



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

JUSTICE COMMITTEE

Tuesday 11 June 2013

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JUSTICE COMMITTEE
19th Meeting 2013, Session 4

CONVENER

*Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)

DEPUTY CONVENER

*Jenny Marra (North East Scotland) (Lab)

COMMITTEE MEMBERS

*Roderick Campbell (North East Fife) (SNP)

*John Finnie (Highlands and Islands) (Ind)

*Colin Keir (Edinburgh Western) (SNP)

*Alison McInnes (North East Scotland) (LD)

David McLetchie (Lothian) (Con)

*Graeme Pearson (South Scotland) (Lab)

*Sandra White (Glasgow Kelvin) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Claudia Beamish (South Scotland) (Lab)

Iain Gray (East Lothian) (Lab)

John Lamont (Ettrick, Roxburgh and Berwickshire) (Con) (Committee Substitute)

Kenny MacAskill (Cabinet Secretary for Justice)

Lewis Macdonald (North East Scotland) (Lab)

Elaine Murray (Dumfriesshire) (Lab)

John Pentland (Motherwell and Wishaw) (Lab)

CLERK TO THE COMMITTEE

Irene Fleming

LOCATION

Committee Room 1

Scottish Parliament

Justice Committee

Tuesday 11 June 2013

[The Convener *opened the meeting at 10:01*]

Subordinate Legislation

Sexual Offences Act 2003 (Notification Requirements) (Scotland) Regulations 2013 [Draft]

The Convener (Christine Grahame): Good morning. I welcome everyone to the 19th meeting of the Justice Committee in 2013. I ask everyone to switch off mobile phones and other electronic devices completely, as they interfere with the broadcasting system, even when switched to silent.

Apologies have been received from David McLetchie; John Lamont is attending as his substitute.

I welcome Lewis Macdonald, Iain Gray, John Pentland, Elaine Murray and Claudia Beamish, who are attending to participate in the debate on the Scottish statutory instruments on court reform, which we will consider under agenda item 3.

Agenda item 1 is subordinate legislation. The committee will take evidence from the Cabinet Secretary for Justice on the draft Sexual Offences Act 2003 (Notification Requirements) (Scotland) Regulations 2013; the instrument is subject to affirmative procedure. I welcome the cabinet secretary and his officials to the meeting. Ian Fleming is a policy manager in the Scottish Government, Carla McCloy-Stevens is from the directorate for legal services, and Carolyn Rae is head of public protection in the Scottish Government.

I invite the cabinet secretary to make an opening statement on the regulations.

The Cabinet Secretary for Justice (Kenny MacAskill): Thank you, convener.

The regulations will make two substantive changes to Scotland's sex offender notification scheme. First, they will require homeless registered sex offenders to notify to the police certain personal information every week. That includes their notifying an address or location in the United Kingdom where they can regularly be found. Currently, such offenders are required only to renotify their information annually, or when it changes.

Secondly, the regulations will require registered sex offenders to notify the police of any intended travel outside the UK, regardless of the length of the trip. Currently, only foreign travel for three or more days must be notified. The regulations also require notification of certain additional travel information. They make transitional provision so that the new travel notification requirements do not apply to any registered sex offender who intends to travel abroad for fewer than three days during the eight-day period after commencement.

We consider that the measures are necessary and proportionate for preventing sexual reoffending and protecting the public—especially children—from sexual harm. Homeless sex offenders pose a greater risk and their whereabouts require more intensive monitoring. The current three-day threshold for travel notification can easily be exploited. It is necessary to know the whereabouts of all sex offenders who travel abroad to enable the police to manage better any identified risk and to prevent sexual harm from being done overseas. Having considered the evidence, we believe that the measures achieve an overall fair balance.

I am happy to answer any questions.

Graeme Pearson (South Scotland) (Lab): Good morning.

First, I note that legislation was introduced in England and Wales in July 2012. Can you give us some insight into why it took nearly a year to introduce similar provisions in Scotland?

Kenny MacAskill: There are requirements on us in terms of discussions and engagement with stakeholders. Matters have been complicated in Scotland; elections have interfered. We have seen that previously. We are catching up—you are correct about that—but what we propose is right. We are happy to have brought the regulations to Parliament, and we commend them.

Graeme Pearson: Will there be any financial implications from enforcing the regime that the legislation seeks to introduce?

Kenny MacAskill: There will be no financial implications that I am aware of. The measures will basically be dealt with by stakeholders—in particular by the police and others who are responsible in multi-agency public protection arrangements, and who do it anyway. Their level of scrutiny might increase, but I do not think that that will have financial implications.

Graeme Pearson: On embarkation and arrival at our airports and ports, is there capacity to know whether a sex offender has arrived in or has left the country, and is therefore in breach of regulations?

Kenny MacAskill: Clearly, co-operation with the UK Border Agency is required on such matters. However, one of the strengths of Police Scotland is that we now have a dedicated unit to ensure that staff who previously operated in ports through the previous individual constabularies now do so collectively through the national police service. With that, and through co-operation with the UK Border Agency, and given my recent discussions with the national crime agency on on-going matters, we are satisfied that the arrangements are as good as they can be. Clearly, improvements in police information technology are fundamental; that is work in progress.

Graeme Pearson: Will you continue to pay additional attention to that work to ensure that it delivers?

Kenny MacAskill: I can give you an absolute assurance on that.

Graeme Pearson: Thank you.

Sandra White (Glasgow Kelvin) (SNP): My questions are in a similar vein to Graeme Pearson's. First, though, I welcome the regulations. We know that trafficking from certain countries is on the increase, so this is good legislation.

Following what Graeme Pearson said on monitoring, will the legislation be monitored within a year or in six months to see how it is working? What will be the timescale?

Kenny MacAskill: Monitoring is already done, to an extent, through MAPPA. The framework exists and the legislation merely increases the available powers and level of scrutiny. I do not anticipate any delay in addition to the time that it will take to make the necessary progress in getting information and advice out there. The legislation is about enhancing MAPPA powers and about providing greater scrutiny of, and requirements for, registered sex offenders.

Jenny Marra (North East Scotland) (Lab): There have in the past few years been incidents involving sex offenders from other jurisdictions coming to Scotland and offending here. Has the Scottish Government made any progress on relationships with other Governments to get information so that such incidents can be prevented?

Kenny MacAskill: Yes; we do that at a range of levels. Obviously, one of the main ways is through Europol, but we also get information from other jurisdictions. However, in central and eastern Europe, the information that is collected is perhaps not as good and the information that is retained there is, sadly, not as accessible. Equally, closer to home, we have had difficulties with the Republic of Ireland. Such issues have been on the agendas

of trilateral meetings that I have had with the Minister for Justice and Equality for the Republic of Ireland and the Minister of Justice for Northern Ireland. That is work in progress, much of which is not so much about what we require to do here but about how we create relationships and try to develop best practice.

We work at all levels, including at the police and Europol levels. We also do work through the United Kingdom, because some matters require to be dealt with by the Home Secretary in terms of international relations. We have a close working relationship with the Republic of Ireland and Northern Ireland and we seek to ensure that we engage appropriately at all levels, whether through social work engagement with police officers, or whatever. As Graeme Pearson said, ultimately we want to improve our own information and communications technology, but we must ensure that we have the appropriate links that I have mentioned.

The Convener: I allowed that question by Jenny Marra, although it is not directly related to the instrument. If the minister wishes to proceed on that, I am content, but it is really not what the committee is considering.

Kenny MacAskill: It is work in progress. We recognise the challenges, because tragedies have occurred. Sandra White alluded to the fact that people have come from other jurisdictions and perpetrated offences here. Sadly, we know, however, that also people from Scotland go elsewhere to perpetrate offences. There is a two-way street, so we must work with other jurisdictions. Some are not as advanced as we are, but whatever challenges we face, we must try to support those jurisdictions through Europol, and through our interaction with the national crime agency and the Home Secretary.

Our proximity to our Celtic cousins in Ireland means that we must undertake work on offenders from Scotland who travel there—high-profile Scots offenders have gone there. We must also do work related to those who come here from there; there was, for example, the devastating tragedy in Dundee.

The Convener: There are no further questions on the Scottish statutory instrument, so we move on to item 2. I ask the cabinet secretary to move motion S4M-06873 on the Sexual Offences Act 2003 (Notification Requirements) (Scotland) Regulations 2013 [draft].

Motion moved,

That the Justice Committee recommends that the Sexual Offences Act 2003 (Notification Requirements) (Scotland) Regulations 2013 [draft] be approved.—[*Kenny MacAskill.*]

Motion agreed to.

The Convener: We are required to report on all instruments that are subject to affirmative procedure. Are members content to delegate authority to me to sign off the report on the instrument?

Members *indicated agreement.*

The Convener: The cabinet secretary is staying for the next item. I thank his officials for attending and suspend the meeting briefly to allow officials to swap over.

10:10

Meeting suspended.

10:12

On resuming—

Sheriff Court Districts Amendment Order 2013 (SSI 2013/152)

Justice of the Peace Courts (Scotland) Amendment Order 2013 (SSI 2013/153)

The Convener: Item 3 is a debate on two motions to annul two instruments that are subject to negative procedure.

I propose to take both motions together. Standing orders allow for the debate to last up to three hours. I will call Lewis Macdonald first, as the member who has lodged the motions to annul, to speak to and move both motions. I will then move to open debate, when I will call members in turn. Once the speakers list has been exhausted, I will invite the Cabinet Secretary for Justice to respond to the debate, before I invite Lewis Macdonald to wind up. We have time for interventions, but it is up to members to decide whether to take them. At the conclusion of the debate, a separate question will be put on each motion. If the motions are agreed to, the SSIs will be debated further in the chamber; if the motions are not agreed to, that will conclude parliamentary consideration of them.

Is everybody happy? Perhaps “happy” is not the right word to use; everybody understands the process.

I call Lewis Macdonald to speak to and move motions S4M-06648 and S4M-06649. I allow you about 15 minutes.

Lewis Macdonald (North East Scotland) (Lab): As the convener has said, the motions seek to annul the Government’s order for closure of sheriff courts and JP courts in a number of towns. The motions have the support of three of the four parties that are represented on the committee, and of many people who have made representations to

the committee in recent weeks or who responded to the Scottish Court Service’s consultation.

I hope that the motions will also attract the support of other committee members, because only then will there be further debate and scrutiny of the Government’s proposals. A majority of votes against annulment of the statutory instruments will finalise the decision that a number of courts will close. Those are serious and substantial decisions.

I recognise that, for Government supporters, to vote against what the Government wants is also a serious matter, but members of any Parliament must be willing and able to assert their independence from any Government when they believe that the Government is getting it wrong and that the issue is important enough to take a stand.

On the merits of the issue, a clear majority of committee members are on record in recent months in opposing at least some of the proposed closures. Of course, some might have changed their minds, but given the stated view of so many committee members, I find it disappointing that the Government itself has not taken a more measured approach.

10:15

When Parliament debated the proposals back in April, I called on ministers to draw up individual orders for individual closures to allow members of all parties to pass judgment on individual proposals instead of having to vote either for or against all of them at once. In choosing to package all the proposals together, the Government has put its own supporters in as difficult a place as they could be in.

However, I do not believe that the Government has to take such a take-it-or-leave-it approach. In the first eight years of devolution, a different Government took a different approach. Savings had to be made at that time as well, and the Government argued that buildings should be closed when their running costs were seen as being out of proportion to their contribution to local access to justice.

Those closure proposals were relatively modest and—most important—the Government of the day was, as members will recall, open to persuasion and compromise. Money was saved in Peebles and Rothesay by giving up dedicated stand-alone court buildings and by ensuring local access to justice through partnership with local authorities. As a result, courts sat only a few days a year, in line with their volume of business, and overheads were much reduced. That win-win compromise could have provided a model for a distributed

system of justice that the present Government might have chosen to implement.

Instead, under the current process, local courts meeting infrequently in other people's premises are seen not as a cheap and convenient way of maintaining local access to justice, but as a burden of avoidable expenditure and an obstacle to rationalising the whole system. They were therefore the first target; courts that sit for fewer than three days a week, unless they are remote from centres of population, have been defined as a problem and not as a solution. Of course, the sheriff courts at Dingwall, Stonehaven, Arbroath, Cupar and Haddington would have survived that test, but they were put up for closure because they were within 20 miles of another sheriff court.

What I find most disappointing about the Government's approach is not just the scale of proposed closures or the impact of individual proposals, but the apparent lack of imagination, the unwillingness to seek compromise and the single-minded pursuit of cuts and closures.

Kenny MacAskill: Will you give way?

Lewis Macdonald: Of course.

The Convener: Interventions should really come through the chair.

Lewis Macdonald: I apologise, convener.

The Convener: That is all right.

Kenny MacAskill: Will Lewis Macdonald detail which courts should be closed?

Lewis Macdonald: I suggest that Mr MacAskill seek local opinion on that matter. In fact, I will come to some of the court closures that public opinion has broadly endorsed.

Mr MacAskill will no doubt tell us, as he did last week, about the cuts in and closures of courts elsewhere by the United Kingdom Government at Westminster. However, I am worried by his approach, because it not only seeks to avoid debating the issues for which his Government is accountable, but fails to acknowledge how the devolution of powers to the Scottish Government and Parliament can be made to work. Surely the point of bringing Government closer to the people is to create a genuine dialogue between those who govern and those who are governed, in which decision makers and campaigners can listen to each other and act on what they hear. The compromise that was reached on court closures a decade ago was the right outcome at the time; indeed, it was the kind of outcome that devolution should always be capable of achieving.

