend in our having a largely consensual stage 3 debate, and I acknowledge the hard work of all the people who were involved in the process.

The bill sets out the law on bail clearly and makes it easier for the public to understand. In response to a committee recommendation, we lodged a stage 2 amendment to make it absolutely clear that consideration of public safety is always part of the bail decision. If an accused is charged with a serious violent, sexual or drugs offence and has a previous record for such offending, the court should grant bail only in exceptional circumstances.

Penalties for breach of bail are increased. An accused who is given bail will be in no doubt that they are in a position of trust. If they abuse that trust, action will be taken. Judges will be required to make their decisions clear and to explain the consequences of breaching bail, thereby improving clarity and underlining the responsibilities on the accused. Nothing in the bill will change the fact that courts make individual bail decisions. It is right that the courts make those decisions, but it is also right that the Parliament sets the parameters within which the decisions are reached. That is what we are doing through the bill. Through the provisions of the bill, we seek to ensure that there will be increased respect for bail and increased public confidence in the justice system, and that people living in communities throughout Scotland can have safer daily lives.

The bill reforms a number of procedures in the summary system that are sometimes seen as slow

and bureaucratic and which have caused concern to victims, witnesses and the communities that have been subject to offending. We have listened to those concerns and we have responded. The bill makes detailed changes to criminal procedures, which, taken together, will lead to greater efficiency, less inconvenience for victims and witnesses and swifter punishment of those who offend, which underlines the fact that low-level crime will be dealt with effectively by the system.

The bill reforms the structures of the summary system. It makes sense for the Scottish Court Service to run district courts, because it is a specialist court provider whose main task is to run the courts effectively. The bill also increases the disposals that are available for tackling offending quickly and effectively. It increases the availability of alternatives to prosecution and allows the right disposal to be used at the right time.

Through the introduction of fines enforcement officers, fines will be robustly enforced against those who can pay but choose not to, ensuring that the fine is a credible and effective disposal and that the judicial system is no longer an unwilling partner in an individual's desire to seek headlines, as a result of which they end up in court instead of paying a fine that they can afford. Fines enforcement officers will have smart enforcement powers to use against those who have the means to pay but choose not to do so. The ability to deduct fines directly from salaries and from moneys that are held in bank accounts, coupled with the fact that the officer will be a dedicated case manager for the enforcement of fines, will ensure that fine defaulters are not able to frustrate the aims of justice by wilfully not paying their fines and ending up in jail.

There are, of course, those who want to pay their fines but who have genuine difficulty in making payment. Those individuals will be offered advice and assistance to ensure that they pay their fine in a way that they can manage. The combination of hard-edged enforcement and access to advice will ensure that imprisonment for fine default is a genuine last resort.

The bill will revitalise Scotland's long-standing practice of lay justice. Lay justices play a crucial part in giving communities a direct link with their justice system. However, it must be more than just a tradition. Reforms to the recruitment, appointment, training and appraisal of justices of the peace will ensure that they play a leading role in the reformed system.

A programme of practical work is already under way to ensure that the reforms will be effectively implemented. The reforms will help us realise our key aims of reducing reoffending, improving public safety and ensuring that our criminal justice system builds safer daily lives for all those who come into contact with it.

I am very much aware that I have come into the process at a late stage and that the Minister for Justice, Cathy Jamieson, has been there throughout a very long process, which started long before the introduction of the bill. It is a privilege for me to have become engaged in the process at a late stage in the scrutiny of significant legislation. I thank all those who did all the hard preceding work.

I move,

That the Parliament agrees that the Criminal Proceedings etc. (Reform) (Scotland) Bill be passed.

15:03

Stewart Stevenson (Banff and Buchan) (SNP): I, too, am tempted to rip up my script and to see what happens. Today's stage 3 has, in fact, been finely scripted. The fact that we had only 65 amendments at stage 3 for a substantial bill suggests that the Criminal Proceedings etc (Reform) (Scotland) Bill might be a model from which we can learn and which, I hope, we can replicate. Stage 3 proceedings for some other bills have involved hundreds of amendments—indeed, it has been known for there to be more than 1,000 amendments to a bill. That indicates not only a degree of consensus on this bill but, more critically, a degree of engagement by all parties.

I was slightly surprised—I might have missed this—that the minister did not thank John McInnes, who was the moving spirit behind much of what is happening. Perhaps we will hear that later. I think that John McInnes was misled by accountants as far as JPs were concerned, but we have rescued that matter and we have reinvented the JP court for another generation. I think that there is widespread welcome for that across the chamber.

The key thing that we seek to do in the bill is to move people out of courts, by ensuring that they can be dealt with directly by the fiscal, and, of course, out of prison, through the use of fines enforcement officers and other measures. Broadly, there is support across the chamber for that. Accordingly, at decision time—which might be somewhat earlier than scheduled—we will support the bill.

Let us examine the tests that we should apply later to determine whether the bill has been successful. The bill promises tighter conditions and increased penalties for breach of bail. Given that the public have certainly been concerned—perhaps on an ill-informed basis—about the way in which the bail system works, it would be widely welcomed if the bill could deliver improvements in that area.

With regard to undertakings, we are not wholly convinced that the bill will deliver as much as people have suggested. However, we will give the proposal a fair wind by supporting it and seeing what happens.

If there is a reduction in the number of people who fail to appear in court because people know that trials in absence will be part of the way in which they might be dealt with, we will know that there has been success in that regard. I continue to have an instinctive discomfort about trial in absence, but I recognise that, practically, we have to engage with it.

There is further extension of the use of electronics to sustain, support and improve the efficiency of the system in a variety of ways. I am not sure that everyone in the criminal justice system understands some of the limitations of using e-mail to engage with the public, which arise from the fact that we cannot directly control the public's end of the e-mail system. However, within the criminal justice system, e-mail is valuable because the internal system can be controlled in a stable way and we can always be sure of exactly what is going on.

The fiscal's role will become more important. That will be quite a challenge for fiscals. There will be an increased use of fiscal fines and fiscal compensation orders. I have spoken about some of my reservations in that area and have had a degree of reassurance from ministers in that regard. I shall be watching carefully to see how the system works in practice.

I retain substantial discomfort about the issue of deemed acceptance. We will know whether it is a problem and whether I am right to have some discomfort about the issue in several years' time rather than a few months' time.

I welcome the fact that MSPs, among others, will no longer be able to play the system and cost the prison service huge amounts of money by choosing, for the sake of gesture politics, to go to prison instead of paying their fines.

I welcome the fact that we have engaged with and sought to reform the summary justice system. It is the core of our court system. I wish the reforms success, but we will watch certain aspects of them sceptically. I congratulate all who have been involved in the reforms.

15:08

Margaret Mitchell (Central Scotland) (Con): I thank the Justice 1 Committee clerks for their help and support during the various stages of the bill, which was introduced in February 2006.

The introduction to the committee's stage 1 report quotes the Executive as saying:

"Taken together these measures represent the most radical reform programme of the Scottish criminal justice system for a generation."

The proposals are certainly radical, particularly with regard to trial in absence and the opt-out requirement in relation to the offer of a fiscal fine, which will, otherwise, be automatically deemed to have been accepted. However, I caution the Executive to remember that being radical is not necessarily a virtue in itself. I remain concerned about the provisions for trial in absence, which have been passed with the best of intentions but which will, I fear, affect disproportionately some of the most vulnerable people in our society; I refer to those with chaotic lifestyles that are due, more often than not, to their dependence on drugs or alcohol.

