



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

JUSTICE COMMITTEE

Tuesday 27 October 2015

Session 4

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JUSTICE COMMITTEE
29th Meeting 2015, Session 4

CONVENER

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

DEPUTY CONVENER

*Elaine Murray (Dumfriesshire) (Lab)

COMMITTEE MEMBERS

- *Christian Allard (North East Scotland) (SNP)
- *Roderick Campbell (North East Fife) (SNP)
- *John Finnie (Highlands and Islands) (Ind)
- *Margaret McDougall (West Scotland) (Lab)
- *Alison McInnes (North East Scotland) (LD)
- *Margaret Mitchell (Central Scotland) (Con)
- *Gil Paterson (Clydebank and Milngavie) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Michael Matheson (Cabinet Secretary for Justice)
Alastair Smith (Scottish Government)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Justice Committee

Tuesday 27 October 2015

[The Convener opened the meeting at 10:17]

Decision on Taking Business in Private

The Convener (Christine Grahame): I welcome everyone to the 29th meeting of the Justice Committee in 2015. I ask everyone to switch off mobile phones and other electronic devices, as they interfere with the broadcasting even when they are switched to silent mode. No apologies have been received.

I invite the committee to agree to consider item 7, which is an issues paper on the Community Justice (Scotland) Bill, item 8, which is our approach to scrutiny of the Abusive Behaviour and Sexual Harm (Scotland) Bill, and item 9, which is our work programme, in private. Is that agreed?

Members *indicated agreement.*

Subordinate Legislation

Criminal Justice and Licensing (Scotland) Act 2010 (Supplementary Provision) Order 2015 [Draft]

10:18

The Convener: The next item of business is consideration of an affirmative instrument, the draft Criminal Justice and Licensing (Scotland) Act 2010 (Supplementary Provision) Order 2015. I welcome Michael Matheson, the Cabinet Secretary for Justice, and the Scottish Government officials Philip Lamont, from the criminal justice division—he is still here following our briefing—and Lauri Mitchell, from the legal services directorate. I remind members that the officials can take part in this item, with the leave of the cabinet secretary, but cannot take part in the formal debate that will follow. The same will apply when we consider the next affirmative instrument.

Do you wish to make an opening statement, cabinet secretary?

The Cabinet Secretary for Justice (Michael Matheson): I will make a very brief opening statement, convener.

Committee members will be aware that the Scottish Sentencing Council was officially established just a few days ago, on Monday 19 October. It is planning for the commencement of the relevant provisions in the Criminal Justice and Licensing (Scotland) Act 2010. It was noted that there is no explicit provision in the act to authorise the payment of fees and expenses to members of the council.

Members will recall that, earlier this year, secondary legislation was introduced under the Judiciary and Courts (Scotland) Act 2008 to enable the Scottish Courts and Tribunals Service to provide administrative support to the council. It has been agreed with the Scottish Courts and Tribunals Service that it should also be responsible for the payment of fees and expenses, given its function of providing administrative support to the council. The financial memorandum to the 2010 act envisaged such a role for the Scottish Courts and Tribunals Service in assisting the operation of the council.

The order, which is made under the auxiliary powers in the 2010 act, will put beyond doubt the Scottish Courts and Tribunals Service's ability to pay fees and expenses to members of the council. The express authority to pay expenses to members of the council will help to give full effect to the operation of the council.

I am happy to answer any questions on the order that the committee may have.

The Convener: Thank you very much. Are there any questions? There are no questions—oh, I beg your pardon. Alison McInnes.

Alison McInnes (North East Scotland) (LD): Cabinet secretary, do you share my disappointment at the lack of gender balance on the new Sentencing Council?

Michael Matheson: The constitution of the council is determined through appointments made in part by the Scottish Government and in part by the Lord Justice General, or the Lord Justice Clerk in the former's absence. Of the members whom we have the powers to appoint, nearly 40 per cent are female—sorry, over 66 per cent of the Scottish Government's nominees are female. The Lord Justice Clerk has decided to appoint the individuals he sees as being appropriate. I know that this is an issue on which the committee has engaged with the Lord Justice Clerk previously. Overall about 40 per cent of the council members are female. We have appointed the individuals we see as being the most appropriate to represent the Scottish Government on the Sentencing Council.

The Convener: Thank you. It was not really about that issue, but it does not matter.