At the beginning of this parliamentary session, Alex Salmond said that his majority Government would act like a minority Government, but as yet there has been no sign that the Government has

been prepared to listen, even when the criticism has come from its own parliamentary colleagues. Had it done so, we might, as Mr MacAskill's question implies, be having a very different debate this morning. Instead of a raft of court closures and the implicit threat of more to come, we might be considering a smaller and more rational set of proposals that could command much wider support. After all, if Peebles and Rothesay courts were able a decade ago to continue by decanting from one building to another, surely something similar could have been done on this matter. If Scottish Borders Council and Argyll and Bute Council could find ways of supporting local justice 10 years ago, perhaps they should have been given the opportunity to do so again today.

East Lothian Council has already offered support for local justice by taking on the running costs of Haddington sheriff court and offering to share the backlog of maintenance costs that were built up by the Scottish Court Service while it was spending tens of millions of pounds on Parliament house. That seems to be a pretty good model of the spirit of compromise, of devolution and of shared interests and partnership in the Scottish public sector.

Stonehaven sheriff court already takes cases that would otherwise add to the already chronic delays in Aberdeen. It not only deals with cases that are local to the Kincardineshire area, but acts as an overflow for a busy city court. There is plenty of feeling in the town against the closure of Stonehaven sheriff court. An imaginative compromise might have been to attach Stonehaven to Aberdeen and to use its existing facilities to improve the working of the justice system instead of closing the court at Stonehaven and having to acquire extra premises in Aberdeen. As we heard last week, such a compromise was never sought.

Highland Council, as other local authorities did, took a balanced and constructive approach to the proposed changes. Mr MacAskill will be delighted to hear that it concluded that the closure of the JP courts in Wick and Portree would not have a significant impact on access to justice. It published a considered and pragmatic analysis of the relative function and utility of the court buildings at Dornoch and Tain, and argued for retention of jury business at Wick. However, on the other hand, it concluded that closure of Dingwall sheriff court would have a detrimental impact on access to justice, and expressed concern that the High Court would cease to hear cases in the Highlands.

That is neither simple acceptance of what central Government proposes, nor dogmatic opposition to cuts or closures. It is simply an honest attempt by the Highland Council to assess how best to protect access to justice in its area; it

is a rational alternative to centralisation, and a basis for compromise if compromise was wanted. Sadly, in Mr MacAskill's pursuit of a centralised and streamlined justice system, compromise has not yet been part of the agenda.

Of course, courts have been closed before and no one would suggest that there should be no court closures in the future, but members need not disagree with all the proposals in the orders to conclude that they should send them back. Annulment is the right thing to do if members believe that even one of the proposals needs to be thought about again.

The evidence that has been given to the committee in the past few weeks has suggested that this is no ordinary round of closures. Lord Gill said last week:

"If we were to sit down today and plan a justice system for Scotland ... it would be nothing like the present pattern, which is based on a Victorian model."

He also said:

"I predict that there will be much greater use of remote access to the courts as the years go by."—[*Official Report, Justice Committee*, 4 June 2013; c 2941 and 2957.]

The current proposals have to be seen in that context. They are substantial in themselves, and they point the way towards a different means of delivering justice in the future. The Scottish Court Service chief executive, Eric McQueen, made that very clear when he gave evidence last month. He said:

"We are trying to look at how we can best deliver justice in the Borders by having one central hub, which will be the main place where we deliver that business."—[*Official Report, Justice Committee*, 21 May 2013; c 2807.]

He went on to reveal that similar exercises are already under way in three other regions. It would be naive to doubt that those things are closely related. If the starting point of the proposals is that our court system is "Victorian" and should largely be replaced by virtual justice that is delivered by remote access to a much-reduced number of courts, a vote today in support of the Government's proposals will be more than just a vote to close those courts: it will be a vote to accept a future direction of travel that will see yet more local courts being put out of business on the basis that the idea of local courts is itself out of date.

John Finnie (Highlands and Islands) (Ind): Will the member accept that one interpretation of the words he has just said is that videoconferencing would be a second-rate form of justice when, for many, it is pivotal to their coming forward and acting as complainers?

Lewis Macdonald: Videoconferencing is not a second-rate form of justice. As Mr Finnie said, it is essential in many cases involving vulnerable

witnesses. However, anyone who has engaged with the Court Service—many round this table have done so—will recognise that videoconferencing is not a substitute for appearance in person, either from the point of view of the accused obtaining justice, from the point of view of those who wish to cross-examine witnesses on the basis of the evidence that they have given, or from the point of view of communities that want to see justice being done in their midst.

Lord Gill described Scotland's sheriff courts as "Victorian"; last week, Kenny MacAskill went much further. He compared the continued existence of Haddington sheriff court with

"a range of statutes that have had to change, from statutes on capital punishment down to statutes on the stocks." — [Official Report, Justice Committee, 4 June 2013; c 2917.]

The choice of analogy is revealing. The death penalty was abolished in the 1960s because its use had come to be seen as being no longer defensible in a civilised society. The stocks ceased to be used in the 1800s for similar reasons. Is it therefore the case that a system of justice that is based on appearance in person at the local court is seen as being outmoded and no longer necessary in a high-tech society?

If the Scottish Court Service does, indeed, reduce courts provision in the Borders to a single main centre, we must conclude that either Jedburgh or Selkirk will not survive. There will, in any case, be no jury trials held anywhere to the south and east of Edinburgh. With feasibility studies under way in areas including the Highlands and Fife, the future of courts in those areas might also be called into question. It is Dingwall and Dornoch today; perhaps it will be Wick and Tain tomorrow. It is already planned that there will be no jury trials on mainland Scotland north of Inverness.

The court at Cupar is to close and the court at Kirkcaldy is to lose jury trials. Perhaps a single justice centre is all that will be left in Fife in a few years. Some might say that for courts in those areas, the writing is already on the wall. No doubt there will be other feasibility studies to come, and it can be predicted that other local courts with relatively low volumes of business will face the threat of closure.

In the future, the 16 courts in the premier league will deal not only with jury trials but with centralisation of what the Court Service calls the

"civil, administrative and miscellaneous jurisdiction of the sheriff."

However, what else will survive a further round of court centralisation is an open question, and it is one that I believe members should consider carefully before they cast their votes.

I urge members to vote for annulment of the orders in order to allow the Government to pause and reconsider the direction of travel, and to allow Parliament as a whole to take the final view on the closure proposals before us.

I move,

That the Justice Committee recommends that the Sheriff Court Districts Amendment Order 2013 (SSI 2013/152) be annulled.

That the Justice Committee recommends that the Justice of the Peace Courts (Scotland) Amendment Order 2013 (SSI 2013/153) be annulled.

The Convener: Thank you, Lewis. You came in well within the time limit.

Alison McInnes (North East Scotland) (LD): I have signed the motions to annul and I speak in support of the annulment of the orders. We have been presented with many reasons to protect courts, including civic pride, community cohesion, economic impact and the disproportionate impact on different equalities groups. On the latter point, the equality impact assessment is sadly lacking.

At the heart of all the arguments is the value that we place on access to justice and on local justice. Our courts are robust institutions that have an impact in our local communities. The Government's proposals will have a significant impact on people living in rural Scotland in particular. Liberal Democrats believe that justice should be dispensed as locally as possible.

Kenny MacAskill: Will the member take an intervention—through the chair?

The Convener: Thank you, cabinet secretary.

Alison McInnes: Yes.

Kenny MacAskill: Why does it appear to be acceptable for the Liberal Democrats to close 49 county courts and 93 out of 330 magistrates courts in England and Wales, yet entirely unacceptable for any courts north of the border to be closed?

Alison McInnes: You must ask my colleagues in England and Wales that question. As Lewis Macdonald rightly said, this is a devolved Parliament that takes decisions about Scotland, and we have a particular view on what should be done here. We are perfectly at liberty to make that case.

There are real dangers in delivering justice remotely, which, as Lewis Macdonald pointed out, is what we are heading towards.

There are significant concerns about the disproportionate impact that the proposals will have on children, young people and women. The Association of Directors of Social Work has expressed concern, and Scotland's Commissioner for Children and Young People has warned that

the proposals might have a detrimental effect on children. The proposals pay little regard to the impact on family law, in particular, and women's groups have warned that vulnerable witnesses will be exposed to greater risk.

We have heard from the Sheriffs Association, from the Law Society of Scotland and from many people around the country that they are concerned about the closures.

I do not doubt that the proposals are administratively convenient for the Scottish Court Service and there might well even be some savings.

Sandra White: Will the member take an intervention?

Alison McInnes: I want to make progress.

There might be some savings, but the evidence that we have heard points to savings being made only because costs are passed on to other partners in the justice system. Communities around Scotland are rightly outraged by the latest attack on the services that are available in our towns and villages. The centralisation drive needs to be halted.

In my own region of North East Scotland, two courts are proposed for closure on the basis of proximity. It is proposed to close the court at Stonehaven, from where business will be moved to the court at Aberdeen, which is already overstretched. As we have heard, the court at Stonehaven currently acts as a safety valve, so its closure does not make sense—the proposal is not coherent. It is also proposed to close the court at Arbroath, from where business will be moved to the court at Forfar. That decision will have an economic impact. In addition, public transport links to Forfar are much poorer and we have heard that support for vulnerable witnesses is much better at the court in Arbroath than at the court in Forfar.

10:30

Roderick Campbell (North East Fife) (SNP): Will the member take an intervention?

Alison McInnes: The proposals seem to me to be one dimensional. They do not take account of what else is happening in court reform. The civil courts reform proposals will push more business into the sheriff courts and create greater pressure.

I will take an intervention now, convener.

The Convener: Which one do you want to take? Both Sandra White and Roddy Campbell want to intervene.

Alison McInnes: I will take Roddy.

The Convener: Oh—right. She is within hitting distance, you know, Sandra.

Roderick Campbell: Does the member accept that, although it is perhaps unfortunate that the courts reform (Scotland) bill consultation has only recently closed, we have had assurances from the Scottish Court Service about the impact of the transfer of cases from the Court of Session to the sheriff courts? Does she not accept those assurances?

Alison McInnes: We have not been able to properly interrogate them as the consultation has just closed. It would have been much more coherent to take the two things together and consider them in the round.

I urge the committee to follow the evidence. We have had overwhelming evidence on the matter, both in written form and in the evidence that we have taken in public session, and we should follow it. Apart from the Scottish Court Service and the Scottish Government, no one is saying that the proposals are a good idea. The committee needs to work together and pay heed to those concerns, however inconvenient for the Government.

The Convener: Sandra White is seeking to intervene again. Do you want to take the intervention?

Alison McInnes: Yes.

Sandra White: Thank you.

I am a wee bit concerned. You said that the proposals would be detrimental to families, children and women. We heard evidence from Victim Support Scotland, which supports videoconferencing, and we heard important evidence about children's hearings, particularly in the Dundee area, being conducted in Scottish Children's Reporter Administration offices. We heard in evidence from witnesses that that is a good way forward, and we also heard from the cabinet secretary and others that there are moves to roll out the approach to other areas. Do you agree that that is a good thing? Vulnerable witnesses such as children and women welcome the fact that they will not have to go to court to give evidence.

The Convener: That was a long intervention, so I will give Alison McInnes extra time.

Alison McInnes: Thank you.

Sandra White: I waited a long time for it. *[Laughter.]*

Alison McInnes: All the way through, we have heard from both the Scottish Court Service and the cabinet secretary that videoconferencing is the solution to everything. I am concerned about that. It has a role to play, but it will not solve the problem of local access to justice.

I urge the committee to act in the interests of the people and our communities in Scotland and at

least have the courtesy to send the matter to the chamber for it to be properly debated by the full Parliament. If we do that, all members will be able to speak and indeed vote on the matter.

The Convener: Thank you. I call John Lamont, to be followed by Graeme Pearson.

John Lamont (Ettrick, Roxburgh and Berwickshire) (Con): I am also happy to speak in support of the motions to annul.

Today, the committee has an opportunity to send a message to the Scottish Government that plans to close a fifth of Scotland's sheriff courts need a rethink. I doubt that even this SNP Government would have the brass neck to close a fifth of our schools or a fifth of our hospitals, so vocal would the outcry be. However, it seems to believe that our justice system is fair game for savage cuts.

The Justice Committee has the opportunity today to send a message that court users, victims of crime, witnesses to crime and our small towns are worth standing up for. The Government has sought to downplay the impact of the proposals, stating that they will affect only 5 per cent of cases, but that represents a substantial 12,500 criminal and civil cases. Despite not being the busiest of courts, the court in Duns in my constituency hears more than 330 sheriff cases a year, with the JP court sitting fortnightly.

Kenny MacAskill: Will the member take an intervention?

The Convener: Do you want to take it, John?

John Lamont: Yes.

Kenny MacAskill: Given that Mr Lamont was delighted to welcome David Cameron, the Prime Minister, to the Tory conference and supports the better together campaign and the union, what did he say to Mr Cameron about the 93 magistrates courts and 49 county courts that are being closed across England and Wales? Did he have any comment?

John Lamont: The Prime Minister is responsible for the United Kingdom Government. You are responsible for the Scottish justice system. I would be grateful if you could focus on that rather than worrying about what is happening south of the border.

I am in no doubt that the Duns court is a local service that is worth fighting for.

A further tactic of the Government and indeed many SNP back benchers has been to blame the Westminster cuts, but if we look at the facts, the reality is that the Scottish Government's budget for 2012-13 has seen a cash-terms increase of £250 million.

Rather than protecting our courts, the Scottish Government has instead decided to decimate the SCS's capital budget, which will fall by a staggering 80 per cent by 2015. Let us be in no doubt about the fact that it is because of the decisions that are taken by the Scottish Government that the Scottish Court Service is having to propose ill-advised savings.

The Convener: Colin Keir would like to intervene.

John Lamont: I would like to make some more progress, if I may.

The Government even claims that the plans will result in a broadly neutral economic impact, despite the evidence to the contrary that the committee has heard. The closure of so many courts will hurt access to justice; it will pass on costs to victims and witnesses; it will result in increased delays and, therefore, increased costs; it will divert cases to some of Scotland's busiest and least efficient city courts; and it will result in the loss of significant business and footfall in regional towns across Scotland. The proposals come at a time when the Scottish Government is planning on diverting significant civil business away from the Court of Session to sheriff courts.