On a more positive note, I welcome the provisions relating to bail and remand, which will tighten bail provisions and make the reasons for granting or refusing bail much more transparent. I hope that they will also negate the unintended consequences resulting from the incorporation of the European convention on human rights directly into Scots law and lead to a much stricter regime for granting bail that puts public safety firmly first. I acknowledge and commend the excellent work that was done on that by the committee chaired by Sheriff Principal McInnes and the Sentencing Commission.

More generally, although many of the procedural provisions are to be welcomed in principle, the devil, as always, is in the detail. It would have been preferable for the Lord Advocate's guidance to be published in advance of the passing of the bill to allow proper scrutiny of proposals, for example in relation to liberation on undertaking. I request that the minister takes that point on board in an effort to ensure that, whenever possible, such guidance is available much earlier in the legislative process.

The provisions contained in part 3 relating to fines enforcement officers will be interesting to monitor in order to establish whether they result in an increase in the numbers of wilful fine defaulters being dealt with appropriately in the recovery of fines.

Part 4 addresses the lay justice system and district courts. It contains good provisions, which will strengthen those courts' effectiveness. However, I regret that the minister has again rejected the opportunity to increase the range of disposals that are available to JPs by not including drug treatment and testing orders and community service orders. I do not pretend to be other than disappointed. That important issue has again been kicked into the long grass, with yet more vague promises of review and evaluation, perhaps when appropriate, leading to the disposals—which JPs

themselves have requested—being made available.

I acknowledge and commend Sheriff Principal McInnes and his committee for its excellent work in producing the McInnes report, which has helped in no small measure to shape this important bill. Despite the reservations that we have expressed about certain aspects of the bill, taken as a whole it has much to commend it, which is why the Scottish Conservatives will support it.

15:13

Mike Pringle (Edinburgh South) (LD): I rise to support the Criminal Proceedings etc (Reform) (Scotland) Bill.

The bill addresses and changes a number of important areas. Since I was elected in 2003, the Scottish Executive has embarked on a comprehensive programme of improvement of the criminal justice system, the aim being to improve the High Court and, in the case of the bill, sheriff courts and district courts, which are now to be called justice of the peace courts. The bill addresses a number of important issues, such as bail, speeding up some criminal proceedings, increases in sentencing powers and alternatives to prosecution.

The two main areas of the bill that I will address are the reform of the collection of fines and the replacement of district courts by justice of the peace courts. However, I will first address an issue that gave the Justice 1 Committee some cause for concern: trial in the absence of the accused. I understand the concern expressed by many on the issue, but from my own experiences I believe that we need to give much more help to witnesses and victims. When the deputy minister came to the committee at stage 2—I think that it was Johann Lamont, although it might have been Hugh Henry—she told us that in 2002-03 4,000 cases had to be delayed and some abandoned because the accused failed to turn up at their trial. The message to those accused, and most importantly to their solicitors, is that we will no longer accept deliberate delays in trials.

On fine defaulters, it was estimated in 2003-04 that of the £15.2 million of fines that was imposed in the sheriff court, 80 per cent was collected, which left £3 million unpaid. At the same time, in the district court the amount of fines imposed was £14.07 million, which is approximately the same. It is difficult to assess collection rates in the district court, but we can assume that it is approximately the same, thus leaving £3 million uncollected.

The McInnes committee stated:

"The enforcement system as it is at present, while successful in collecting and accounting for payments which are made, fails to secure prompt payment of sums which those fined are unwilling to pay and does not cope well with those who genuinely cannot pay."

I hope that the introduction of fines enforcement officers will keep many more defaulters out of prison, which is surely an aim shared by us all. Their introduction will free up much police time through reducing the number of means inquiry warrants and will free up much court time, as only after all efforts by fines enforcement officers have failed will we see offenders back in court.

On JP courts, I am glad that the Executive did not take up the suggestion made by McInnes to abolish district courts. I had concerns during stages 1 and 2 about some aspects of the bill relating to JP courts. For example, the question of all existing JPs doing court duty horrified not only me but most clerks throughout Scotland. I am pleased that the issues were sorted out at stage 2.

Although I welcome the fact that JP courts will now come under the responsibility of the Scottish Court Service, it is still of some concern that it will take a considerable time to implement the change throughout Scotland.

I always thought as a JP in Edinburgh that our training was adequate but that it was a bit haphazard throughout Scotland, so I was keen to see a commitment to improve training. I am therefore pleased that the Deputy Minister for Justice gave that commitment at stage 2.

Considerable concern was expressed that in the long term there was a desire to see JP courts disappear and that they would end up dealing only with theft and not much else. Again, I am pleased that at stage 2 the deputy minister gave us reassurance.

I am sure that, as the bill stands, justice dispensed by JPs will be considerably enhanced. I repeat that I am pleased that the Executive has retained what is in my view an essential part of the justice system.

The bill is very much to be welcomed, and I will support it at decision time.

15:17

Pauline McNeill (Glasgow Kelvin) (Lab): I thank the clerks to the committee, committee members, both deputy ministers—Johann Lamont and Hugh Henry—who listened to the committee, and the bill team, which spent a lot of time with us.

I emphasise to members that although we may have set a trend today by concluding the debate on the amendments early, they should not get used to it. Members should not make the mistake of thinking that there was not a lot of hard work in ensuring that there is a consensus. That work was cross-party and also involved the police and the Crown Office. We wanted to understand the bill's

provisions. The point was not to change everything but to understand what was in the bill.

I will draw attention to a few issues, as it is important to clarify the meaning of some provisions in the bill. In reforming summary justice, it was not as easy to put our finger on the big idea as it might have been in reforming the High Court system. The collection of reforms has the potential to speed up and improve the system, make it more efficient and force all those involved in the criminal justice system to think about their role.

The bail provisions in section 1, which apply to solemn and summary proceedings, are important. The committee pointed out that we were looking for clarity. Section 1 is not an exhaustive summary of all the reasons for sheriffs to refuse bail, but it is a good summary of them.

Other provisions in the bill deal with how to remove the churn in the system. Alternatives to prosecution can take more people out of the system. Giving fiscals the powers that we debated earlier in relation to the increase in fiscal fines will take more people out of the system—perhaps first-time offenders or those involved in minor offences. That will be important in helping to achieve the progress that we need to make on alternatives to prosecution.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): Will the member give way?

Pauline McNeill: I am sorry, but I have only four minutes. Otherwise, I would have taken an intervention.

I welcome the fact that, having thought about the issue, the Executive agreed that fiscal fines should not result in a criminal record but should be treated as important information that the court can use for up to two years following the acceptance of the fiscal fine.

Undertakings are a central part of the bill. In our private discussions with the police, the Crown Office and ministers, it became clear that the phrase "liberation on undertaking" was not an accurate description of what we are trying to achieve in the bill. The undertaking process is the part of the system that will speed up some of the more important cases—for example, those that involve children as witnesses or that involve sexual offences—and bring the offenders to court much more quickly. It is, therefore, important that we give the police the power to add standard and special bail conditions because of the shortness of the process. It is also important to draw attention to why we are giving the police those powers. Normally, the court would determine bail conditions and a lawyer would be present, but because of the shortness of the process for getting cases to court, it is acceptable to give the police those powers. Because of the wide powers that we are giving to the Crown Office and the police, it is important that the Parliament continues to take an interest in how the guidelines are applied. A lot of work on that is in progress.