Item 3 is the formal debate.

Motion moved,

That the Justice Committee recommends that the draft Criminal Justice and Licensing (Scotland) Act 2010 (Supplementary Provision) Order 2015 be approved.—
[*Michael Matheson.*]

Motion agreed to.

International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2015 [Draft]

The Convener: There are other officials to come in for item 4, but I will not suspend; I will just waffle for a bit—that is what politicians can do. Many of us are paid to waffle. I cannot waffle much longer. Do not say, "You can"; that is not fair.

I now move on to a further affirmative instrument. We have the cabinet secretary here and I welcome Alastair Smith, who is an official from the legal services division. I will go straight to questions from members, as the cabinet secretary is not making an opening statement. Elaine Murray will go first and then we will have, um, Roderick. I have forgotten his name; the drugs are kicking in.

Elaine Murray (Dumfriesshire) (Lab): When we see banks having legal privileges and immunities, it raises eyebrows a wee bit. Can the

cabinet secretary say a bit more about what sort of legal privileges and immunities would be conferred on this bank?

The Convener: I will take the other question before we hear a response, as no-one else has a question.

Roderick Campbell (North East Fife) (SNP): I am interested—perhaps no more than that—as to whether there are any other banks involved apart from the Asian Infrastructure Investment Bank, about which I knew absolutely nothing. Just for clarity, I ask why that organisation, if it is the only one, is marked out.

Michael Matheson: This follows an international agreement that was entered into by the United Kingdom Government. Part of that agreement is immunity from prosecution for that bank for its operations in the UK; the agreement is that the bank needs to have immunity from prosecution in the whole of the UK. The devolved competence around immunity from prosecution falls to the Scottish Government. Similar orders to implement similar provisions are presently before the UK Parliament. In effect, this provides the bank with diplomatic immunity. Immunity from prosecution falls to us and that is the purpose behind the order.

There is a significant amount of background as to why the UK Government is seeking to have the Asian Infrastructure Investment Bank based in the UK. My understanding is that the purpose of the bank is to raise money in the UK and Europe for investment in Asia. Part of the attraction for the bank in being based in the UK will be the immunity from prosecution and diplomatic immunity provisions that it will receive.

Although I am not aware of whether any other banks have immunity from prosecution, a range of organisations have immunity from prosecution, for a variety of reasons, largely as a result of international treaties and the requirement for Governments to implement the provisions of those in domestic law.

The Convener: Has your question been answered, Rod?

Roderick Campbell: I just wondered whether there were any other banks—the cabinet secretary was looking at the official.

The Convener: Will you repeat the question?

Roderick Campbell: Cabinet secretary, you looked at your official to see whether there were any banks involved apart from this one.

Michael Matheson: None is detailed in the order, but we can check and respond to the committee on that matter.

Alison McInnes: What assurances can you give us that Scottish citizens who invest in the bank will be given the same safeguards that they would have if they banked with another bank?

Michael Matheson: This is not a commercial high street bank operation; it is an investment bank, which is operating for infrastructure investment. It is not the sort of bank that operates on a retail basis—it is not another high street bank that is seeking to operate in the UK. It is in effect an infrastructure investment organisation, which will operate on a global basis. The UK Government's desire is to have it based in the UK.

Alison McInnes: If it is not individuals, is it companies or pension funds that might invest in it?

The Convener: Where are we going with this one?

Alison McInnes: I am concerned—I do not know enough about it.

Michael Matheson: Supplementary information is being provided by the UK Government on the matter. Our responsibility is to support the international agreement that the UK Government has reached on providing immunity from prosecution in Scotland. The nature of the bank's business is to raise investment in the UK with a view to investing in infrastructure projects in Asia. I understand that the concept behind it is to support the Asian economy. By doing so, there is a benefit to the UK and European economies.

The Convener: Unless I have been misreading the newspapers, I thought that it was going the other way and that Asian capital is being invested in our economy, but there we are. We appreciate that it is not your money that is involved in this, Alison. You are not an international investor, as far as we know.

Michael Matheson: I have had some details back in relation to Rod Campbell's point. The European Bank for Reconstruction and Development, the Asian Development Bank, the Inter-American Development bank and the Caribbean Development Bank have all been given privileges and immunity from prosecution throughout the UK, including in Scotland.