The closures make no sense nationally, but they make even less sense for rural communities such as those in the Borders. I make no apology for mentioning my constituency, because that is where my priority lies. The closure of Duns sheriff court will force victims and witnesses to travel more than 50 miles to Jedburgh sheriff court. Indeed, the Scottish Court Service has conceded that the closure will result in some of my constituents having to stay overnight in Jedburgh, as they will be unable to get home by public transport on the same day. That breaches the Scottish Court Service's principles on the provision of access to justice.

During our inquiry into the proposals, we also heard the bombshell that proposals for justice centres will result in further closures within a relatively short period of time. Exactly what those justice centres will involve, and what areas they will cover, remains unclear. However, looking at the list of sheriff courts that are not pencilled in for closure, I guess that a further 10 might be at risk and that the Borders may be left with only one. Those plans are further evidence of the Scottish National Party's increasingly metropolitan outlook and centralising tendency. They will result in more and more public services being diverted into the central belt and major cities, ignoring the importance of local services and local access to justice in areas such as the Borders. Indeed, as the committee heard from Stuart Naismith of the Law Society of Scotland, if we took justice centres to their logical conclusion, we would have just one

centre, ignoring the inconvenience to court users and the loss of local access to justice that would result. At what point in the drift towards greater and greater centralisation will SNP back benchers have the courage to say that enough is enough?

The committee has heard sensible alternatives from Sheriff Drummond that would make savings while maintaining our court in Duns. Indeed, alternatives exist across Scotland, including a move towards courts operating on a part-time basis and the better use of existing public buildings. To add insult to injury, in my constituency, the closure of the court in Duns will make only relatively minor savings.

We have had clear evidence against the court closures. The question that remains unanswered today is: will the SNP members on the committee blindly follow the voting instructions that they no doubt received this morning, or will they think for themselves? The plans need a full parliamentary debate and the committee should allow that to happen.

I make no apology for mentioning a few names. Most likely because of the fact that Colin Keir does not have a court in his constituency, he has been the least vocal in his criticism. I do not hold out much hope of his voting against the court closures today. Sandra White, who also does not have a court in her constituency, at least promised robust and thorough scrutiny. Surely the evidence that the committee has received suggests that, therefore, she will vote against the proposals. John Finnie, who is no longer an SNP member and is therefore able to vote against the Government when he believes that that is the right thing to do, abstained in the Scottish Labour Party justice debate in April. Clearly, he had concerns then, and I fail to see how anything that we have heard since then could have dispelled them.

We know that other SNP members of the committee have strong reservations about the plans. There is no shortage of comments in their local press. Roderick Campbell has admitted that

"The proposals for Fife are severe"

and has said:

"it is clear to me that retention of Cupar Sheriff and JP Courts is by far the best course of action."

The convener promised her constituents, via a BBC interview in April, that she

"will continue to oppose the closure of Peebles sheriff court."

Let us be clear that, by voting in favour of court closures today, committee members will be saying that they know better than the 95 per cent of respondents who rejected the plans, and that they support the Scottish Government's decision to cut the SCS's capital budget by 80 per cent.

Roderick Campbell and Christine Grahame have a clear choice today. Will they defy their party and stand up for their constituents, or will they protect the SNP Government from a fully democratic parliamentary debate? Will they blindly follow voting instructions, or will they back up their words with action? Will they put party interests first and local people second?

The Convener: I do not know whether to thank John Lamont for that speech.

I call Graeme Pearson, to be followed by Iain Gray.

Graeme Pearson: In my two years on the committee, I do not think that I have received so much correspondence in connection with one issue. By this morning I had received 200 emails from interested parties across Scotland, who raised serious concerns about the proposals in the amendment orders. The written submissions—not to mention the petitions that we have received—have provided fulsome evidence, which should cause the cabinet secretary to think twice about the provisions that he has laid before the committee.

A major concern for me is the impact on witnesses and victims. In the light of the new legislation that the cabinet secretary is proposing, which will provide support for witnesses and victims, and in the context of the legal aid changes happening elsewhere in our system, it is hard to believe that the provisions in the amendment orders will go any way to relax the stress and anxiety felt by witnesses and victims as they travel substantial distances, in many cases by public transport and initially at their own cost.

Many of the victims and witnesses who attend our courts come from the most vulnerable sections of our communities. If we can make their lives easier in relation to access to justice, that will reflect a more inclusive society—one that tries to deliver not only justice in the broader sense, but social justice. The time that witnesses spend travelling to court so that they can prepare to give evidence—which they do on behalf of the court at the end of the day, not solely in their own interests—should be an important issue to us all. The notion that access to justice can be provided by encouraging witnesses and victims to travel even further than they currently do seems counterintuitive.

As an adult, I have always understood that justice should be seen to be done. The proposal to remove courts from the hearts of many of our communities—and across the south of Scotland that means Duns, Haddington, Peebles and as far as the JP court at Annan—will remove justice from those communities. That cannot be called the

delivery of a premium service in a modern, 21st century Scotland.

The committee has heard much over the past month about churn. That became part of the currency of some of our witnesses' evidence—they talked about the churn of costs from Court Service budgets to other partner agencies' budgets. Local authorities are concerned about the impact on social workers and other professionals, who would be required to travel outwith an authority area to nearby courts, or even across significant distances within an authority area.

The impact of the removal of courts from communities will be significant. There is no doubt that the courts are a fulcrum around which towns such as Duns, Haddington and Peebles operate. Voters in those areas—the public—are concerned that the removal of the courts will remove part of the character and the *raison d'être* of their communities. The notion of shrieval knowledge and local intelligence about the difficulties and problems faced by those communities was shared with the committee.

John Finnie: Will the member accept that shrieval knowledge extends beyond geography into specialisms? The range of specialisms that is being developed across shrieval experience is one of the challenges that we face.

Graeme Pearson: I accept that there is a need to develop specialisms in some developing areas of criminal and civil law. However, the knowledge that local courts truly understand communities and reflect their concerns is significant. It means that justice has relevance for those communities—there is true meaning in the way it impacts on what external parties would think were fairly minor matters that are important to local communities as they impact on them week in, week out.

10:45

The chief executive and leader of East Lothian Council have explained that Haddington sheriff court is a shared facility. The local authority invested in it and shared its management on behalf of the town. As I understand it, the local authority offered to pay some of the costs that the Court Service deemed were on-costs for the facility's management. The local authority expressed to me the view that the consultation process took little or no heed of that offer—that there was no consideration of how it might affect the future of Haddington court.

As far as Peebles was concerned, Scottish Borders Council indicated that it felt that its voice had not been heard and that no meaningful discussion had taken place that would have given it some comfort that—

Sandra White: Will the member take an intervention?

Graeme Pearson: I am happy to do so.

Sandra White: The member talks about consultation. Last week, he asked Lord Gill much the same question about consultation. Lord Gill replied that it was “the most extensive consultation” that he had undertaken. Does the member agree?

Graeme Pearson: I would never dream of questioning Lord Gill’s assessment of his experience of the process. However, the truth of the matter is that the experience of the chief executive and the leader of East Lothian Council—and other councils—was of a less-than-meaningful consultation process. Internally, from the Court Service’s perspective outwards, it may well have felt meaningful. However, the communities’ view, looking in towards the Court Service as one of many services that they experience, is that their voice had not been appropriately heard. I can only reflect the honest assessment that communities gave me when I spoke to them.

We had a novel suggestion from Sheriff Kevin Drummond, who indicated that travelling justice was a meaningful option for the future and could be delivered across the Borders area with some effect.

However, we see no reflection of those concerns or options in the documents before us. The fact that the Law Society, communities, local authorities and others who gave evidence to the committee felt discomfort about the way in which their views had been weighed up leaves me in some doubt that proper consultation has occurred and that proper decisions have been taken about the way forward.

On the use of closed circuit television and all the other new technologies that might be available to us, justice needs to be seen to be done in communities. The principle always applied that we sought best evidence in our courts. There are no doubt circumstances in which the evidence of witnesses and victims can be best received through CCTV provision, but to expect that all court cases might benefit from the use of CCTV at this stage in its development is a step too far.

The Convener: You have had about eight minutes.

Graeme Pearson: I am on my last sentence, convener.

It would be of some comfort to us if, this morning, the cabinet secretary showed that he was willing not only to listen to the debate but to amend his proposals. I hope that, by rejecting the amendment orders, the committee can take the

first step towards a reconsideration of the available options.

The Convener: I will take Iain Gray next, because I believe that what he has to say will lead on from the Haddington stuff. Then I will call Colin Keir, who I think will advance a different argument.

Iain Gray (East Lothian) (Lab): Although I will talk specifically about Haddington courts, I am sure that many of my arguments will apply to some of the other courts affected by the orders, particularly those in county towns where the decision is based entirely on proximity to another court.

The orders before the committee would close Haddington’s sheriff and JP courts. Although it might be true that some of the courts covered in the orders carry out relatively little business, that is not the case with Haddington, which is a busy, full-time court. In fact, of all the courts listed in the orders, Haddington has in recent years dealt with by far the highest number of civil cases and one of the highest numbers of criminal cases. Last year, more than 2,750 criminal summary complaints were raised and there has been an increase in many procedures; for example, adults with incapacity applications have risen by 70 per cent. Each year, around 3,500 of what the Court Service calls “civilians” use Haddington court, and given that East Lothian has the fastest growing population of any local authority area in Scotland, that number can be expected only to increase.

In the course of this debate, the cabinet secretary has often referred to the modern one-stop-shop model of local justice of the kind that can be found in Livingston. In Haddington, the court, the police, the fiscal service, citizens advice bureau advice services and social work might not be in the one building, but they are all within 20 yards of one another in the centre of the town. As a result, not only is justice administered efficiently and locally, but it is very much seen as being administered locally. After all, within those 20 yards, we also find the local newspaper, which assiduously reports court proceedings, and our local sheriff has made clear his belief that the certainty of exposure in the local press deters people from appearing in front of him.

All that will be lost if the committee does not annul the orders. Court users will spend many hours travelling to Edinburgh; multi-agency working will become difficult to schedule; local law firms might close or withdraw from court work; police officers will spend time in Edinburgh instead of East Lothian; social workers’ case loads will become even more unmanageable; and local JPs have made it clear that many of them will be unwilling to sit in Edinburgh and will simply retire. Above all, innocent victims, witnesses and families coping with debt or family breakdown will face

drawn-out proceedings in a busy and more intimidating city court. Apart from the human cost, East Lothian Council has calculated the loss to the town's local economy at more than £360,000 per year.

Even setting all that aside, I have to say that the proposal makes no sense. The target set by ministers is for courts to dispose of 85 per cent of cases within 20 weeks; according to the most recent figures, Haddington was very close to that target, at 83.8 per cent, while Edinburgh achieved only 58.4 per cent. It is clear that even without the additional burden of East Lothian work, Edinburgh cannot meet ministers' own performance standards.

If this is simply a cost-saving measure, it has at best a marginal benefit. The Court Service claims that it will save around £81,000 a year in running costs, but £34,000 of that is depreciation—in other words, it is a paper saving. The only real benefit is of the order of £47,000. The truth is that that cost and more will be pushed on to other public sector budgets; for example, a forensic accountant has estimated that the move to Edinburgh will incur additional costs of £85,000 for non-legal public sector workers. As for capital costs, Lewis Macdonald has already indicated that the council has said that it will accept responsibility for more than half the £500,000 or so of backlog maintenance that the Court Service has said is necessary and has offered to share on-going costs rather than see our court be closed.

Therefore, in the case of Haddington at least, the measure is without rationale or purpose. It is not efficient, it will not save money, it is damaging and inefficient and, in the long run, it will potentially be costly for the public purse. The proposal flies in the face of powerful evidence and widespread local opposition. I say to Sandra White that the consultation may have been extensive, but there was not one single submission in support of the closure of the Haddington courts, and many were opposed to it. This has become simply an exercise in obstinacy.

Lewis Macdonald said that the committee faces "serious and substantial decisions". That is true. In the case of Haddington, the decision is also historic. Local justice has been dispensed in Haddington one way or another since the 12th century. I agree with the cabinet secretary that it has changed over time, but it has always been there—certainly, there has been a sheriff court in Haddington for some 500 years. It survived for 300 years without a Parliament in Scotland, and it would be ironic if we used our own recently achieved democratic accountability and autonomy to get rid of that tradition and the principles of justice delivered locally, accessibly, publicly and by our peers, and consign them to the dustbin of

history. Before committee members do that, I ask them simply to stay the cabinet secretary's hand by annulling the orders and at least allowing the whole of the Parliament to further reconsider these important decisions.

The Convener: Thank you very much.

Colin Keir (Edinburgh Western) (SNP): There is no doubt that the courts that are earmarked for closure in the report bring out hot and very strong feelings among various MSPs and some members of the local communities. It is easy enough to take those feelings on board, because they are totally understandable. The existence of the historical aspect, which Iain Gray mentioned, is absolutely true. However, having listened to the Lord President of the Court of Session and Eric McQueen last week, I cannot help but feel that the robust statements that they produced support the reforms being put through.

We have a longer-term sustainability issue. I tried to intervene on Mr Lamont on that. There may well be a cash-terms increase in the Scottish block grant, but if we are not in a period of austerity, why are the Prime Minister and the chancellor telling us that we are, and why are we in such a financial mess? That suggests that there is a lot more to that statement that should be taken into consideration. Cost issues are involved.

We have a choice. The cabinet secretary has been chastised for bringing in the 93 magistrates courts that are being shut in England, but the choice is very clear. Either we try to keep a service that is sustainable, compatible with and true to the values of the Scottish legal service, or we go down the south of the border road. The Conservative-Liberal coalition is seeking almost to dismantle in what it is doing.