In my final 30 seconds, I will say something about the JP courts, which can play a crucial role in the system. The committee was careful to say that the public must have confidence in the district court system if their sentencing powers are to be increased. I have received assurances—I would be grateful to receive them again—that there will be no attempt to increase the sentencing powers of the district courts until the Executive is satisfied that that confidence exists. I support the points that Mary Mulligan made in the debate this morning. When all the measures are under way, there should be more scope for district courts to take a few more sentencing powers. That relates to the debate that we had yesterday about tackling prostitution, and especially to the issue that I raised about district courts being given powers to apply drug treatment and testing orders so that we can deal with the problem with a bit more thought.

15:21

Patrick Harvie (Glasgow) (Green): Once again, the deputy minister has set a relatively constructive tone for the debate—that is twice in one week. I hope that she is feeling well. I have no doubt that there will be time for more robust exchanges over the coming months.

My contributions to justice debates are perhaps not always entirely constructive from the Executive's point of view. I am often critical. Some might accuse me of overegging the pudding from time to time. However, in today's debate about trial in the absence of the accused, the Conservatives took the biscuit—if I may mix my food metaphors—in accusing the bill of overturning the fundamental principle of the right to a fair trial. That is pushing it a bit. I am the first to agree that accused people—who are innocent in the eyes of the law until proven guilty—have clear rights that cannot be shirked. Nevertheless, the approach in the bill, which focuses on what is in the interests of justice, seems proportionate. Some of the examples that the Conservatives cited were clearly not in the interests of justice, and I do not think that we should be terribly concerned about them.

In that area as in others, I am broadly content with the bill and I will vote for it. However, I still have concerns about breach of bail, which I expressed at stage 1. Breach of bail is a serious matter, and we can all sign up to the aspiration to cut the number of bail offences. Nonetheless, if, over the coming years, the number of bail offences remains the same and we simply lock up more of

the offenders, will that achieve what we want? I argue that it will not.

Prisoner numbers are continuing to rise and we are told that the pressure for extra prison capacity will outstrip even the Executive's predictions. In considering other legislation, other parliamentary committees are being told by people who work on the front line in the Prison Service that the system is more overburdened and overstretched than ever before. We are also possibly heading towards a situation in which we imprison a higher proportion of our population than any other European country. It should, therefore, be clearer than ever that simply locking people up for longer does not make society feel safer or make society safer in reality. I worry that, a few years down the line, in reconsidering the issue, we will find that bail offences have continued and that we have simply added to the overstretching of the prison system, making the situation worse.

I have little to add to my general welcome for the bill and my one expression of concern over an issue that will perhaps be for the next Parliament to consider in the coming years. There is enough reason to support the bill, and the Greens will vote for it this afternoon.

15:25

Mrs Mary Mulligan (Linlithgow) (Lab): I add my thanks to the Justice 1 Committee clerks, who were, as ever, effective and efficient in supporting us. I also thank the many witnesses to whom the committee spoke over the course of the bill's progress. Their input to our proceedings, particularly given the fairly technical nature of the bill, has allowed today's debate to be less adversarial than is sometimes the case with our debates, even at stage 3.

The bill fulfils the partnership agreement commitment to take forward the review of summary justice. Summary justice should not be delayed and time consuming. The bill's reforms will make it quicker and more effective. The bill will extend the powers of prosecutors by giving them more options for dealing with offences. It will refocus the role of district courts, which will be renamed justice of the peace courts. It will also give sheriffs more powers to deal with a wider range of summary cases by increasing their sentencing powers and the levels of fines that they can impose.

I will concentrate my comments on three issues. First, on justice of the peace courts, as I said this morning, I welcome the decision that district courts will continue under a new name. I also welcome the move to bring the courts, which are currently administered by the local authorities, under the auspices of the Scottish Court Service. Although questions have been raised about the training and support that is provided to JPs and whether such provision is consistent throughout Scotland, the fact that the bill requires all JPs to receive regular training has been welcomed by the JPs themselves. JPs recognise that the new requirements will give others in the justice system and the wider community more confidence in the role that JPs play. As a result, JP courts might in future be able to extend their role in the judicial system. I hope that the minister will continue to keep under review the option for JP courts to be given—as we discussed this morning—powers over DTTOs and community service orders.

Although the unified court administration that will result from the bill will provide many benefits, I have written to the Minister for Justice, Cathy Jamieson, about one issue concerning the future of the clerks to the district courts. Briefly, they are currently employed by the local authorities and, under the new system, they will become employees of the Scottish Court Service. There is some uncertainty as to their position and career prospects within the SCS. Given that the clerks have been key to the success of the district courts, their future position must be resolved. I know that the minister will address that.

Secondly, on undertakings, during the stage 1 debate I recounted my experience of visiting the pilot project in West Lothian. I said that I could see the benefits of extending the use of undertakings, and I still support that. In Livingston, the co-location of the police team and a member of the Procurator Fiscal Service has helped to deliver a streamlined service. One of the bill's aims is, as I mentioned, to speed up the system, and the increased use of undertakings will contribute to that improvement.

Thirdly, on proceedings in the absence of the accused, it is important that we were able to debate the issue. The Executive has struck the right balance between, as Patrick Harvie said, ensuring that people are innocent until proven guilty and preventing people from abusing the system by not attending court and taking part in the process. Witnesses have a right to see justice being delivered. Victims also expect the accused to appear in court. If people abuse the system by not appearing, it is important that a trial still proceeds. The Executive has got the balance right.

I welcome the new measures, which will lead to a more effective and efficient summary justice system. I am sure that the system will be seen to be so when the bill's measures are implemented.

15:29

Colin Fox (Lothians) (SSP): Time permits me to raise only two issues in this debate.

First, I accept the bill's policy objectives of reforming the summary justice system. As we have discussed two or three times in the chamber, the system needs to be made more efficient and speedier. I have read and accepted the McInnes committee report, which we all agree offered many important and valuable suggestions on how we should respond to the lengthening time that it has been taking for cases to come to court and on how court processes could be completed efficiently. At all stages of the bill, it was widely accepted that, in many ways, justice delayed is justice denied. That applies as much to defendants who are keen to clear their name as to victims and witnesses.

In my remarks, I want understandably to concentrate on the provision for trials in the absence of defendants—a feature of the bill on which many members have commented. That provision is the main source of controversy. I share the great unease that exists throughout Scotland and the Parliament about the provision. I hope and am sure that the minister appreciates and understands fully the Parliament's feelings on the matter. Members have rightly said that a balance needs to be struck.

Like many members, I am instinctively wary of the provision. It appears from the debate that I am more concerned about it than others are, because I am not wholly convinced that delays in 4,000 cases are explained fully by people's wilful refusal to turn up. That is nothing like an adequate explanation for so many delayed cases. As other members have highlighted today, the accused may fail to show up for a plethora of reasons. I am sure that the minister accepts that that, rather than the image of an irredeemably persistent and wilfully conspiring felon who is out to outwit the system, is the reality with which we are dealing. This morning, Pauline McNeill was right to highlight the many reasons why people do not turn up, which are varied and do not easily fall into the category of wilful non-appearance.