John Finnie (Highlands and Islands) (Ind): Are you able to say whether those immunities apply to the corporation, the institution or individuals?

Michael Matheson: It will be on the basis that they will be granted immunity from prosecution as an organisation. I presume that immunities for individuals will be to do with diplomatic immunity, which would be afforded by the UK Government. However, this is immunity for the organisation, to allow it to be immune from prosecution under Scots law.

Alastair Smith (Scottish Government): It includes immunities for individuals in their official capacity, in much the same way as other listed bodies. The effect of the order is to add a further schedule to the International Organisations (Immunities and Privileges) (Scotland) Order 2009, which has 15 schedules dealing with various bodies; this will be schedule 16. It is in very similar terms to the other immunities. It extends to representatives in their official capacity.

John Finnie: Can I ask about the practical application of that? Does it mean that if an individual or the organisation commits the crime of fraud in Scotland, they will not be prosecuted?

Michael Matheson: It would afford them the same privileges as a diplomat, in that they would be immune from prosecution in undertaking their roles.

John Finnie: Is that a yes, cabinet secretary?

Michael Matheson: In effect.

John Finnie: So, similarly, money laundering.

Michael Matheson: That is much more complex. In effect, it makes them immune from prosecution. Keep in mind the purpose of this bank.

Alastair Smith: The instrument also provides that the immunities may be waived by the bank so if an individual were to be—

The Convener: Dirty dealing.

Alastair Smith: If they were acting outside of their intended role, perhaps fraudulently, the bank would be able to waive the privilege.

10:30

John Finnie: So, if they were defrauding their own bank in Scotland, they might not be subject to diplomatic immunity. Can I ask—and I read this for the first time coming down—

The Convener: First, would you like to answer John Finnie's point about someone defrauding their own bank, cabinet secretary? I take it that that would be covered by what you have just said?

Michael Matheson: Part of the provision is that

"A person connected with the Bank shall enjoy immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of the person's official duties for the Bank, except to the extent that the Bank shall have expressly waived such immunity."

Therefore if someone is acting outwith what they should be doing for the bank, in effect they no longer have that immunity.

John Finnie: Pretty much as the UK banking industry was doing systematically over a number of years prior to the recent crisis.

I am trying to understand this. I read for the first time coming down on the train, with some astonishment, that this relates to a piece of legislation from 1968. The UK Government has made a request to the Scottish Government to enact that legislation with regard to crimes or offences that take place in Scotland. Is that correct?

Michael Matheson: Yes.

John Finnie: Is that the new politics that this building was supposed to be about? It does not sound like it to me; it sounds like more of the same.

Michael Matheson: Of?

John Finnie: Of a situation where we would allow crimes to take place under the protection that they are within financial institutions.

Michael Matheson: Are you speaking about people defrauding or committing some sort of offence?

John Finnie: Well, banks have committed a range of offences. Of course, fraud is a crime. It is a serious matter to defraud.

Michael Matheson: Part of the protection is for people in the course of undertaking their duties. Obviously, if they are acting outwith that, they are not afforded the same protection.

John Finnie: It is more of the same and I certainly will not be supporting it, anyway.

The Convener: Can I just have an explanation? I know that we are digging in here, but banking, as I understand it, is reserved. How far is this to comply with the UK's role? How much flexibility does a devolved Government have here? I do not know. The note by the clerk states:

"A related Order is subject to consideration by the UK Parliament as it relates to reserved matters."

I thought that banking was reserved.

Michael Matheson: The UK Government has entered into an international agreement about this bank. A condition of that international agreement is that the provisions apply across the whole of the UK.

The Convener: Right. So is this order necessary just to bring Scotland into line, to put it in ordinary parlance?

Michael Matheson: For the purposes of the UK Government to be able to deliver on the international agreement that it has entered into, yes.

John Finnie: Convener, can I—

The Convener: I just wanted to have that explained. I have some other people coming in, and then I will bring you back in.

Elaine Murray: I am still uncomfortable about this. I totally appreciate that this is not of the Scottish Government's making; it involves devolved competence in relation to something that the UK Government is trying to do. However, I fail to understand why, if a bank is breaking the law in Scotland, it should be allowed to get away with it because it has diplomatic immunity. People who work for the bank could do something that broke the law in our country but say that it was part of their duties. Why should they have immunity for that?