Alison McInnes: The member is offering us a false choice. It is quite clear that the Government has a budget and makes choices with it. It is not, as the member seems to be suggesting, a matter of either closing all the courts, as is being done in England, or being sensible. There are many options. I remind members that, on the day that Lewis Macdonald led the debate in the chamber, the transport minister announced a £4.6 million fund—he suddenly discovered that money—to give to Scotland's canals, for the living on water initiative. That choice was made; a different choice could have been made.

Colin Keir: That may well be true, but we are now looking at a sustainable legal service for Scotland. These views were expressed by the Lord President. In last week's interrogation, shall we call it, I would not have said that a hell of a lot of the firepower—if you will pardon my French—

The Convener: Yes, well, it was not actually French.

11:00

Colin Keir: —was aimed at the Lord President. The feelings that the situation has brought up are understandable, but there has to be an acceptance that sustainable reform is required.

I agree with some of the comments that Sandra White made in her earlier intervention. Some of the reform groups that deal with vulnerable children and the like are welcoming the reforms. Also, we cannot forget the critical state of some of our courts. In the round-table discussions, we listened to the vulnerable people who gave us their experiences of some of the courts in our society that are simply not up to the job. The justice centres have the potential for providing long-term security in that way as well.

I understand the feelings that have been expressed, but we have to support Lord Gill's reform programme. I make no apology for that. I understand where the Opposition is on this, but I will not accept the denial of the current period of austerity—Mr Lamont is way off the mark on that—and I will support the Government's proposals. I will certainly not support the motions.

Jenny Marra: I begin by focusing my remarks on the closure of Arbroath and Cupar sheriff courts, and the resultant transfer of business to Dundee sheriff court. The impact on Dundee of the Scottish Court Service's plans, which the cabinet secretary has accepted, is far from clear. Although those plans recognise the full transfer of business from Cupar to Dundee, they leave the door open for the transfer of business from Forfar to Dundee in future. I would like the cabinet secretary to give us more detail on those proposals and how he plans to do that. In light of Eric McQueen's admission to the committee three weeks ago that further court closures are planned, are we to assume that more courts, such as Forfar, are being considered for closure?

Kenny MacAskill: I know that the member was absent when the Lord President and the Scottish Court Service chief executive gave their evidence, but I ask her to accept that these proposals come from them. It is not a decision that I make. Does she not accept that any changes come from the Lord President and the chief executive of the Scottish Court Service, and that she would have to ask them about future matters, as she could have done at the previous committee meeting, when she was absent, or as she could do now through correspondence?

Jenny Marra: I do not accept what the cabinet secretary is saying—

The Convener: Before we go further, I should say that Ms Marra was absent on Parliament business.

Jenny Marra: I do not accept what the cabinet secretary says, because the proposal is being put to Parliament by his Government. As we have said previously, he can seek to pass the buck to the Lord President, to the Scottish Court Service, or to anyone he likes, but he is sitting before the committee today, these are his proposals and his budget, and he must take responsibility for them. I would therefore like clarification of his future plans.

I would like to know specifically how the cabinet secretary expects Dundee sheriff court to handle seamlessly an increase in business because of the business coming in from Cupar and Arbroath. Those who are in the know are clearly and vocally opposed to the proposals. The Sheriffs Association had this to say about the proposal to close Cupar sheriff court and transfer business to Dundee:

"We are very concerned that the existing accommodation in Dundee simply does not have sufficient capacity in terms of appropriate court rooms and sufficient court days to deal timeously with all the sheriff and jury business envisaged, never mind the additional civil business. The consequence will be not merely delay in terms of justice delayed being justice denied: it may be that time bars, in custody or on bail, will simply not be able to be met. We are unaware of detailed analysis or information being available to assess these justifiable concerns. No final and irreversible decision on closure of Cupar Sheriff Court should be taken without such information."

Those are not my words but the words of the Sheriffs Association.

We simply do not have enough information to make any decisions like those that we are being asked to make today. We have already seen the business case for closure torn apart by the forensic accountancy that was done in the case of Haddington. When we look at the Government's proposals not just for the closure of more courts in future but for the wider reform of the justice system, the landscape becomes more uncertain and the impact for Dundee more unclear. As I have said in the chamber, the cabinet secretary's proposed removal of corroboration, the cuts to legal aid—he has already voted those through the Parliament—and the alteration of the exclusive competence of the Court of Session that will result in more personal injury cases moving down to the sheriff court will have an impact on the business going through our courts. It cannot be argued, as he has tried to do in the chamber, that fewer cases today means fewer cases tomorrow, particularly when the Government is trying to put all this legislation through the chamber at the moment.

I put it to the cabinet secretary that the Government is giving up on many elements of local justice in our communities. We are seeing a fall in the number of prosecutions and an increase in the use of fiscal fines. The closure of local

courts is in many ways sending out a signal to Scotland that he is giving up on local justice.

As I said at the start, the cabinet secretary continues to pass the buck on this. He says that the Lord President and the Scottish Court Service make operational decisions. Well, the cabinet secretary makes the political decisions, and these are his decisions. Even if we accept that the Lord President and the Scottish Court Service have a role to play, we must also accept that the cabinet secretary is the democratically elected decision maker with responsibility to set this budget and make laws for our justice system. No one else can do that, and we in the committee and in the Parliament are those responsible for approving those laws.

It is time that the cabinet secretary took responsibility for the 80 per cent cut in the Scottish Court Service budget, which has not been replicated across other Scottish Government budgets. We should not be satisfied with the closure of courts across Scotland being hidden behind the Scottish Court Service consultation and then brought to Parliament in the form of statutory instruments.

I would like to be reflective for a moment. I believe that, in 10, 20 or 30 years' time, we will look back on these proposals and this Government's decision with a lot of regret. I think that we will say in years to come that justice is best done in our local communities by juries of local peers and judgments by sheriffs who have local knowledge. We will want to recreate our local court system, which has survived, as Iain Gray said, for 500 years. This is a very short-term proposal.

When 95 per cent of consultation responses were against these plans and both Angus and Fife councils have unanimously voted to oppose the closure of Arbroath and Cupar sheriff courts, it is only right that MSPs from those areas and from all areas of Scotland where courts are closing stand up today for those whom they represent. I urge fellow members of the Justice Committee to support Lewis Macdonald's motions to annul.

The Convener: Thank you very much, Jenny. Elaine Murray has been very patient.

Elaine Murray (Dumfriesshire) (Lab): Thank you, convener. I am sure that for the cabinet secretary and me there is a certain degree of déjà vu, because this is the second time that we have discussed the closure of Annan justice of the peace court. It was first proposed in the previous session of Parliament but, at that time, the Justice Committee decided that it would not agree to the closure of the court. I recently circulated to all members of this committee copies of a motion that was passed unanimously by Dumfries and

Galloway Council at a full council meeting. It was not just Labour, Conservative and Liberal Democrat councillors who supported the motion; it was also supported by SNP councillors and independent councillors—it was a unanimous decision of the council.

Indeed, I—and perhaps other members who represent my area—have received a letter from the senior manager of legal and regulatory services on behalf of the chief executive of Dumfries and Galloway Council, asking us to oppose these closures. The closures in Dumfries and Galloway affect not only Annan JP court in my constituency but Kirkcudbright sheriff court in Galloway and West Dumfries, which is Alex Fergusson's constituency, and jury trials are being transferred from Stranraer.

Dumfries and Galloway is a very large and predominantly rural area with many different and distinct communities that are very proud of their traditions; indeed, that is never more clear than at this time of year with our galas, common ridings and so on. Kirkcudbright has a 550-year history of courts, while the royal burgh of Annan in my constituency has 700 years of court history, and local people are concerned that all that will be lost.

I know that the committee has received a submission from Dumfries and Galloway Council on these orders, but I just want to very briefly go through why councillors of all colours and council officials oppose these measures. The first reason is the distance that people will have to travel in such a large area that is not well served by public transport. In fact, Dumfries and Galloway Council is concerned that witnesses' concern about the "extensive travel" involved in court appearances might even lead to the non-reporting of crime. In Annan, those in the outlying districts might face a round-trip of 80 miles and I believe that people in Kirkcudbright could have a 100-mile round-trip if they lose their district court.

Kenny MacAskill: I am very concerned about people not reporting crime but, given that these proposals have been supported by the Lord President, the Police Service of Scotland and the Crown Office and Procurator Fiscal Service, I am surprised that the member has made that comment. I also point out that the Crown Office has taken on board and will address travel difficulties. Will the member care to reflect on those comments?

Elaine Murray: I will quote directly from Dumfries and Galloway Council's submission, which says:

"The Council is concerned that the proposals could lead to the non-reporting of crime due to witnesses being concerned about being involved in Court appearances requiring extensive travel and the commitment that would

bring in time away from home or work and also the initial outlay of expense involved."

That is the view of the council's legal and regulatory services. [*Interruption.*]

The Convener: I am sorry—I was distracted by the deputy convener for a moment and missed that spat. I will read it later.

Jenny Marra: I am sorry, convener.

Elaine Murray: The council is also concerned about various resource issues, such as the staffing of criminal justice social work services and police staffing. In Annan, for example, the police are immediately opposite the court and can easily access it. Just as Iain Gray made clear about his own area, Dumfries and Galloway Council is also concerned about the impact on local firms of solicitors in Annan, Kirkcudbright and Stranraer and, if such firms were to close and if everyone had to become more reliant on firms in Dumfries or indeed further away, there would be a diminution in services to people in those communities.

I ask SNP and independent members to listen not just to what we are saying. This is not just a party-political issue in Dumfries and Galloway; this view has the unanimous support of all parties. If you do not want to listen to me, please respect the views of SNP and independent councillors on Dumfries and Galloway and, at the very least, allow further discussion in Parliament by supporting Lewis Macdonald's motions to annul.

The Convener: I call Claudia Beamish next. [*Interruption.*] Sorry—I call Sandra White first. I am just trying to get a bit of balance.

Sandra White: I look forward to what Claudia Beamish and other members have to say.

As a member of the Justice Committee, I have read the written submissions and listened to the oral evidence that witnesses have provided, and I will try to bring everything together. I have genuinely listened to people's concerns, but I also listened to and was very impressed by what Lord Gill had to say last week. He did not deem these court closures; instead, he suggested that the measures are part of an examination of the justice system as it moves forward.

When, during his opening speech, Lewis Macdonald was asked what courts he would close, he admitted that he would close some. However, having listened to Elaine Murray and indeed everyone else who spoke before her, I have to say that it seems that no one wants the courts in their local areas to be closed.

On the issue of access, which I asked Alison McInnes about, Children 1st has definitely said that some courts are not fit for purpose because

they are not wheelchair or child friendly. Indeed, I think that one written submission said that Haddington court has no special area for vulnerable witnesses.

We need to take all these things in the round. As has been pointed out by both Lord Gill and Victim Support Scotland, we have received assurances that videoconferencing—although it may not be the be-all and end-all—will be up and running in areas where courts have been closed.

11:15

Iain Gray: Sandra White makes a fair point that we need to take all these things in the round, but Lewis Macdonald said in his introductory remarks that he was not arguing the case that no court should ever be shut.

I take Sandra White's comments about the lack of facilities at Haddington, but, if we are to take all these things in the round, those members who face the closure of a local court, as I do, need to see some actual proposals. There is no proposal to provide videolink facilities so that vulnerable witnesses from my constituency will not need to travel into Edinburgh. If there are such proposals, we should have them before we consider the closure.

Today, we can decide simply to delay the decision by presenting the issue to the whole Parliament. I argue that, if we are to take things in the round, committee members should support the motion in the name of Mr Macdonald.

The Convener: By way of information, I should say that we have received from the cabinet secretary a letter on the issue of videolinks, which is included in the papers for today's meeting. I do not know whether members have had an opportunity to read that. The committee challenged the cabinet secretary on the issue and asked for further information before today's debate. I am happy to pass my copy of the letter to Iain Gray, so that he can see what it says.

Sandra White: I thank the convener for that. Last week, we asked Mr McQueen to provide us with further assurances that videolinks would be up and running in any area where a court is closed. To be perfectly honest, I have not seen the letter, but it may be among my other papers.

The Convener: I have only one copy. I can pass it around, but the letter was included among the papers for today's meeting.

Sandra White: It may be among my papers, but I have not read it yet.

The Convener: The letter is included on page 14 of paper 2.

Iain Gray: It does not take long to read.

Sandra White: I am sure that Mr Gray will read it out for me.

We were given assurances that videolinks would be put in place. As I said, I think that we need to look at the whole thing in the round.

Children 1st, Scottish Women's Aid and various other organisations have pointed out that it is very difficult for vulnerable witnesses, especially children, to give evidence in court. The issue is not just about travel. As I mentioned in my intervention on Alison McInnes, Mr McQueen assured us that the Scottish Court Service is looking to push out further—

Jenny Marra: Will the member take an intervention on that point?

Sandra White: I will do so in a minute, but let me just finish this comment.

As I said in my intervention, in Dundee the children's hearings are heard in a different venue, which has worked very well. We were assured that that approach would be rolled out, so I am taking that point on board.

Jenny Marra: Does the member accept that in the north-east of Scotland, for instance, there is a special suite of facilities for vulnerable witnesses in Arbroath sheriff court, which is one of the courts that is to close? Arbroath sheriff court was recently refurbished at a cost to the Scottish Court Service, but the business from it is to be transferred to Forfar, where there are no such facilities. If those considerations are being taken on board, why has the decision been made to close Arbroath sheriff court?

Sandra White: You would need to put that question to the Scottish Court Service, but, to answer your point, when we heard evidence about the transfer of business from Arbroath to Forfar, we were certainly given assurances that those facilities would be replicated. That point is made in the written evidence, which I have read.