I am not convinced by the view that Stewart Stevenson and others expressed this morning that it is the accused who decides not to show up and, therefore, that a trial should be conducted in his absence. From previous evidence, we know that solicitors have advised clients not to show up on certain occasions in order to avoid certain judges. We heard today that it is okay for a trial to take place in the absence of the accused if that happens as a consequence of the accused's decision not to attend, but what if failure to attend is not the result of a decision by the accused? Unfortunately, as we all know, a standing feature of Scotland's sheriff court system is the chaotic lifestyle of many who are accused. What if that causes them not to turn up because they either do not know that their case is due or, more likely, they fail to understand the consequences of their absence? In other words, in reality, the decision of the judge, not the decision of the accused, will determine whether a case proceeds in their absence.

We are told that the provision will not be used widely, which I welcome. I also welcome the minister's assurance that it is a power of last resort, and that judges will have to be satisfied that all other avenues for bringing the accused to trial have been exhausted and that it is in the best interests of justice to proceed. However, if 4,000 cases are delayed, but the power to proceed with trials in the absence of the accused will not be used frequently, are we not looking in the wrong place to achieve meaningful efficiencies in the system?

The right to a fair trial has rightly been enshrined in Scots law, but it is being eroded. As I have said previously—I make no apologies for doing so again—new Labour has repeatedly eroded that right, which is enshrined in law in Britain. We need look no further than the case of those who are held in Belmarsh prison in London, who are denied even the right to a charge, far less the right to a trial. I am worried that the provision for cases to proceed in the absence of the accused may lead to more miscarriages of justice. That is no less an issue simply because penalties at summary level are less than those at High Court level.

I have outlined my major concerns about the bill, but, unusually, on this occasion I want to give the Executive the benefit of the doubt. The Scottish Socialist Party will support the bill, but we put on record our unease about the provision for trial in the absence of the accused.

15:34

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): This is a good bill, but, as members have said, it has not had an easy passage through the Parliament. The bill has raised delicate, sensitive and complex issues, but the fact that stage 3 has been relatively straightforward is an indication of Parliament's effectiveness and of the Executive's willingness to listen to representations from the Justice 1 Committee. That does the Parliament credit.

The bill puts into primary legislation the grounds on which bail may be refused. For more than 20 years, legal practice has set clear precedents on the operation of bail, but we will now have a clear statute in which the public can see the grounds on which bail will be given or refused. The specific grounds that are relevant to any decision will now be clear—they include the associations and community ties of the accused—and the court will be able to make a more rounded decision. That is

a positive step, and I hope that our communities will regard it as such.

The provision that requires judges to make clear the reasons for their decisions is also important. It is part of the Executive's work to open up the justice system, to make it more transparent and ultimately to make it better for the public.

Section 33 is a welcome development. It will give sheriffs in summary courts wider sentencing powers by extending maximum custodial sentences to 12 months. Similarly, JPs who sit in JP courts will have the power to give sentences of up to six months. That might mean longer custodial sentences, but I hope that there is no doubt in the chamber about my views on the effectiveness of sentences of less than six months. Of course, some of the increases will be offset by the provisions that extend the scope of alternatives to prosecution.

Alternatives to prosecution have raised ethical issues since they were introduced more than 10 years ago. I sought to make a point about them to Pauline McNeill. She made an excellent speech, but she said that alternatives to prosecution might be most effectively used in relation to first-time offenders. We must be careful that we do not allow people to decide that they want an alternative to prosecution rather than facing the justice process and, in some cases, clearing their name. The District Courts Association expressed concern about that in its evidence to the Justice 1 Committee, as did Scottish Women's Aid, given the potential in the long term for alternatives to prosecution to be widened, although, I do not think that that will happen. The Justice 1 Committee deserves credit for the careful consideration that it gave to those difficult areas.

We in Scotland benefit greatly from lay justice. The fact that the minister rejected some of the core elements of the McInnes report is positive. The Parliament has not only retained lay justice but strengthened it and widened its scope. Mike Pringle raised the issue of training. If the minister has time, I would ask her to comment on the idea that training and support for lay justices in summary procedures should be similar to the training and support that is given to panel members in other areas of lay justice. Greater consistency in support and training would help both youth justice and adult justice.

The bill will provide a better system with speedier processes. It will free up time in our summary courts and it will retain and strengthen lay justice. That is exactly what justice in Scotland should be about.

15:38

Mr Kenny MacAskill (Lothians) (SNP): We welcome the bill. Obviously, we have some scepticism about some aspects of it, but we appreciate the progress that has been made. As others have said, we made faster progress today than we have made in other cases. That is as it should be, because there is unanimity about much of the bill, which does not contain radical, ideological proposals for the Scottish legal system. Sheriff Principal McInnes and the Executive had considered how the existing procedures could be improved, so the bill was a matter not of tangentially proposing something new but of examining the system and asking how we can update it for the 21st century. Our circumstances have changed, not just because of electronic media but because people's lifestyles have developed. It is therefore correct for us to move forward.

As has been mentioned, the primary focus of the bill is our summary justice system. I do not share Colin Fox's fears. As far as we are concerned, summary justice has to be speedy and efficient. It must balance a variety of factors. Pre-eminent among those are the interests of justice and the rules and regulations that must be followed, but we must also consider costs, time and effectiveness.

Summary justice is most certainly not arbitrary justice. The bill accelerates into the 21st century rules that have served us well but which need to be tweaked, reviewed and amended.

Bail is clearly a factor. The bail system is essential; we cannot do without it. We cannot remand everyone—people have to be put on their own recognisance to a degree—nor can we go back to the days of monetary bail. We have to improve the system because, rightly or wrongly, it was becoming discredited, and we have to ensure that it works better.

Clearly, we had to improve sentencing. A balance had to be struck between summary justice and fiscal fines, which are an important aspect of the administrative system for dealing with minor offences. We do not want to go in the same direction as some areas in the United States have done, in which the district attorney becomes judge and jury and pressure can be put on the accused. We need to keep a balance and, at the moment, that balance is right. The bill will be effective in empowering our procurators fiscal to do more to make our communities safer.

Some difficulty was clearly caused by JP courts, which were not recommended by Sheriff Principal McInnes. When I was a practising agent many years ago, like most in the legal profession I was sceptical, if not condemnatory, of district courts. My position has changed, and it is correct that we should keep district or JP courts. Not everything legal should be dealt with by those who have a professional degree. We have to recognise that

we must open out this area to our communities. To an extent, district courts have been affected by the same problem that afflicts community councils. They can be criticised, maligned and told how bad they are, but if we did not have them, we would have to invent them. That is why it was correct to ensure that we would maintain those courts and make them work better.

District courts are sometimes abused as being made up of people who wear twinsets and pearls and who do not reflect the community. My understanding is that, in many instances, that is not the case. People I speak to and take advice from say that district courts are often representative of their communities.

The same problems arise with the children's panel system, which also has difficulties. We have to decide how to make that system work better.