Michael Matheson: Probably for the same reasons that diplomatic immunity from prosecution has been given to other development banks previously. This is in effect a development bank for infrastructure investment.

In order for the UK Government to deliver on its international agreement, it has to achieve that immunity from prosecution in all jurisdictions in the UK.

Elaine Murray: Does it not strike you that that is partly what is wrong with the banking sector internationally? It can get away with breaking the law and have such agreements that enable it to break the law in different countries and then the countries that they break the law in cannot do anything about it.

Michael Matheson: We are into a much bigger debate about how banks have been operating across the UK and across the globe, which goes much wider than this issue.

Margaret Mitchell (Central Scotland) (Con): I wonder whether there is another way to look at the issue, cabinet secretary, although I am not sure that there is because I understand the concerns that are being raised—in fact, I have the same concerns myself.

If diplomatic immunity is given, is there more of a positive case for ensuring that information, which may be very sensitive and which may be connected to organised crime or have even more sinister links to terrorism, is held and is forthcoming as early as possible? Is there anything to do with that in the provision?

Michael Matheson: I am not entirely sure that the matter is linked to that area, to be honest. Many of the organisations that are responsible for dealing with those issues—Police Scotland, for example—do not have diplomatic immunity.

The provision is part of an international agreement that has been reached. One of the conditions of that agreement is that the infrastructure investment bank is given immunity

from prosecution—diplomatic immunity, in effect—across the whole jurisdiction of the UK.

Christian Allard (North East Scotland) (SNP): Good morning, cabinet secretary. What would be the consequences of this committee voting down the instrument?

Michael Matheson: My understanding is that the provision in the order is a condition of the international agreement. If the UK Government is not able to deliver on the international agreement in that respect, I suspect that it will not be able to follow it through.

Christian Allard: What would happen next? What would you do next?

Michael Matheson: It is not our agreement—it is the UK Government's agreement, so the UK Government would have to revisit the issue. The consequences of that would be a matter for the UK Government, given the agreement that it has entered into.

Roderick Campbell: I am not sure whether you will be able to answer this question, cabinet secretary. Who, in the jurisdiction of Scotland, will be likely to provide the investment for the bank's use? I assume that we are talking not about Joe Public but about some specialist financial institutions. Have the other institutions that have been mentioned been the subject of affirmative instruments in the Parliament? Why has this affirmative instrument on this banking institution come up now?

The Convener: I am advised that the institutions have been the subject of affirmative instruments.

Michael Matheson: My understanding is that they have been.

Going back to the point about what would happen if the committee chose not to approve the order, my understanding is that the UK Government could pursue other routes in order to achieve its objective.

The Convener: Which are?

Roderick Campbell: Cabinet secretary, are you able to answer or provide any more information on the question of where the funding for the investment bank will come from in Scotland?

Michael Matheson: I am afraid not, because that is a matter for the UK Government.

John Finnie: This is the Parliament's Justice Committee and you are here as Cabinet Secretary for Justice. People would perhaps therefore anticipate that you would have a clearer understanding of the relationship between the international laws and the provision to which you are effectively asking the committee to lend its

support, which involves turning a blind eye to crime that may take place—

The Convener: That is a wee bit strong, John. It raises the possibility of certain things, but not turning a blind eye—

John Finnie: Okay—it involves disregarding crime if it should take place.

The Convener: That is better. On you go.

John Finnie: Within the confines of this—

The Convener: It is dramatic stuff—let us put it in that way. Go for it.

John Finnie: Cabinet secretary, you have used the term “diplomatic” frequently. Which countries are involved in this agreement?

Michael Matheson: All in—

John Finnie: Every country in Asia?

Michael Matheson: For the European investment bank—

John Finnie: I thought—

Michael Matheson: No, I am sorry—it is for the Asian Infrastructure Investment Bank. I am not entirely sure, but I have a list here. A number of regional members are part of it, ranging from Australia through to Cambodia, China, Indonesia, Israel, Jordan, New Zealand and Pakistan. There is also Singapore, Sri Lanka, Thailand and Vietnam.

There are also non-regional members, which are Austria, Brazil, Denmark, Egypt, Finland, France, Germany, Iceland, Italy, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, South Africa, Spain, Sweden, Switzerland and then the UK.

John Finnie: Right—okay.

I know that no business and regulatory impact assessment has been done in respect of the order, but has any impact assessment been done of the likelihood of the immunity being called upon?