If I may—the convener will tell me if I am going on too long—I also want to point out that Lord Gill said in his evidence about court business, which is an issue that Jenny Marra raised, that 80 per cent of High Court trials take place in Glasgow, Aberdeen and Edinburgh. He also mentioned the need for flexibility.

When I asked Lord Gill about how victims are treated and how they get access to justice, which is an issue that I am interested in, he pointed out that the way in which court business is currently structured is inefficient. If we go forward with improving the system for sheriff courts and other courts, there will be less downtime and no gaps, so we will be able to have a rolling programme of court business. That will mean that people will not

need to be sitting round the courts, which will be better for witnesses.

We also have an assurance that any witness who would feel vulnerable travelling on the same bus as perpetrators will be able to use taxis. I come from Glasgow, and I must admit that, at one of the biggest courts there, witnesses sometimes stand outside along with perpetrators, so I am au fait with that situation. However, we were told that the issue will be looked at specifically so that, as happens now, people get appropriate treatment. People will not have to travel on the same bus; they will be able to get a taxi or whatever.

We also heard that 80 per cent of trials are held in certain areas. I keep quoting Lord Gill, but I suppose that he is the person who is behind all this stuff.

Jenny Marra: No, that is the cabinet secretary.

Sandra White: I am not going to get into a spat.

The Convener: You cannot just have a little discussion across the room.

Sandra White: I am sure that the cabinet secretary will answer that.

The Convener: Excuse me. I like to be noticed sometimes.

Jenny Marra: Sorry, convener.

The Convener: If you are going to intervene, intervene properly.

Sandra White: I apologise for that, convener, but I am sure that the cabinet secretary can answer that point.

I am looking at the proposals in the round. I take on board everyone's concerns, but I think that, to have an appropriate court system and access to justice for people, which is all about the victims, we need to move into the 21st century. We cannot go back; we have to move forward. I am talking not in monetary terms but about access. If we can have access to justice without the whole court procedure, and John Finnie made the point about specialisation, we—

Graeme Pearson: Will the witness take an intervention?

The Convener: She is a witness now. It is all getting to us. Do you want to take the intervention, Sandra?

Sandra White: Yes.

Graeme Pearson: Thanks, Sandra. The Scottish police service states:

“should witnesses have further to travel to court they will be discouraged from attending court due to the inconvenience this presents which could in turn lead them to disengaging with the criminal justice process i.e. not reporting crimes or coming forward as a witness.”

Is that not a serious concern in rural communities?

Sandra White: I note the comment that you quoted from the paper from the police, but there are also comments from other organisations—I think that the Association of Chief Police Officers in Scotland is one of them.

Graeme Pearson: It is ACPOS that I just quoted.

Sandra White: Yes, but there have also been comments previously that the issue will be looked at and that people will not need to travel by bus. They will be able to get taxis. The procurators fiscal have said that.

Jenny Marra: No.

Sandra White: It is in the papers.

The Convener: Sandra, you have taken quite a lot of interventions. You have another minute or two.

Sandra White: The point by the procurators fiscal is in the papers. I think that we asked witnesses who gave us evidence, and they said that people will be able to get taxis. That was assured.

I am looking at the proposals in the round and I take on board Lord Gill's proposal that we move forward to the 21st century and look at specialisation as well.

The Convener: Thank you. I call Claudia Beamish, who has been very patient, to be followed by John Finnie.

Claudia Beamish (South Scotland) (Lab): Thank you, convener. Good morning, cabinet secretary and others round the table.

As a member of the Scottish Parliament who is not a member of the committee, it seems to me that, even from what we have heard this morning, there is so much conflicting evidence and so much determination on the part of local communities to have local access to justice that, at the very least, the matter should be discussed by the full Parliament. That is where I start, and end, my remarks.

I came to the committee today because I have been contacted by many constituents across South Scotland about access to local justice and the proposed court closures and changes to the court system throughout the region. I associate myself with the remarks that other MSPs have made on the issue—including my colleague Graeme Pearson—from a South Scotland perspective.

There are similar issues across South Scotland and indeed rural Scotland in relation to access to justice. Many of them have already been

highlighted, so I will not go into detail on them. However, I note that much of South Scotland is rural, there are very different communities in the region and there is a history of local courts that support the access to local justice that I believe is still important in the 21st century. If we are going to look at the issue in the round, we need to look at it as parliamentarians from right across the Parliament.

Constituents have written to me about the transport issues that have been raised. My colleague Sandra White raised the problem that witnesses and victims, who are often vulnerable, might travel on the same public transport. To be blunt, I do not think that the solution is to put those people in taxis.

The problem of transport has been highlighted to me by constituents because there is often no public transport in the areas of South Scotland in which people might have to get to court. Such people would have to get to a local transport hub and travel on from there. In the case of East Lothian and Haddington, which my colleague Ian Gray mentioned, that would mean going all the way up to Edinburgh.

The concerns that have been raised about the contribution that courts make to local jobs and town centres should be taken into account in relation to rural strategies and the support that they should bring to local justice.

Sandra White: There are lots of submissions and many paragraphs we could read from. On the issue of vulnerable witnesses travelling to court, would you agree with ACPOS? Referring to the High Court circuit, it recommends the use of

"Video Link / CCTV usage in alignment with the special measures that have been available through the Vulnerable Witness legislation. The knowledge that these measures are available may encourage the public to engage more freely in the overall criminal justice process."

Claudia Beamish: Those videolinks are extremely important for some vulnerable witnesses, but that does not alter the fact—

Sandra White: ACPOS says that they will encourage people—

Claudia Beamish: I understand that, but videolinks are only part of the picture. Many witnesses feel vulnerable whether or not they are identified in that particular category. All witnesses can feel very vulnerable when they have to travel to court.

The Convener: As a point of information, the committee has been looking at the Victims and Witnesses (Scotland) Bill. It contains provisions under which people will be able to be designated as vulnerable witnesses, so a shift is coming: we are moving further towards protecting people.

Claudia Beamish: Thank you, convener.

I acknowledge that, of course, there is a need to cut costs, but I do not think that the proposals are the way forward. As an ex-convener of the Equal Opportunities Committee, I have become increasingly convinced this morning that the equality issue in relation to disabled people, women, children and the elderly needs further discussion.

John Finnie: I do not know whether the member has had an opportunity to look at the equality impact assessment made in respect of the proposals. On the issue of age, it states:

“No specific negative impact on any group has been identified”.

The document states that there is also no specific impact in relation to gender. I commend examination of the document to the member.

Claudia Beamish: I have not had the opportunity to look at the equality impact assessment. From my own perspective as a representative of South Scotland, I question the idea that there will be no impact on the elderly, in particular, given that people will have to travel considerable distances. In Dumfries and Galloway, a round trip could be up to 200 miles.

The arguments on the reporting of crime have already been rehearsed. I support my colleague Elaine Murray—I was also sent the letter from Dumfries and Galloway legal and regulatory services, which was supported across the parties.

I will end by saying that I believe that the matter should be considered by the whole Parliament. It is to say that on behalf of my constituents in South Scotland that I have come along today.

11:30

John Finnie: Every day I am learning more, and today is my first opportunity to be involved in a parliamentary annulment process. Lewis Macdonald talked about requesting further debate, and Alison McInnes also talked about the matter being properly debated. I noted that, notwithstanding accepting interventions, neither used their full time to debate the issue.

The Convener: I am not too unhappy about that.

John Finnie: I am therefore not aware of any efforts to frustrate debate.

I have had a long-standing interest in domestic abuse cases, and I have raised the issue in Parliament previously. I raised a specific issue with the cabinet secretary in a question about a dedicated domestic abuse court for the Highlands. That was not forthcoming, but I included it in a

detailed submission that I made to the consultation on this process.

I do not lend blind support to anything. As regards Mr Lamont's earlier outburst, I will not take any lectures from the Tories, least of all on anything remotely connected with social justice. We on the committee have to act responsibly and deal with the issues in front of us. This issue must be seen in the context of other developments that have been alluded to by other people. I refer in particular to Lords Carloway and Gill and, as the convener mentioned, the Victims and Witnesses (Scotland) Bill. There seems to be a broad consensus that a lot of consideration will go into the support that is provided to witnesses.

In relation to that issue, I got in touch with the cabinet secretary and the Scottish Court Service about an extension of the remote facilities where available. That seems to me to be an opportunity to work with partner agencies. I have to say that the initial response was “no plans”, but I am delighted that the response was subsequently revised, and I am even more pleased that the plans have been extended beyond the specific location to which I referred—Dingwall—and that they have been agreed in relation to all the areas that have been identified for closure.

Lewis Macdonald: I am interested to know from Mr Finnie for what types of court case it would not be appropriate to use videolinks to substitute for someone appearing in person.

John Finnie: That would be part of the assessment that is done of the vulnerability of the victim or complainer, which will clearly vary from case to case. We want each individual case to be considered on its merits.

The issue of distance has been mentioned. There has been only passing reference to this, but for some constituents the changes will mean that the facilities are closer. I refer in particular to the Black Isle in my area. Although I accept that my colleague Claudia Beamish does not accept the content of the proposed orders, I commend people to look at pages 12 and 13 of the equality impact assessment, which deals with the overall package and shows that it is not as punitive as some have suggested. Indeed, the finding that there will be

“no specific negative impact on any group”

seems to be quite compelling.

Alison McInnes: How do you respond to the concerns expressed by and the warnings that came from the Association of Directors of Social Work and the children's commissioner, who said that there would definitely be an impact on children and young people? I think that the equality impact assessment is a cursory one.

Would you not pay more heed to the ADSW and the children's commissioner?

John Finnie: The assessment goes across the board rather than just being specific and, as we know, there are specific examples such as the buildings that have been alluded to earlier. The proposals seek long-term improvement, and I am not questioning the integrity of the people who compiled the equality impact assessment, which seems to me to have been done entirely in good faith.

I find the issue of travel interesting. Throughout my area, accused and witnesses routinely travel some distances, sometimes in the small confines of a ferry as I alluded to when I talked about Lochmaddy sheriff court. The idea that an additional problem is caused by requiring someone to stay another 10 or 15 minutes on public transport is wrong, particularly in relation to Rothesay, and we have heard that videolinks could preclude that. Again, the important thing will be the assessments that have to be made about the vulnerability of witnesses and complainers.

I am pleased at the comment from Scottish Women's Aid about how the clustering of cases would make it easier for women's aid groups and the public agencies supporting them to manage, as well as making it easier for the Scottish Court Service. The cabinet secretary acknowledged that point, too. Further, in line with the proposals that are forthcoming with regard to specialisms, clustering would afford the possibility for a specialism to be built up in relation to domestic abuse cases.

I do not think that any of us would choose to be in the position that we are in. We are here because of unionist cuts—that is not in dispute. There are different views about the role of this committee. In life, we have the opportunity to make easy decisions and difficult decisions. On a personal level, the easiest decision for me would be to say, "Well, let's pass it on," but the reality is that we would not be passing on decisions that were seen to be favourable. I think that this committee has the wherewithal to deal with the matter. I am not aware of anyone frustrating debate or of anyone refusing to come forward with information.

There are challenges ahead. I am content that, rather than run to the press with issues, I was right to run to officials to try to mitigate the concerns that I had, which were about the extensions to vulnerable witness provisions and the clustering of cases. In the long term, I hope to see continuing progress. I will not support Lewis Macdonald's position.

Roderick Campbell: I would like to correct something that John Lamont said earlier. When he

mentioned something that I am reported to have said, I think that he was incorrectly quoting from the press. For the record, what I said in the chamber was:

"The proposals for Fife are severe. The removal of sheriff and jury work from Kirkcaldy to Dunfermline in the west means that that court will receive more business than ever. While I understand the loss felt in Kirkcaldy, at least people there will retain a court, unlike my own constituents.

Although I accept the case for removing the small number of sheriff and jury cases from Cupar, it is difficult to accept the removal of the day-to-day civil and criminal work. That will have an economic impact."—[*Official Report*, 23 April 2013; c 18950.]

I remain of the view that it will have an economic impact, and the proposals are clearly not good news for my constituency.

I turn to two of the factors on which the proposals in the Scottish Court Service's consultation response were based. On the issue of capacity, the Scottish Court Service has given evidence on its views on the ability of various courts to take work from sheriff courts that are proposed for closure. The issue is difficult, but I do not think that, as an individual or as a member of this committee, I am in a position to contradict what the Scottish Court Service says on the subject. However, if its calculation is wrong, I trust that there will be repercussions. The Parliament and the Government cannot be put in the position of rubber-stamping proposals that turn out to be incorrect.

Iain Gray: If a court—in this case Edinburgh—is disposing of 58.5 per cent of cases within a 20-week target, when the Scottish ministers' target is 85 per cent, surely that is a sign that it is not able to deal with the business that it already has. Those are the Scottish Court Service's figures, so its argument is undermined by its own performance figures.

Roderick Campbell: I hear what the member says, but I am rather perplexed by some of those statistics. I tried to obtain similar statistics for Tayside, Central and Fife and was told that those figures are not maintained. I am not entirely sure where those statistics came from, although I appreciate that what the member is saying is in good faith. I am not in a position to contradict what the Scottish Court Service says on that point. All I would say is that, if it has got it wrong, there should be repercussions.

Lewis Macdonald: Will the member take another intervention?

Roderick Campbell: I doubt that I will make progress if I keep taking interventions.

I have sympathies with the legitimate concerns about the possibility that increased travel time might dissuade people from participating. When

the consultation response was produced, we saw tables showing the number of witnesses who would be affected, the number of witnesses who would have to travel more than 10 miles and those who would have to travel less than 10 miles. I tried to engage closely with my constituency on that issue. In the part of my constituency that I would expect to be most affected by the proposals—the east neuk—I wrote to every community council and received not one response. Similarly, in my postbag from the east neuk, I have had only a couple of letters on the issue. It does not seem to me that my voters in the areas that are most affected are unduly troubled by the proposals, although I accept that that is no consolation at all for individual witnesses. They might be few in number, but I am sure that there are witnesses at the moment who face difficult journeys to courts.