We have also to address the fines enforcement officers mentioned by my colleague Stewart Stevenson. The system was becoming a joke—it was rather shameful that it was being abused by members of the Parliament as well as by others. Thankfully, the system will be changed. Unless there is some good reason why someone who has broken the law and been dealt with by the district or sheriff court cannot pay their fine, it is incumbent on them to meet the penalty that was imposed. They should not simply seek to opt out by manipulating the system so that they can avoid the consequences of their actions. That is why we are happy to support the bill.

15:43

The Minister for Justice (Cathy Jamieson): As others have mentioned, we have had a good meeting today. Although it might be difficult for some members—even those in our own party who have known Johann Lamont and me for many years—to believe that we could be at the forefront or cutting edge of consensus politics, today we have had an opportunity to see the workings of the Parliament and Executive at their best in reaching a consensus.

I thank the members of and clerks to the Justice 1 Committee for their work. The timetable for this complex and technical bill, which deals with difficult issues, was challenging. I also add my thanks to the bill team for its superb work. This morning, we heard many compliments on the quality of the information that was given to the committee during proceedings on the bill. Ministers were, of course, involved in that process, but many of those compliments are due to the bill team, which had to do the hard work and which liaised very well with the committee.

I also thank Hugh Henry, who led a considerable amount of work on the bill, and Johann Lamont, who came in at a difficult and critical stage to manage the bill in its final stages. Both did that work superbly.

As the bill has progressed, we have seen evidence of the maturing relationship between the Executive and parliamentary committees in the way in which they work. The process was two-way: the Executive did not simply decide on a course of action that it was going to pursue at all costs but actively engaged with the committee. That has been true of the development of the bill from its very inception. The final stages of the bill were only part of the process—it has been many years in the making.

Back in 2001, my predecessor, Jim Wallace, commissioned the original work from John McInnes and his committee—a superb piece of work that gave us a range of options to develop. The fact that the Executive and the Parliament did not choose to take forward all the options exactly as Sheriff Principal McInnes and his committee recommended does not in any way suggest that that work was not valuable—quite the contrary; as I said, it gave us a number of options.

The bill deals with some pretty difficult issues. Although many of the amendments considered today and during earlier work on the bill have been technical, the bill tackles some fundamental principles in relation to the role of lay justice, a unified court system and the tricky issue of bail and fines, building on the work of the Sentencing Commission. Underpinning all that we have done, in the context of our wider criminal justice reforms, was the desire to have a faster, smarter justice system and to make legislative changes that would ensure that communities and victims of crime got the benefit of those changes so that we could see justice delivered for them.

That is where I am at odds with some of the comments that have been made. I do not want to spoil the consensus, because I understand that members largely support the bill, but I have to take issue with the Conservatives and with Colin Fox of the Scottish Socialist Party in relation to the provisions on trial in absence. I do not think that we are out of touch with the mood of the Scottish people on that point. The bill contains the justice test—what is in the best interests of justice is very firmly in the bill. Patrick Harvie made a sensible contribution on that point, and I hope that the Tories will now reflect on what they have said and will recognise that the victims of crime absolutely do not want to see justice frustrated by people who deliberately choose not to turn up in order to frustrate proceedings.

We also wanted the bill to be flexible and to speed up the processes.

Phil Gallie (South of Scotland) (Con): The minister is being a bit disingenuous in her comment that the Tories would give support to those who deliberately avoided coming into court. It seemed to me that Margaret Mitchell made a very good point that had to be debated and on which the Government had to be challenged. It was a fundamental issue of justice, and I believe that we should take credit for that rather than accept chastisement.

Cathy Jamieson: I would never suggest that I could be involved in chastising Mr Gallie, and I hope that the chamber will accept that. There is a slight difference in tone between what he has said this afternoon and the comments that Margaret Mitchell made during this morning's debate. It is absolutely right and proper that we put victims of crime at the centre of our criminal justice reforms, and that is what we have tried to do today.

As a result of the bill, there will be innovative work so that the right interventions are made at the right time. I know that some people have expressed concerns about alternatives to prosecution, but we have also heard concerns about the number of people who go into the prison system through the revolving door and who end up living a life of crime. If we can use an alternative to prosecution at an early stage to allow someone the opportunity to make their first offence their last offence, to admit what they have done, to change their behaviour and to repay the community that they have damaged, surely that must be a good thing. I hope that all members will support that measure this afternoon.

The bill was intended to be community focused, and that is why it is right to pay attention, as we have this afternoon, to the importance of lay justice in the system. Pauline McNeill, Mary Mulligan and, to their credit, the Tories raised questions about the possibility of the lay justice system and JP courts being able to take on more in future. That is worthy of consideration, which is why we have the opportunity under the bill to use further powers in future.

However, I caution against simply taking bits from the sheriff court system and adding them to the JP courts. One of the fundamental points about the lay justice system is that people who are rooted in their local communities should be part of that system. We aim to reform the system through the bill so that, I hope, more people will come forward to serve as lay justices. I can give a commitment to the members who asked about the training and support that such people will get. Members will have the opportunity to be involved in shaping the system for the future. In the Parliament, we might want to be a bit more innovative in future, rather than simply have the lay justice system mirror what goes on in the sheriff courts. I hope that members will take that comment in the spirit in which it is intended.

I give my sincere thanks to everyone in the Parliament who has been involved in shaping the bill, which is a good one. It is complex and technical, but it will deliver for real people and real communities, which surely is what the Parliament is supposed to be about. I will have great pleasure this afternoon in supporting the bill and I hope that all members will join me in that.

Motion without Notice

15:51

The Presiding Officer (Mr George Reid): Members will be pleased that I am minded to take a motion without notice to bring forward decision time to now.

Motion moved,

That the Parliament agrees under Rule 11.2.4 of the Standing Orders that Decision Time on Thursday 18 January 2007 be taken at 3.51 pm.—[*Ms Margaret Curran*.]

Motion agreed to.

Decision Time

15:51

The Presiding Officer (Mr George Reid): There is only one question to be put as a result of today's business. The question is, that motion S2M-5337, in the name of Cathy Jamieson, that the Parliament agrees that the Criminal Proceedings etc (Reform) (Scotland) Bill be passed, be agreed to.

Motion agreed to.

That the Parliament agrees that the Criminal Proceedings etc. (Reform) (Scotland) Bill be passed.

Home Smart

The Deputy Presiding Officer (Trish Godman): The final item of business is a members' business debate on motion S2M-5079, in the name of Linda Fabiani, on the home smart campaign.

Motion debated,

That the Parliament welcomes the ***home smart*** campaign by the Scottish Council for Single Homeless (SCSH) and its aim of ensuring that school leavers understand the issues surrounding homelessness and how to avoid it; commends those schools in the Central Scotland region which have committed themselves to participate; values the contribution made by organisations like SCSH in tackling homelessness, and calls for a renewed effort to end homelessness.

15:53

Linda Fabiani (Central Scotland) (SNP): It is a mark of how important the subject is that members have agreed to bring the debate forward by an hour. I declare an interest, as a fellow of the Chartered Institute of Housing. That membership exists from the days before I was elected, when I worked in housing associations. I have experience of dealing with homelessness applications from a service provider's point of view, as well as from a politician's. I think that I speak for most housing professionals when I say that there was always a particular poignancy when a young person presented as homeless—I felt helpless and that I could not be of real assistance to them.

My experience has given me a perspective on the issue that underpins my belief in the absolute necessity of tackling homelessness and seeking to eliminate it as far as is humanly possible. Part of that task is the provision of suitable and affordable housing, including owner-occupied and social rented housing. We all know that that is an issue in many areas. In East Kilbride, where I live, it is a particular problem. A major part of the task must also be helping people to avoid homelessness in the first place. That is the main thrust of the home smart campaign, which seeks to ensure that every fourth-year pupil in our schools knows that help and advice is available.

Great credit should be given to the Scottish Council for Single Homeless for creating the campaign. Its importance is underlined by the statistics on youth homelessness. In 2005-06, 19,400 young people between the ages of 16 and 24 turned to their local authority because they had nowhere safe and secure to stay. That is a rise of almost 4,000 since 1999. If we consider the figures for 16 and 17-year-olds, in 2005-06 more than 4,300 young people turned to their local authority. While few fourth-year pupils are likely to think that homelessness will affect them personally, the figures tell a different story.

There is a significant, worsening problem with youth homelessness that we owe it to Scotland's youngsters to address. With 3 per cent of young people in Scotland reporting as homeless each year, we cannot afford to turn away and hope that the problem resolves itself. We should be grateful to the Scottish Council for Single Homeless for the work that it has been doing and we should embrace the home smart campaign as an extremely worthwhile endeavour.

The council's idea for the campaign is simple, but appears to offer the right kind of help. Rather than waiting until the young person strikes out on their own, obtains a tenancy, then fails to maintain it and ends up homeless, it has taken the sensible step of taking the message into schools. The information in learning packs allows teachers and pupils to consider the issues that often arise with tenancies and young people, and to consider how they might avoid the pitfalls that have befallen so many in the past. As well as facilitating discussion, the packs offer sensible advice, including, for example, advice about how to ensure that the behaviour of one's friends does not affect one's tenancy. That seems fairly straightforward to those of us sitting here, but one of the major problems that young tenants have is in controlling their home environment and not letting it turn into a community centre for their friends.

I wish to make it clear, though, that the campaign is not an entirely new venture for the Scottish Council for Single Homeless. The I'm offski! learning materials were first produced in 1988 and have won awards. However, home smart goes even further. The experience of the organisation over many years is illustrated by its developing and innovatory campaigns. It will soon produce an evaluation toolkit to measure the success of the campaign—I am sure that it will be very successful. Getting pupils to think about the issues while they are still in the fourth year of secondary school will ensure that the information is embedded and that they know that support and advice is available.

Targeting the campaign at fourth years is important—I believe that it is the optimum age group to target. It is the age group that is perhaps desperate to leave home for negative reasons. It is an age group that may have a rose-tinted view of how one can strike out on one's own and be a success. Many young people who are at a stage in their lives when they should be building for the future can struggle to find the resources just to survive. Surviving day by day instead of planning for their future leaves them vulnerable to all sorts of outside influences. Home smart is about trying to stop that happening.

It is hard to judge how many pupils have so far been exposed to the materials produced by the

council, but around a third of our mainstream schools have indicated a strong interest. That points towards a possible 20,000 pupils. I make particular mention of John Ogilvie High School and Strathaven Academy, schools in central Scotland that I know well for their openness to new ideas and that have responded positively to the Scottish Council for Single Homeless.

Roseanna Cunningham (Perth) (SNP): Understandably, the member is mostly focused on central region, but is she aware that the interest of schools in home smart goes far beyond it? Indeed, a primary school in my constituency—Balnacraig school in Perth—has won a prize in the competition. Does she agree that that school should also be commended?

Linda Fabiani: Absolutely. I am happy to commend Balnacraig school in Perth. That underlines the fact that the campaign is national.

As I said, every mainstream school has received a pack, and any special needs and residential schools that have expressed an interest have received one, too.

I congratulate and commend the Scottish Council for Single Homeless for the work of home smart. I also want to thank Lovell, the housing developer that has sponsored the campaign and provided the prize for the recent draw. If the campaign has ensured that pupils know that there are people and organisations to which they can turn for help, and if it has encouraged those pupils to think about the issues and appreciate the challenges and difficulties that leaving home presents, the campaign is worthy of congratulation and encouragement. As I said earlier, more than a third of all homeless applications are from people between the ages of 16 and 24.

Scotland's politicians should be working towards ending the scourge of homelessness. Each of us in the chamber should be humbled that the problem has still not been turned around eight years after devolution, despite the good intentions of us all. That perhaps indicates a need for more positive action on the part of Scotland's politicians, a more proactive agenda on youth homelessness and a greater encouragement of the work done by organisations such as the Scottish Council for Single Homeless.

No vote is taken at the end of members' business, but I am confident that the general mood of Parliament today will be to agree with my motion.

16:00

Dave Petrie (Highlands and Islands) (Con): I congratulate Linda Fabiani on securing this important debate.

I want to start by discussing a bit of background. As we all know, the documentary "Cathy Come Home" had its 40th anniversary in December. Because of that, the Scottish Council for Single Homeless—which I will call SCSH from now on—launched a campaign to raise awareness of homelessness among teenagers and teachers.

In 2006, one in 28 of the entire 16 and 17-year-old age group in Scotland presented to their local authority because they had nowhere safe and secure to stay. As Linda Fabiani said, the SCSH sent each secondary school a home smart teachers' pack with advice on how to avoid homelessness and on where to seek help. I signed up as an official supporter of the plan.

Let us consider a few facts. Astonishingly, there are currently 87,000 empty homes across Scotland. The average house price has nearly doubled in the past six years. The home smart campaign promotes financial literacy and a knowledge of civic structures.

Research by Heriot-Watt University has revealed that 31 per cent of young households are forced to buy smaller accommodation than they need—for example, buying a one-bedroom house when they have children. The research also revealed that 7 per cent of those people would need housing benefit to support even a tenancy. That clearly demonstrates the need to make young people aware of what kind of housing to expect.

Many young people are not aware of what is involved in living independently. As Linda Fabiani explained, they may not know about bills, utilities and food costs. It is obviously a sensible policy to explain what is involved and to ensure that young people are fully aware.

With such a high level of young people finding themselves homeless, it is important to make clear what living away from home will mean. Education is the clearest way to improve society and help to send children on a better way. It is important that we do not fail children through a lack of appropriate education and training.

I think that we would all agree that the level of homelessness is unacceptable and that it must be addressed urgently. The Conservatives have put forward an empty-homes strategy that will enable housing associations to build more social housing and will help the private rented sector. Through the removal of ring fencing, we would also allow local authorities to dedicate more money to new schemes in their areas should they wish to do so.

In my past life, I had the privilege of being employed by Scottish Water. Scottish Water is often blamed for problems, but it is important that more be done to develop brownfield sites and uninhabitable housing. Development constraints

caused by organisations such as Scottish Water must also be addressed, because there is a massive hold-up.

I do not wish to politicise this debate, but I support the housing stock transfer programme, which would ensure that social housing was better managed and maintained. Unfortunately, the policy has been hopelessly mismanaged by the Executive and shamefully misrepresented by Linda Fabiani's party and by the socialists.

I wish the home smart campaign well. I hope and pray that we will see an early conclusion to this blight on our society.

16:04

Tricia Marwick (Mid Scotland and Fife) (SNP): I add my congratulations to those that have already been offered to Linda Fabiani on raising this important debate. I also congratulate the Scottish Council for Single Homeless on its home smart campaign.