As for local reporting, I do not think that the Scottish Court Service has taken the issue seriously enough; indeed, I questioned Mr McQueen on that very matter and trust that he will make contact with the courts that are being closed and the papers in those areas and work to develop an early plan for reporting court proceedings in future. It is important that local communities retain knowledge of what is going on in the courts regarding people in those communities.

I think that the Scottish Court Service has underestimated the difficulties that Fife Council social work will face in moving to a different local authority area and I was not encouraged by Eric McQueen's admission during our evidence sessions that there had been no recent discussions. We need to take such issues seriously, but I fully accept that the trend must be towards calling as few social workers as possible to give evidence in court.

I have no doubt that the proposals will be bad news for local lawyers in various parts of Scotland and it is quite clear that local solicitors will occasionally have to travel further to deal with cases. However, the fact is that they continue to operate in a challenging world—for example, we already have problems with the availability of legal aid, although I am pleased that it is in a rather better state here than it is south of the border—and although these measures will make it difficult for solicitors, particularly lawyers in my constituency who do not have offices in Dundee, the business of being a lawyer comes with challenges and it is necessary to look for opportunities instead of complaining about the disadvantages in what is being offered. That said, I do not minimise the impact on the local community.

On other smaller issues, the Scottish Court Service has wisely suggested a very low figure of £2 million for possible capital receipts from the

sale of buildings. I have heard nothing to indicate that those sales will be easy. As we know, there is substantial evidence that court buildings south of the border are simply not selling on the open market. When I checked with Fife Council yesterday, it told me that it had no interest in acquiring Cupar sheriff court and I remain concerned that the building will be a substantial white elephant and that, if it is closed, it will remain closed for a considerable time. Of course, I would be delighted to be proved wrong. We should also remember that operating costs will continue to be incurred until the court buildings are closed.

The maintenance budget issue is particularly tricky but the fact is that, even with the money that is being spent and a slight increase in the Scottish budget, we still have an outstanding maintenance budget of about £53 million. That is a huge problem for the Government and the whole Parliament and no one has mentioned it this morning. As the closures will have a relatively limited impact in that regard, that huge problem remains in the background. We cannot wish such things away.

Alison McInnes: Will the member give way?

The Convener: I am being very generous to Mr Campbell—he is already over time.

Roderick Campbell: Am I really over time, convener?

The Convener: Yes.

Roderick Campbell: I had better not take any interventions then. May I seek your indulgence to carry on a bit longer?

The Convener: How much longer are you seeking my indulgence for?

Roderick Campbell: Two or three minutes.

The Convener: Make it two minutes, please.

Roderick Campbell: I remain of the view that for most people in north-east Fife local delivery of justice means somewhere south of the Tay and that the Tay itself has a psychological impact that has not been reflected in the consultation response. That said, if a sheriff in Dundee hears a case, he will do so in accordance with established judicial principles and the quality of justice will not be diminished. As for the possible change in privative limits to £150,000, I agree that in an ideal world such matters would have been considered at the same time as court closures; however, that is not where we are.

11:45

Looking at Fife as a whole, I refer again to the fact that Kirkcaldy has a £2 million maintenance backlog deficit. In my discussions with the SCS, it

indicated that it would prefer not to spend that money. There is talk of a feasibility study for a Fife justice centre. I accept that that is a medium-to-long-term proposal, but delaying a feasibility study would not gain anything. The sooner that we head on with it, the better. In addition, the SCS has accepted that it will keep under review proposals for the administration of justice in Fife.

I regret that in a number of discussions I have failed to change the cabinet secretary's mind on the closure of the court in Cupar. I remain of the view that that is bad news. I accept, however, that the statutory instruments that we are considering today refer to a lot more courts than just Cupar sheriff and JP courts. In my role as a member of the Justice Committee I have to take a wider view, but my reservations remain and I will press hard for the administration of justice in Fife to be kept under review.

I think that the economic impact has been understated. I am happy that there will be no compulsory redundancies for SCS workers, but I am certain that there will be an economic impact that has not been highlighted by the SCS. I have had an initial discussion with the Government on that—

The Convener: Roddy, I have been very tolerant. I know that you are used to being paid as a lawyer by the length of time that you speak.

Roderick Campbell: Will you allow me to finish this final point, convener?

I have had initial discussions and I will continue to press the Government not only on Cupar but to consider closely the economic impact on particular communities that could arise from the closure of courts. That is a serious issue—perhaps it is not the SCS's baby, but it is certainly an issue for the Scottish Government. I am confident that the Scottish Government will listen to my comments on that and take note.

The Convener: Is that it?

Roderick Campbell: Yes.

The Convener: At last.

It is John Pentland's first visit here, is it not?

John Pentland (Motherwell and Wishaw) (Lab): It is, convener.

The Convener: You are very welcome, as is Claudia Beamish, who has not been here before. It is a great wee committee this, sometimes. *[Laughter.]*

John Pentland: I hope that this is one of the times when it is very good. Thank you very much, convener. I will speak specifically about Motherwell JP court.

Very often we hear references from the Scottish Government about the need for joined-up thinking and holistic approaches, but in practice those things are often lacking. The closure of Motherwell JP court is a good example of that. By looking at the costs of court operations in isolation, we ignore the costs to others of closures. In some cases, the courts might be a little better off, but the people whom they serve will not be.

Financial arguments for closing local courts are based on false economies. Motherwell is said not to be a busy court, despite more than 2,500 new summary criminal complaints being brought before it in 2011-12 and 660 trials being called. It is also said that Motherwell JP court is not modern enough or up to standard. I do not agree with the Scottish Court Service's description of the lack of adequate interview space, witness facilities and cell accommodation. North Lanarkshire Council invested heavily in all those areas and modernised the district court prior to the handover to the JP court system.

The local economy will suffer, with North Lanarkshire Council losing tens of thousands of pounds from the rental of its Motherwell premises and the SCS contribution to energy costs and cleaning. It will lose further large amounts from the closure of Cumbernauld and Coatbridge. North Lanarkshire may be able to offset a little by converting the premises to other uses and attempting to sell off properties that have been freed up elsewhere, but none of that will be cost free or easy. Things such as cleaning services have implications for the workforce, with possible redundancies.

The loss of local access to justice is likely to significantly increase the incidence of failure of accused persons and witnesses to attend court, adversely affect fine collection, and lead to more frequent instances of accused persons and witnesses travelling on the same transport to and from court and hence the greater risk of intimidation or inflammatory contact. Those are likely to entail financial consequences, such as warrants for arrest being issued for non-appearance at court, a failure to pay fines, parties having to be detained in cells overnight or longer, and other indirect costs to other agencies.

Some costs are not immediately obvious—they may not add to someone else's budget as such—but are what economists call opportunity costs. An example of that is the additional time that is spent by police officers and social workers travelling and waiting to give evidence because the court is further away. That time is not being spent on other tasks.

There are considerations on which we cannot put a cost. Access to justice will be harmed by any moves that make it harder for people to attend and

participate in the justice process and make witnesses more reluctant to give evidence. There might be increased pressure on participants to accept outcomes that circumvent the court process; there might be good reasons for that, but making the alternative more difficult is not one of them.

Decisions such as this should be made with regard to all the consequences and not just those on the bottom line of the Scottish Court Service's balance sheet. I hope that committee members will support Lewis Macdonald's motion to annul the order.

The Convener: I have been mentioned in dispatches about Peebles sheriff court. What I do as a constituency member is outside this committee. I have argued long and hard in the chamber and I have responded to the consultation. My A plan was that Peebles should not close; my B plan was that if Peebles was to close, the business should go to Selkirk in the interim and not to Edinburgh. I won that one with the Court Service, so at least we are keeping it in the Borders. The idea of a justice centre has been introduced. I remain there campaigning on the issue outwith the committee. I lobby all over the place, wherever I can, including the council.

However, that is a separate matter from sitting here. As convener, it is a wee bit more difficult. It should not be, because I am a committee member as well. I say, with respect to Lewis Macdonald, that the court house in Peebles has closed. That happened in different times, when there were different financial constraints. The Peebles lawyers agree with me about business going to Selkirk. They are not unhappy and they have said so publicly. I say to Roddy Campbell that the local lawyers are on my team on that matter.

However, we now have a different choice to make. Alison McInnes was right when she talked about Governments making choices. In the justice budget, one of the choices is to protect the civil legal aid budget in Scotland as opposed to buildings. That is terribly important. I used to practise civil legal aid cases. I will not make a big thing about what is happening south of the border, but I cannot completely ignore the fact that there are people down south who will be unable to get legal representation in relation to contact with their children and welfare issues and so on, which people will still have in Scotland. I would rather that people who do not have very much money and who require legal support had that support than that they had a building, if that choice has to be made.

I was on the cusp about that until I heard Lord Gill's evidence; I know that it has been quoted before and that people may be getting a wee bit turned off about it. I am watching my time by the

way. I was interested in a question that John Lamont put to Lord Gill. He asked:

"Are the changes about saving money or about delivering a better justice system for Scotland?"

It was a very good and a very fair question.

Lord Gill replied:

"The impetus for all of this work arose from the need to save money, as I have explained to you, but one of the outcomes of the cost constraints that we are suffering from has been to make us question certain assumptions that we would have continued to make in more prosperous times. When we find ourselves having to take a long, hard look at the existing system, certain weaknesses that we had not noticed over the years become obvious and apparent.

My feeling is that a perfectly good intellectual case could be made for the changes even if we were not living in these rather unusual economic circumstances. In a modern Scotland, there is a good case to be made for having centres of specialisation and excellence and making the most efficient use of resources. If we were to sit down today and plan a justice system for Scotland based on a network of High Courts and sheriff courts, it would be nothing like the present pattern, which is based on a Victorian model."—[*Official Report, Justice Committee*, 4 June 2013; c 2940-1.]

That man has worked—

Lewis Macdonald: Will you give way, convener?

The Convener: Can I just finish my point?

That man has worked his way through the ranks—Mr Macdonald was there when we heard his evidence about appearing in sheriff courts—and the buck stops with him. If the whole system crashes down and justice—the key to this—is not properly done and seen to be done, the buck will stop with those words about providing a better justice system.

Yesterday, I chaired a meeting with a lot of lawyers and judges, and it was interesting to talk about all the other changes that are coming, which are embraced by the proposals and which require a different kind of sheriff court system to deal with the more technical and specialised cases that will arise. I encouraged Sheriff Drummond to attend—he is about to retire and I knew that he would freelance—and I understood from him that we would not be stuck with a system in which the same sheriff courts always handle the same matters, but that there would be opportunities for sheriffs to say, perhaps through the sheriff principal, that they want a particular hearing or court sitting to be held in a certain area because it is suitable, let us say, for a child welfare hearing.

Lewis Macdonald: Given what Lord Gill said about technology and change in the court system, did you draw any conclusions about the future prospects for the courts in the Borders that will not be closed under the current proposals?

The Convener: That question was raised with Lord Gill and he said that it was not on his agenda and was not part of the consultation. Neither, in fairness, were justice centres. The proposal for justice centres arose from the committee pushing. Our job was also to push on other issues, which we did. For example, we insisted on a response on videoconferencing, and we got a response. We insisted on finding out what the position would be on extra police costs, and we have received information from ACPOS in which the chief constable says that the proposal is “cost neutral”.

I do not like the idea of sheriff courts or sheriffs’ sittings not being in local areas, but I am here to hear the evidence in a dispassionate fashion. Having listened dispassionately to the senior judge in Scotland telling us that this is the way forward—with the other issues built in, which we can keep under review—I have to say that I have moved from being sceptical to thinking that the man has made his case. He will not like me for saying that, but he made his case to us.

I appreciate that other members have said things about courts in their areas, as I have done, but, with respect to Claudia Beamish, I am telling the committee that we have heard all the evidence from across the spectrum, and it is not always the quantity of evidence but the quality of evidence that is persuasive. On the quality of the evidence from the Lord President, I am persuaded that—

John Lamont: Will you take an intervention, convener?

The Convener: I am looking at the time, and I cannot give way.

I am persuaded by Lord Gill’s evidence that the proposed change is the way forward, but let us remember that the courts themselves—in the instance of the Borders courts—will not close until 2015, so there will be a big run-in time to see how things measure out.

I apologise to John Lamont, but I was cruel to other members and will be hard on myself. I have gone over my time limit by one minute and 19 seconds. I have said my bit, and there is nobody else waiting to speak, so I invite the cabinet secretary to respond. You have 20 minutes.

Kenny MacAskill: I welcome the opportunity to respond to the debate and to the motions to annul the Sheriff Court Districts Amendment Order 2013 (SSI 2013/152) and the Justice of the Peace Courts (Scotland) Amendment Order 2013 (SSI 2013/153). I have listened with great interest to the debate this morning and throughout the process, which has gone on for some time. I readily acknowledge the genuine concerns of members of all parties and their constituents about the closure of some of the sheriff and justice of the peace courts.

As Lord Gill, the Lord President of the Court of Session, our most senior judge, has said:

“Determining the future shape of Scotland’s court structure is a serious responsibility. Doing so against a backdrop of significant change and in a time of severe pressure on the public finances is a difficult task, with few easy answers.”

It may be useful to reiterate what I said to the committee at last week’s meeting about the constitutional position in relation to the proposals:

“The Scottish Court Service is an independent body corporate, established under the Judiciary and Courts (Scotland) Act 2008 ... The effect of the 2008 act, which was passed unanimously by Parliament”—

although I know that Ms Marra was not a member at the time—

“is that the Scottish Court Service is answerable to the Lord President rather than Scottish ministers. The working of the courts is therefore an operational matter for the Scottish Court Service and, of course, the Lord President, who has a statutory responsibility for the efficient disposal of business in Scotland’s courts.”—[*Official Report, Justice Committee*, 4 June 2013; c 2906.]