From a previous existence—many moons ago in 1988—I remember the I'm offski! campaign, which was, I think, the first attempt to get schools to engage young people in education on housing. In my time at Shelter, we tried hard to ensure that housing education was part of the curriculum. I look back on those days and wish that the Government of the day had taken Shelter, the SCSH and other organisations up on that because there has been an explosion in youth homelessness since 1988. Advice such as was contained in I'm offski! and which is provided by the home smart campaign is just the sort of information that young people need so that they can avoid the pitfall of becoming homeless. Avoiding that pitfall is more difficult for them today than it was in 1988. There are greater pressures not just on young people, but on local authorities—which have to deal with more homelessness applications and longer general waiting lists for housing—than there were in 1988.

I turn to the problem of the number of young people who leave care and become homeless. There are many reasons—some of which Linda Fabiani mentioned—why they might not be able to sustain tenancies once they are given them. For example, they might allow their house or flat to become a community centre. As well as wanting schools to take up the home smart campaign, I would like the Executive to commit to introducing it to young people who leave care, wherever they may be, as part of its programme of education for that group. It is a tool that the Executive should use. There is a need for part of the campaign to be targeted at young people in care because they are the most vulnerable young people.

I want the home smart campaign to be rolled out throughout Scotland. At the moment, it is for individual schools and teachers to decide whether to embrace the campaign, but it would be extremely useful if the minister and the Executive gave guidance to local authorities to the effect that it is an excellent example of a campaign that should be embraced. This week, the Executive has rightly agreed to the showing in schools throughout Scotland of the Al Gore film on climate change. That is an important move of which I am highly supportive, but the youngsters who become homeless on leaving school and home have great needs, so although I welcome the commitment to show the Al Gore film, I would like the minister to consider the possibility of issuing guidance to schools and local authorities to ensure that campaigns such as the SCSH's home smart campaign are introduced.

I will finish on a wee sour note. The home smart campaign has been funded by the Scottish Council for Single Homeless, which is a registered charity, and by Lovell House Developments Limited, but it would have been nice if such an important initiative had been supported with Executive money. The Executive has failed to provide money, so I would like the minister to offer some Executive muscle to ensure that the campaign is encouraged in schools—the future of our young people depends on its success.

16:08

Donald Gorrie (Central Scotland) (LD): For many years, I have had a high regard for the Scottish Council for Single Homeless and an interest in its activities. Yet again, it has rung the right bell. Linda Fabiani is to be congratulated on highlighting the home smart campaign.

The first aspect that I want to cover is the teaching of young people in school. The packs that have been mentioned, but which I have not seen, sound interesting and I am sure that they will do a lot of good. However, there is more that we could do to focus teaching in school on real issues; for example, we could teach about finances, money, rent and how to budget for a household. That would make mathematics and arithmetic more concrete for many young people, who struggle with the theoretical side.

We could get people to plan their lives by thinking about a range of things—not just housing. People could be set tasks such as getting from Grangemouth to Kilmarnock by bus. They would be provided with a set of timetables and asked, as an intellectual problem, to find the best route. If someone can do a task like that, their achievement is worth several highers—it is more than most citizens can do. There is also the question of comprehension. People could be given some of the more idiotic public documents to read

and if they could understand them, their achievement would count as several highers.

We should relate school teaching much more to real life, of which housing is a major aspect. I am thinking in particular of finances and debt. We have debated debt in the past and we know the importance of having an understanding of finances. Our schools could teach finances much better than is the case in many instances at present.

We could also teach human activities—things such as concern for our neighbours. A year or two ago, I suffered personally as the result of a change in ownership of the flat above mine. The resulting deterioration in the quality of life of my wife and me was astounding. The ill effect that a neighbour can have on his neighbours is appalling, so young people could be taught to have concern for their neighbours. They could learn that, although they think it is okay to have a noisy party at 2 am, it is not okay for their neighbours.

There are also things that could be done outside school. I discussed the issue with my wife, who has a background in housing, and she said that while many students live in shared flats, there has been a decrease in the number of young people who are not students who share flats. That may be a contributory factor to the number of young people who are homeless—the minister may have some figures on that. It might be a subjective impression and not the true situation but it would, nonetheless, be interesting to follow up on it.

Work that is done well in some parts of the country but could be developed in other parts includes the giving of advice and support to young people: I am thinking of physical support as well as personal mentoring. There are good organisations that provide furnishings and so forth—the things that are important when people are starting out in a flat for the first time—but advice giving is important and inadequately funded. Previous speakers mentioned that.

Several members attended a meeting that Barnardo's organised to inform us of a good scheme that it offers to young people in care. Those who come out of care have a big problem in sorting out their lives and their housing and we could improve many aspects of that situation. The work that the SCSH is doing, including the home smart campaign, as Linda Fabiani highlighted, is important. We should support it and try to get it spread throughout the country.

16:13

Christine Grahame (South of Scotland) (SNP): I congratulate my colleague Linda Fabiani on securing the debate. She gave us the figures on homelessness, to which we should add the number of young people who are—to use the slang—sofa surfing. Many young people who are doing that do not consider themselves to be homeless despite the fact that they have no legal entitlement to stay where they are staying. I say to Donald Gorrie that my anecdotal experience is that many young people are continuing to live in shared tenancies even into their 30s. They are doing so for want of somewhere to stay; they have not moved on from a student lifestyle.

It can seem to be terribly glamorous to have a place of one's own and to have independence but, as we all know, home ownership is very different from that and even older people can find the responsibilities of home ownership difficult. We need to learn a bit about it before we do it.

I will tell the tale of two young women whom I met not so long ago. At 16, a young person can discharge himself or herself from foster care—he or she can make the choice to stay on or move out. One of the young women decided to stay on voluntarily past 16 with her foster parents. She wanted a bit of independence, but still to have the support of the foster family, just as many young people do when they decide to stay on at home.

The other young woman decided at 16 that she wanted to go out into the big wide world and get her own flat. She was allocated a flat in Selkirk, but what happened was exactly as colleagues have described. Her flat became a place for parties and became known as somewhere that everyone could go. The young woman did not know how to gatekeep her flat—I think that that is the term, but Donald Gorrie will correct me if not. She did not know how to say no to people and she thought that she was popular. Within a very short time, the young woman found that she was pregnant. She sat in front of me—she was a lovely young girl and very bright—and said, "I've gone and got myself into the same situation that my mother was in. I never wanted to be in this situation. I wish I'd done what my friend did and stayed with my foster parents, but I thought I knew better." We were all like that at 16—we all thought that we knew better—but the consequences were much more severe for her.

Of course, if a young person in a tenancy has such problems, they can get the dreaded antisocial behaviour order and could lose their tenancy. They then become voluntarily homeless and are on the slippery slope. Homeless people have no anchor. If they are asked where they live, they have to admit that they have no address—they lose their identities and become homeless people. Where we live, as well as what we do in life, constitutes much of what we are.

I will contribute to the debate another suggestion for the minister. I have not shared it with my housing colleagues, so I might get a rap on the

knuckles for it. There used to be a scheme called the golden landlady. I was told about it 20 or 30 years ago—there is nothing new in life. Donald Gorrie talked about learning to do housekeeping at school. We did that in primary 3 and 4 with Miss Murray—I think that was her name—many years ago. It will all come round again.