By “Scotland’s courts”, I mean each and every one of Scotland’s courts of whatever tier.

12:00

Lewis Macdonald: I understand and recognise the accountabilities and responsibilities of the Scottish Court Service, but will you finally accept that you are here today because you are accountable for the orders that you have laid before the Parliament, and that no one else has responsibility for them?

Kenny MacAskill: I absolutely accept that. That is the constitutional framework. You voted for the Judiciary and Courts (Scotland) Bill, Mr Macdonald, and I am glad that you did and that it was passed unanimously. All parties supported it, because it was the right thing to do. As part of the structure that was laid down and discussed, it was agreed that matters would be dealt with by the justice secretary—whatever their political position—coming before this committee. I think that the 2008 act was one of the first to be passed under this Scottish Government. The bill had been on the stocks and was going to be introduced whatever Administration was returned—I was delighted that I was returned in the 2007 election. That is why the bill was passed unanimously.

Not only Government ministers such as I, who must attend to move motions and so on, but the Lord President and the chief executive of the Scottish Court Service have appeared before this committee to give evidence and put their positions. As we heard from the convener, they have offered a robust defence of the proposals and have been robustly challenged by members, including Rod Campbell and no doubt you, Mr Macdonald.

As members are aware, although the Scottish Court Service proposed the closure of certain JP and sheriff courts, the legislation provides that it is for Scottish ministers to lay before the Parliament the orders that implement such proposals. That is why I am here and we are debating the matter, and that is why, in future, I or my successor will appear before the committee to discuss matters that the Lord President and the Scottish Court Service must deal with. However, the decisions, proposals and plans will all be designed and worked out by the Scottish Court Service until such time as the Parliament amends the 2008 act in that regard.

Iain Gray: The cabinet secretary is labouring an interesting point. He said that he is responsible for the orders before us but that the Lord President is responsible for their content. When the Lord President made his proposals public, the cabinet secretary announced—I think within two or three days—that he had accepted them. Does that rather imply that he had the option of not accepting them and therefore that he is responsible for the content?

Kenny MacAskill: As you know, that is not precisely the language that I used.

Yes, I accept the proposals, and yes, I could have rejected them. However, we are talking about our most senior judge, who is supported by the Scottish Court Service and who was challenged to bring forward proposals in the face of financial cuts—

Jenny Marra: Your cuts. Will you take an intervention?

Kenny MacAskill: Not at the moment, Ms Marra, sorry.

As I said, I investigated and reviewed the proposals and I support them. Ministers had to satisfy themselves that the policy that the proposals are designed to implement is justified in the circumstances. Ministers had to look across the Government's portfolios to consider the bigger picture. We deliberated carefully on the options that were presented and the Cabinet consented to the proposals, which we think strike the correct balance in the current economic climate.

The proposals emanate from the Lord President and the Scottish Court Service and relate to matters that they are tasked to consider under the Judiciary and Courts (Scotland) Act 2008, which the Parliament passed unanimously. The ultimate decision to bring the proposals before the Parliament was mine, and I and my Cabinet colleagues considered them in the round, ensuring that we looked at the wider picture. We have the highest regard and utmost respect for the Lord President and we appreciate the financial challenges that he and those who serve under him

face. I fully support and accept the proposals that the Lord President and the Scottish Court Service made, but yes, the proposals that we consider today come from me.

Jenny Marra: Cabinet secretary, do you accept the evidence from Lord Gill that the convener just read out, which is that he was pushed into making the review because of the budget that you set down for him?

Kenny MacAskill: I will come on to financial matters in a minute, Ms Marra, but we do live in the real world of a time of austerity. Whether that will run on to 2020 will depend on constitutional change and our ability to direct how we can use the money that we have. However, I do not know of one aspect of life in Scotland that is not affected. I know that you were in Canada on parliamentary business last week, but I mentioned last week, perhaps not at a Justice Committee meeting but another committee meeting, that even in my constituency the Church of Scotland is going from having three churches in Portobello down to one because of a variety of factors, including the financial challenges that it faces. There is no walk of life in Scotland that does not live under the cloud of financial challenges. To suggest that the Court Service is immune and can somehow bask under a ray of sunshine ignores, frankly, the reality of the world in which we live.

Throughout this process many members have, rightly, made a case for the courts in their own constituencies, and it is understandable that they should wish to express their concerns. However, it is important to remember that we are embarking on the most significant changes to the legal system in well over a century. These proposals are part of the wider reforms that will help to create a modern justice system that is fair and accessible, cost effective and efficient and that better meets the needs of the people of Scotland. The wider reforms include those recommended in the reviews by Lord Gill, Lord Carloway and Sheriff Principal Bowen, and they will ensure that cases are more effectively managed, reducing both wasted time and the number of hearings required for each case. Those outcomes cannot be fully achieved unless we rationalise the estate by taking business out of courts that are underused or which duplicate provision in an area. Indeed, Lord Gill stated in the Scottish Court Service response to the consultation:

"I am confident that the proposals in this Report will contribute significantly to the success of the forthcoming ... reforms."

That is why the Scottish Government set up the making justice work programme, which brings together all the key agencies and provides a strategic, joined-up approach to reform, focusing on creating an efficient and effective justice

system that is fair and accessible, and that improves the experience of users.

We also face unprecedented cuts in the funding that the Scottish Government receives from Westminster. As I have said, the Scottish Court Service is not immune from those financial pressures, and it estimates that the proposals will save almost £1 million per annum and an estimated maintenance backlog of almost £3 million. If those recommendations are rejected, clearly the Court Service will need to look at alternative approaches to make savings. Eric McQueen, the chief executive of the SCS, told the committee last week:

"if the view of Parliament is that we should continue to operate from a 19th century court estate, that is exactly what we will do. We will continue to invest in buildings that we think are inefficient and not well used, and to take big risks with backlog maintenance, and we will have to look hard at the head count of the staff in the organisation to reduce costs."—[*Official Report, Justice Committee*, 4 June 2013; c 2946.]

Ms McInnes and Ms Marra, yes, this is about priorities, and perhaps you want to force redundancies rather than close buildings that are no longer fit for purpose.

At the recent Labour Party conference, Lewis Macdonald accused us of not putting our money where our mouth is in respect of helping witnesses. He listed a number of additional things that he wanted to see, including an independent commissioner and case companions. He also told Victim Support Scotland last year:

"It's clear that too often victims and witnesses find themselves in the same room as an accused. That just shouldn't happen."

What the Labour Party does not say is that all of that would need to be funded from the same declining budget. We are doing more to help victims and witnesses, and as this committee knows, we have recently introduced a bill on that very topic.

Lewis Macdonald: If, indeed, saving sums in the way that has been described is a priority for you, why have you or, indeed, the Scottish Court Service not engaged in any meaningful discussion with East Lothian Council about its offer to contribute to the running costs of Haddington court?

Kenny MacAskill: They have had meaningful discussions and consultation, and have entered into discussions to try to assist, and I will come back to that. However, I think that you should accept the evidence given in good grace by Mr McQueen. You had your opportunity last week, and I believe that both the Lord President and Mr McQueen gave a good account of themselves when they appeared before the committee.

One of the main reasons for these proposals is to allow the Scottish Court Service to make better use of a shrinking budget by concentrating funds on a smaller number of better equipped courts that provide modern facilities for victims, witnesses and jurors. It is important to highlight that although the reforms will save money, that is not the only reason for them, and the convener was correct to quote the Lord President in that respect. Other factors in considering courts for closure include underutilisation—courts cannot sit unused for long periods of time—and whether a court is fit for purpose. In that respect, I point out to John Pentland that Motherwell JP court does not have any wheelchair access. As cabinet secretary, I cannot justify a court building that in the 21st century cannot provide such access. The member might be prepared to tolerate such facilities but, given our responsibility for providing for equalities, we are not prepared to condone such a situation.

John Pentland: I am sure that the cabinet secretary will be aware that before the district court's transfer to the JP court system a significant amount of money was spent on it and that part of the council's on-going process would be to facilitate wheelchair access. This is where I get confused about what the cabinet secretary is saying. He says that one of the criteria for closure is the lack of a modern court building but I believe that, with the exception of disabled access, which I know could be dealt with later, the court building in Motherwell is modern. He is simply using it because it offers an ideal opportunity to meet a deadline and a cost requirement in his budget.

Moreover, when you talk about—

The Convener: This is meant to be an intervention, Mr Pentland, not a speech.

John Pentland: If you close Motherwell JP court, you will cause redundancies, cabinet secretary.

Kenny MacAskill: Two points should be clarified. First of all, if Mr Pentland had any points to raise about wheelchair access, he should have put them to the Lord President and Mr McQueen, as he had the opportunity to do in writing. Doubtless he will be able to provide the committee with a copy of his on-going correspondence on the matter and members will be able to consider it.

Secondly, Mr Pentland had the opportunity last week to raise the issue of redundancies. As he will know, this Government and indeed the Scottish Court Service have a no compulsory redundancy policy; indeed, at previous meetings that Mr Pentland did not attend, that point was made clear not only by Mr Eric McQueen but by the representative of the union that represents the overwhelming majority of staff. I trust that on this matter Mr Pentland will accept the position of not

just the Court Service but the Public and Commercial Services Union.

I have mentioned the closures down south before and certainly do not think that they should be ignored. In 2010, 93 out of 330 magistrates courts and 49 county courts closed in England and Wales. There might be a better together campaign, but it seems that such matters are sometimes ignored. The impetus for these measures might have been the need to save money, but as the Lord President has made clear—and the same is true of the creation of a single police service—there are good intellectual arguments for trying to make a benefit out of a necessity.

As for access to justice, the towns we live in, the places we work, the way we do business and the availability of transport have all changed radically since Victorian times when, as Lord Gill has stated, the model on which our current court system is based was introduced. If we were to create a justice system for Scotland, based on a network of high courts and justice courts, it would look nothing like what we have today. We need to think in new and innovative ways about the justice system in a 21st century Scotland and to take advantage of the opportunities provided by new technology, whether to conduct court proceedings via video links, to raise a civil action online or to pay fines over the phone instead of travelling to court.

Roderick Campbell: I do not know whether you are going to talk about this, but do you have anything to say about peripatetic justice or justice in rural Scotland?

Kenny MacAskill: I referred to the matter last week and Sandra White touched on it again this morning. I welcome the fact that Eric McQueen has written to the Scottish Children's Reporter Administration to build on the good work and practice that I witnessed as an agent in Dundee and which continues to this day in respect of disputed children's panel referrals. He has also said that he is prepared to look at other civil matters highlighted by, I think, Mr Pearson in relation to adults with incapacity. Mr McQueen has made it quite clear that there will be no peripatetic justice on criminal matters, except on occasions when evidence is taken on commission, which is something that I have done at a hospital bed in a criminal trial in which I was involved.

That said, certain civil justice matters might well be better dealt with in an environment and atmosphere outwith a court building. I fully support such a move and will be happy to work with the Lord President and the Scottish Court Service on how we might take that forward.

Obviously, some of those matters are not within the Lord President's control. For children's hearing referrals, there might be a request for alternative accommodation, as might also happen in cases involving other vulnerable witnesses besides children, such as the elderly, given that in the world in which we live people are getting older.

12:15

Alison McInnes: I am interested to know how you responded to Scotland's Commissioner for Children and Young People, who warned that the proposals will have a disproportionately detrimental effect on children. Did that give you pause for thought? Did you call for more evidence on that?

Kenny MacAskill: I gave the matter thought and consideration, as I always do with any submission that I receive from the children's commissioner. Equally, I took on board other evidence, which you heard and I received, from organisations such as Capability Scotland and Consumer Focus Scotland. I also took on board the good work that is being done on how we deal with referrals from children's hearings. Those matters need to be weighed in the round and I took them into account, as did my Cabinet colleagues. All those issues feature in the Scottish Court Service's future plans and in the making justice work programme, which I fully support.

Let me comment on three others matters before I conclude. Yes, there was evidence against the proposals—as I said, these matters need to be taken in the round—but, equally, there is evidence in favour of the proposals from the Lord President, from our senior law officers, from the Crown Office and Procurator Fiscal Service, which requires to prosecute cases, from Police Scotland, whose staff need to attend court and provide for the safety of our communities, and from the Scottish Legal Aid Board. Those organisations were supportive of the proposals, so we need to take the evidence in the round.

A matter of fundamental concern that Mr Macdonald raised is that, yes, we need to make savings. I note that no mention has been made today of savings but that, apparently, everything will be funded through fine income. As I said last week, I listened with some incredulity when, on a radio programme, Mr Macdonald appeared to say that everything could be saved simply through better recovery of fine income. As was pointed out, fine income is improving and the Scottish Court Service is doing a remarkably good job—

Lewis Macdonald: Will the cabinet secretary take an intervention?

Kenny MacAskill: Let me finish—

The Convener: Bear with me a minute, cabinet secretary. Let me just say that Lewis Macdonald will be able to respond to that point in his summing up.

Kenny MacAskill: Equally, as I pointed out last week, the suggestion that fine income, which in the main goes directly to the UK Treasury, could provide for a shortfall in the funding available to the Scottish Court Service is not just incredible but, frankly, nonsensical. Probably that is the reason why no suggestion has been made.

None of the Labour members has put forward a proposal for savings. I note that Ms Marra seems to have some proposal that at some stage we should reduce the number of police officers. If that is Labour's proposal, it should say so. Equally, I am happy to feed back to my Cabinet colleague Keith Brown that the Liberal Democrats are suggesting that we abandon funding Scottish canals. That matter will be considered.

We need to make all these changes against the backdrop of significant financial challenges. On that basis, although I share the concerns that everyone has expressed, I need to look at the budget within which the Lord President and Eric McQueen need to operate.