The golden landlady scheme involved a woman who was on benefits because she was unemployed, for example, being able to take on a tenant who was older than 16 and had been in foster care. The landlady was paid, but her benefits were not affected. Such a scheme seems to me to be worth investigating. I have only thrown the minister a vague clue, but he is very able—I know that he is actually Des McMuscle—so he will be able to sort it out. It seems to me to be a sensible suggestion. The landladies were experienced; they had brought up families and were the salt of the earth. That was exactly what the young women and young men required, because they got a feeling of independence but still had the security of knowing that they were going back to somewhere. I ask the minister to consider the golden landlady suggestion.

16:17

The Deputy Minister for Communities (Des McNulty): Like others, I congratulate Linda Fabiani on securing the debate. I am old enough to remember watching "Cathy Come Home" and remember the furore that it caused. If Linda Fabiani saw it when it originally came out, she must have done so from her pram.

The debate has been interesting. We have had "sofa surfing" from Christine Grahame, and Donald Gorrie has suggested that people should be taught about finance. I hope that the debate results in some development of the theme of homelessness and how to tackle it, because that is one of the things for which the Parliament is known in Scotland and internationally.

Members might recall that, when I was the Deputy Minister for Social Justice, I took the Homelessness etc (Scotland) Bill through the Parliament. Four years on, we have major challenges to deal with, but there is a consensus in the Parliament about trying to tackle them. I remember Shelter organising a demonstration about what a dreadful bill the Homelessness etc (Scotland) Bill was. Perhaps that organisation has changed its tune, which is interesting.

I am happy to join Linda Fabiani in welcoming the home smart campaign as an example of the work that needs to be done to prevent homelessness—especially youth homelessness, as she points out. It is important to emphasise prevention whenever possible so that the misery of homelessness is avoided for individuals and families but also because it makes sound economic sense to do so.

In some circumstances, as perhaps exemplified in "Cathy Come Home", the prevention of homelessness may involve providing intensive support. For example, we may need to deal with the problems of a family that is struggling to cope. That also applies to vulnerable young people, and the fact that we have educational information for young people who are at risk of slipping into homelessness is an important and effective dimension of a preventive strategy. I realise that, in such circumstances, the costs that are associated with material of that kind and other preventive measures can represent value for money, especially when we set the costs of providing them against the costs of failure, which can fall heavily on local government and other Government agencies.

We all know that homelessness is linked to poor health and poor educational and employment outcomes, which can all lead to personal misery and further calls on public resources. Homelessness is a trigger for family breakdown and disruption and other stresses, including health and educational stresses, which accentuate problems and make them more difficult to resolve. If we are trying to do things for vulnerable people, tackling homelessness is an important dimension of that.

The Scottish Executive recently established an innovation fund to explore new ways of preventing homelessness and repeat homelessness. The fund currently supports eight projects, including anger management, sporting opportunities for women, support for survivors of domestic abuse and employment opportunities for young people who have left care and are in their first tenancy. We are robustly monitoring and evaluating those projects to ensure that the lessons that are learned can be applied throughout Scotland. We have also commissioned broader research from Heriot-Watt University.

Tricia Marwick: I am interested to hear about the innovation fund. Is there any money left in the fund so that, if other organisations have a good idea such as the home smart campaign, they can tap into the available funds, which might allow the widest possible distribution of their material?

Des McNulty: We can consider that in the context of monitoring and evaluation. Homelessness is not going to cease to be a problem, so we will always need to consider preventive measures and assess which are most effective.

We have commissioned broader research from Heriot-Watt University to identify and categorise

existing preventive activity, to explore the views of various stakeholders on the different approaches to prevention, to identify what prevention activities work best for particular at-risk groups and to make recommendations on monitoring and evaluation. We hope that that will feed into good-practice guidance on preventing homelessness, which we will be working on with the awareness-raising and best-practice sub-group of the homelessness monitoring group as we try to take forward what seem to be the best methods.

Linda Fabiani: I certainly do not wish to knock anything that the minister has been saying, but I want to put something on record. All those things are admirable and different people are doing a lot of different things. However, there is a great danger, which I have seen over the years, that the approach can get a bit highfalutin and that we can sometimes miss the very basics. I go back to the sort of thing that Donald Gorrie was talking about. I have never forgotten what a young lad on the access project in Motherwell said to me. He had come from local authority care, he had gone into a flat and he had ended up homeless. He said to me, "You know, they gave me a house, but they didnae tell me how to work it." It is that basic when it comes to youth homelessness. We must consider long-term outcomes, as it will take more than a year for a lad like that to get it right. We should stop looking at the outputs from all the various projects—as admirable as they are—which sometimes go above people's heads, and instead start looking at the very basics and the long-term outcomes.

Des McNulty: I take from Linda Fabiani's motion a commendation for those schools throughout Scotland that have become involved in the home smart campaign and in similar work to ensure that young people making the transition to adulthood and independent living are fully aware of the risks of homelessness, of their housing options and, as Linda Fabiani suggests, of the basics of living on their own. The research that I have mentioned indicates that many local authorities are already operating programmes such as home smart and that its kind of materials are being used in schools up and down Scotland—with other authorities preparing to use them. I warmly welcome that.

To take up Tricia Marwick's point, I can investigate whether we require guidance and whether ideas are getting taken through the process. Certainly, the evidence that I have is that the materials are being used widely.

The focus on young people is particularly important, as has been suggested. The principle of early intervention suggests that it is best to equip people who are setting out on their adult life with the information and skills that they need to avoid future homelessness. There must be particularly robust arrangements for children leaving local authority care. Many of them face the prospect of entirely independent living at a very young age, with less opportunity of back-up from family or friends than might be available to people in different circumstances.

That is why the recent report on improving educational outcomes for looked-after children and young people, which was published earlier this week, emphasises the need to improve the provision of dedicated supported accommodation for young care leavers, the role of research and inspection in ensuring that each young person leaving care has appropriate accommodation and the need to ensure that they are educated about how to live on their own.

We need to identify who is at an increased risk of homelessness and who requires help to be capable of living on their own and provide the appropriate assistance. That needs to be done, in the first instance, by local authorities and organisations that are equipped to deliver those kinds of things and the Executive is anxious to provide support to ensure that that happens.

Over the past three or four years, we have made significant progress on the prevention and tackling of homelessness in Scotland. We know that our target for 2012—which is that every unintentionally homeless person should be entitled to permanent accommodation—is challenging. However, we are making progress. During 2005, we consulted extensively in order to inform the ministerial statement on the abolition of priority need, which was published in December of that year. It set out the interim objectives to be reached as we move towards 2012. Along with the original blueprint that was set out by the task force, that demonstrates our commitment to doing everything that we can to end the blight of homelessness.

Today's debate has focused particularly on educational requirements and the needs of vulnerable young people, which is an important issue that, perhaps, broadens the debate about how we can deal with the problems of homelessness in a rounded-out way.

Meeting closed at 16:26.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Thursday 25 January 2007

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00
Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75
Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by Astron and available from:

Blackwell's Bookshop

53 South Bridge
Edinburgh EH1 1YS
0131 622 8222

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

Blackwell's Scottish Parliament Documentation Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

Scottish Parliament

RNID Typetalk calls welcome on
18001 0131 348 5000
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers

Printed in Scotland by Astron