Finally, I note the concerns that Mr Gray and Jenny Marra raised, but let me say this. When we are in a world in which a bedroom tax is being imposed, those who are members of parties that are not committed to repealing that tax or, indeed, actively support it—

Iain Gray: Grow up.

Kenny MacAskill: I will ignore Mr Gray's sedentary interjection.

Those parties should perhaps worry more about those who are in danger of losing their home than simply about buildings, important and historic though they may be.

Equally, there is something rather perverse, if I may say so, about the concerns that are emanating, although not without an understandable basis, about people having to travel between the hours of 9 and 5 to attend court in Edinburgh rather than Haddington. However, when people need to contact the social work department's emergency duty team out of hours—not between 9 and 5 but when transport is difficult—about a vulnerable person, such as a mother who has collapsed and whose child needs foster care or an elderly aunt who has collapsed and whose partner requires to be taken into care, lo and behold, in places such as East Lothian the out-of-hours care is contracted to Edinburgh. Frankly, there is something perverse about people going on with some hypocrisy about the challenges that are faced when they are prepared

to accept that such matters are routinely made the responsibility of another place.

Ms Marra may nod her head—

Jenny Marra: I am shaking my head.

Kenny MacAskill: —but I ask her to consider what the actual situation is in some of the areas in the north-east to which she has referred.

To conclude, we cannot deliver better access to justice by avoiding the need for change. It is right that we examine structures that have served us since the 19th century, and it is correct that they should be challenged. I also accept that the structures should be kept under review, as Rod Campbell quite correctly made clear. However, to deliver what our people are entitled to expect in the 21st century, as the Lord President stated last week,

“we recognise that all change has its pros and cons and its advantages and disadvantages but, on balance, our considered view is that this is the way forward.”—[*Official Report, Justice Committee*, 4 June 2013; c 2947.]

It has not been easy for anyone. There are challenges for all those involved but, with the financial backdrop and to achieve the best possible court system for the 21st century, hard decisions need to be made. Those decisions have been made by the Scottish Court Service, and I fully support it.

I agree with Lord Gill and reject Mr Macdonald's motions.

The Convener: That was low key, as usual.

I can give Lewis Macdonald more than 10 minutes, in fairness.

Lewis Macdonald: That is very kind.

The Convener: I ask you to wind up the debate and to indicate at the end whether you wish to press or withdraw your motion. I think that I can anticipate where you are going.

Lewis Macdonald: I shall do that. I am grateful for the allowance of extra time, convener.

Before we began, I wondered how I might best highlight the flaws in the cabinet secretary's approach to the issue and how I might illustrate his determination to drive through the cuts and closures in the face of any offers, compromises or suggestions from his own party's back benchers, from local authorities or from Opposition members of the committee. In his closing peroration—if I may call it that—Mr MacAskill probably did my job for me. There could be no better example of how completely closed his mind has been throughout the whole process to any debate or discussion or to any suggestion or proposal from any third party on how to mitigate the impact of the cuts that he has made in the Scottish Court Service's budget.

He has shown us a number of things very precisely.

First, Mr MacAskill has shown us that the responsibility for the cuts is his alone. He says that Lord Gill somehow or another has to stand in front of him and take some of that responsibility, but he also concedes, of course, that the reason why Lord Gill is in the position that he is in is that the budget that Kenny MacAskill has provided to the Scottish Court Service has been cut dramatically.

Mr MacAskill says that he wants to find savings and to address the economics of providing a modern court service, but what does he do when he is asked about East Lothian Council's offer to be supportive of local access to justice in East Lothian? Does he welcome its enthusiasm? Does he recognise its commitment to its local community? No. All he chooses to do is attack East Lothian Council for other tough decisions that it has had to make as a consequence of the budget that his parliamentary and ministerial colleagues have given it. Kenny MacAskill therefore makes my case in many ways.

It is fair to say that many members around the table have made a strong and clear case. Graeme Pearson in particular stressed the importance of delivering justice as close as possible to where the crime was committed. Justice is not just another commodity to be provided only where there are enough customers to make it sustainable. It is surely a principle of importance to the committee that local communities throughout Scotland should have access to justice and that those who are accused of serious offences should, where possible, be tried by a jury that is drawn from their local area. They should certainly stand trial as close as possible to their local community.

Sandra White: When I previously asked Lewis Macdonald to comment on the closure of courts, he said that some courts should be closed, although he did not name them. He has now contradicted himself by saying that everyone should have access to justice, no matter where they come from. I put that matter to him again.

Lewis Macdonald: I fail to recognise the contradiction that Sandra White has spotted, but I will try to help her with the matter that she has raised.

The fundamental point that I am making, which has been made around the committee, is that when the Government seeks to impose cuts on a public service that will affect local communities, it should seek to do so in meaningful consultation with those local communities and the local representatives who speak for them. If it did so, it would find that, as in the case of Highland Council, those local representatives would distinguish between cuts that would and cuts that would not

have a significant impact on the quality of local access to justice. The point about the local delivery of justice and justice being seen to be done in communities has been tacitly accepted by the Government in relation to many of our island communities, although not those in Argyll and Bute. Under these proposals, that local access to justice will come to an end across large parts of the Scottish mainland.

John Finnie: Will the member reflect on Highland Council's position on Dornoch sheriff court, its workload and its close proximity to Tain?

Lewis Macdonald: I accept that Highland Council is far better placed to make those judgments than I am and, as I said in my opening remarks, Highland Council has not said that all the closures are wrong and should be resisted. It has recognised that some courts are better fitted than others are to delivering some services. That approach was open to negotiation and discussion, but meaningful negotiation and discussion have simply not occurred.

Mr MacAskill said that he would come back to the question of the discussions with East Lothian Council but, from everything that we have heard, it seems to me that those discussions were an offer from the local authority to assist with access to local justice and a refusal from the Scottish Government to have anything to do with that proposal. That does not indicate an approach that seeks to build local support or to negotiate and recognise that some closures will be more damaging than others.

We have heard nothing today from the cabinet secretary in response to the points that have been made today and previously about the impact on busy city courts of closing courts in our county towns. I can tell Roddy Campbell that the performance figures for city courts that he could not find are available in the performance reports of criminal justice boards. Jenny Marra has reminded me that Dundee's figures for last September show that, like Edinburgh and Aberdeen, Dundee fell short of its Government targets, coming in at 78 per cent.

We have seen written evidence from serving and past sheriffs about inadequate facilities at those city courts, and we have heard the concerns expressed by local lawyers and others who engage with the system about further delays in the delivery of justice. If justice must be seen to be done, it is also true that justice delayed is justice denied. To talk, as Eric McQueen did last week, about Aberdeen sheriff court being able to operate at 97 per cent capacity is to treat court cases as if they were all uniform commodities that can be standardised to fit into the relevant slot, when the reality is that they are all different and enormously difficult to schedule effectively and efficiently, even

at the best of times. Court cases are delayed, postponed or continued every day. The busier a court is, the less room there is to accommodate those changes and the greater the knock-on effect. Glib assurances that all will be well are simply not enough. Many of our busier courts are struggling now and they will find it all the harder to cope as extra business is sent their way.

The greatest opposition to the Government's plans has come from those towns across Scotland that will lose their local court. The committee has heard from many hundreds of people in those communities, from detailed analysis by a forensic accountant in the case of Haddington to the petition that was collected from hundreds of visitors to the feein' market of Stonehaven just 10 days ago.

I have asked the cabinet secretary several times to explain how the wider impact of proposed court closures had been assessed, whether by him or by the Scottish Court Service. Last week, he assured me that such an assessment had not only been made but been published. Unfortunately, as I feared, it turned out that he was talking about the single page of the regulatory impact assessment that appears under the heading of "Scottish Firms Impact Test". Among other things, that says:

"The closure of the sheriff courts in close proximity to another is likely to have the greatest impact on the local economy ... This reduction in activity should be offset by increased activity in the location to which activity is re-located – and alternative uses for the court buildings are likely to be found over time."

That is the assessment of economic activity. We should not worry because Stonehaven's loss will be offset by Aberdeen's gain, or because the local courthouse will make splendid flats for people who commute to work somewhere else once the local court has closed down.

John Finnie: I have a 10-page business and regulatory impact assessment. Is the member familiar with that and the detail that it goes into?

12:30

Lewis Macdonald: I have looked at it from top to toe; I was encouraged to do so by Mr MacAskill. I fear that in only one of those 10 pages was any effort made to address economic impact. I think that I have quoted the best bits; I will not quote the worst ones.

I have one further point to make. As far as the impact on local solicitors—something that the convener will be familiar with—is concerned, according to the Government's assessment,

"it is considered while there may be some economic impact, firms are unlikely to concentrate solely on court work and will have diversified into various other areas of law."

Of course solicitors in small towns do not concentrate solely on court work, but as an assessment of impact, that sentence is breathtaking in its complacency. It advances no evidence, offers no sources and is clearly not based on engagement with any of the firms in question. In that respect, it is contrary to the normal standards even of Government RIAs.

Instead, members should pay heed to the considered views of solicitors who work in towns such as Stonehaven, who draw attention to the combined impact of cuts to legal aid and court closures on clients and solicitors.

The Convener: You heard me say that the Peebles solicitors support me, so it is not the case that there is blanket opposition to the changes among local solicitors.

Lewis Macdonald: That is precisely the point that I made in response to Sandra White and John Finnie—there is not a blanket response to the changes.

The Convener: I just sought that clarification.

Lewis Macdonald: However, there is a blanket failure on the part of Government to negotiate or discuss matters with any of the people who have raised such objections.

It should be no surprise that members have heard concerns from many witnesses about the impact of the removal of courts on the civic pride and identity of our county towns. People who voted for Mr MacAskill's party might be forgiven for assuming that the SNP's attachment to the civic pride and identity of county towns was a given. Those things are rooted in Scotland's history, before and since the act of union. Indeed, Scotland's courts are one of the three areas of national life that are protected "for all time coming" under the treaty of union with England.

It must have come as a shock to many to have heard an SNP minister talk last week of local courts as a relic of a barbarous past, on a par with hanging and public humiliation. It will come as even more of a shock if locally elected members of that party choose to put obedience to the dictates of their party whips ahead of the interests of their local towns.

Colin Keir: The member referred to what the cabinet secretary said. What about the reference that the Lord President made to the state of the courts? He said that it was from a bygone era and did not suit the 21st century.

Lewis Macdonald: The Lord President also said that the technology exists to have a system that is based entirely on remote access to courts. He quickly added that he was not proposing that that should happen, but it is true that the proposals that are before us do not address all the

inadequacies of our existing courts. They address some of the inadequacies of some courts by simply closing them down and do nothing at all to address the inadequacies of others.

I will conclude by making some comments on the central issue of democratic accountability. I was surprised to hear Kenny MacAskill continue to maintain, even today, that his court closure proposals were not really his proposals at all. In 14 years of the Scottish Parliament, I can recall no other instance of a Government minister laying statutory instruments and pressing his party colleagues to support them while simultaneously claiming to be a mere cipher for the wishes of someone else.

The reality is that the proposals that have been made to Parliament are orders in statute that are the sole responsibility of Mr MacAskill, and that it is he and no one else who is accountable for their content. However, the responsibility for determining what happens to Mr MacAskill's proposals lies with each and every member of the committee. It does not lie with the SNP whips or the SNP ministers; it lies with those members of the committee who choose to vote for the closure of local courts.

Lord Gill is a big figure in the Scottish court system, but he is not big enough even for the cabinet secretary to hide behind, and he certainly cannot be used to disguise the responsibility of members of the committee to make a decision on behalf of their constituents and of the people of Scotland as a whole, and to live with the consequences of that decision. That is what MSPs are elected to do. Members' reservations or extended videolinks will not compensate for the closure of local courts. It is on that basis that I will press the motions to a vote.

The Convener: Thank you very much, Lewis.

I will put separate questions on the two motions; it is only members of the committee who can vote, of course.

The question is, that motion S4M-06648 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
Marra, Jenny (North East Scotland) (Lab)
McInnes, Alison (North East Scotland) (LD)
Pearson, Graeme (South Scotland) (Lab)

Against

Campbell, Roderick (North East Fife) (SNP)
Finnie, John (Highlands and Islands) (Ind)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)

Keir, Colin (Edinburgh Western) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Motion disagreed to.

The Convener: The question is, that motion S4M-06649 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
Marra, Jenny (North East Scotland) (Lab)
McInnes, Alison (North East Scotland) (LD)
Pearson, Graeme (South Scotland) (Lab)

Against

Campbell, Roderick (North East Fife) (SNP)
Finnie, John (Highlands and Islands) (Ind)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Keir, Colin (Edinburgh Western) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Motion disagreed to.

The Convener: Accordingly, that concludes parliamentary consideration of the Sheriff Court Districts Amendment Order 2013 (SSI 2013/152) and the Justice of the Peace Courts (Scotland) Amendment Order 2013 (SSI 2013/153).

I thank everyone for the manner in which the debate was conducted. It is a difficult issue, on which many people have strong feelings. Thank you very much for your courteous behaviour to one another.

We are required to report on the orders. I suggest that we keep our report brief, as the points have been made in detail on the record, so they will be available in the *Official Report*. However, I am in members' hands. I suggest that the report should just set out the details of the committee's inquiry, when we met, whom we heard from and the results of the divisions, and that it should not go into the detail of the debate, because we have had extensive debate today.

Are members happy with that approach? I could sign the report off, almost like a minuted thing, but if members would like a further report, that is up to them.

Jenny Marra: I am content with the first suggestion.

The Convener: Thank you very much.

The next meeting is on 18 June at 10 o'clock. We will take evidence on the fire provisions of the Police and Fire Reform (Scotland) Act 2012,

consider correspondence on the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012, consider the Government's response to our report on purposeful activity in prison and—delight of delights—consider our work programme. More legislation is coming down the track.

Meeting closed at 12:36.

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