Michael Matheson: Do you mean an assessment by the UK Government?

John Finnie: No—I mean by the Cabinet Secretary for Justice.

Michael Matheson: No impact assessment has been undertaken.

John Finnie: None at all—okay.

You could have come here and called for us to oppose the measure—

The Convener: Wait a minute, John. I see that the committee is not too satisfied, so I wonder whether there is a process whereby we can get

further information. I realise that we have to report to Parliament by 2 November, but I wonder whether there is a way in which we can raise all these further issues with the cabinet secretary in detail, and then the committee can consider its views on the order. If there are international treaties and God knows what else happening, there might be ramifications that we are not aware of.

Cabinet secretary, must we report by 2 November?

Michael Matheson: First, we can provide you with more information. If you put those points to us, we can also pursue some of the details with the UK Government, which has entered into an international agreement.

The Convener: I would like that.

Michael Matheson: That would provide you with more substance on the issues, given that the UK Government has the lead responsibility in the area.

Secondly, on the timeframe and whether that process would alter things, we would have to check and respond to you on that, because parallel orders are already being taken forward in the UK Parliament.

The Convener: With the leave of the committee, I suggest that we leave the issue for now and come back to it later today.

Margaret Mitchell is looking at me—do you want to say something, Margaret?

Margaret Mitchell: No, it is okay, convener. I think that that is a sensible way forward.

The Convener: We can come back to the issue later in the day when the cabinet secretary's office can provide us with information. The preferable thing would be for us to consider the issue next week, once we have further information, so that the committee can consider all the issues that have been raised and all the ramifications in much more detail. If not, we will have to take a view on whether we have the cabinet secretary back to move the motion on the order later this morning. We are going into private session soon but, at some point, the cabinet secretary could come back and move the motion if the committee decided to take that approach. Alternatively, we could consider the matter later this week, although that would not really be satisfactory for some members.

My preference would be to deal with the issue next week, if we are not under some kind of sword of Damocles to get it done and report by next Tuesday. My view is that we cannot report in the morning and ask Parliament to consider it on the same day, so we could not do it all on Tuesday

next week. The Parliament's consideration would have to be in the following week.

Michael Matheson: There is a timeframe for the order to go to the Privy Council, which I believe is at the beginning of December.

The Convener: Therefore, if the committee is agreed, I suggest that we have in part concluded the evidence session on the order and that, if possible, we will return to it next week, when we can consider further evidence, either in written form or in oral form, if the cabinet secretary can come back—well, he will have to come back to move the motion on the order.

How does the committee feel about that? A lot of things have been raised that we need to consider, rather than take a hasty view.

John Finnie: Could the cabinet secretary provide clarification of his comment that there might be another route by which the UK Government could pursue the issue? It is a constitutional matter.

The Convener: That is exactly the kind of thing that I am happy for us to explore. A lot of issues were opened up, but we do not have enough time or detail to come to a conclusion.

Are you content with that approach, cabinet secretary?

Michael Matheson: Of course.

The Convener: Thank you very much. That ends this evidence session. We will get a note back from your office about next week as soon as possible, I hope.

Michael Matheson: Yes.

The Convener: We move on to item 5. [*Interruption.*] Wait a wee minute—I am lost. Item 5 is gone, because we are not having the debate on the motion. Everybody knows where we are except me, which is nothing new.

Discontinuance of Legalised Police Cells (Scotland) Rules 2015 (SSI 2015/324)

The Convener: Item 6 is consideration of three negative instruments. The first is the Discontinuance of Legalised Police Cells (Scotland) Rules 2015, which formally discontinue the legalised police cells in Dunoon, Oban, Lochmaddy, Campbeltown and Thurso and, in effect, mean that they can no longer be used as legal prisons for the detention of prisoners before, during or after trial.

The Delegated Powers and Law Reform Committee did not report any concerns on the instrument. Do members have comments in relation to it?

10:45

Margaret Mitchell: Where do the prisoners go if those facilities will not be used? If they are closed, what other provision is there?

The Convener: I can write for further explanation, but obviously I cannot answer that question as I am not from the Government. However, your question is on the record and we will continue the matter.

Alison McInnes: I welcome the instrument. Her Majesty's chief inspector of prisons for Scotland recommended it some time ago, so it is good to see it.

The Convener: So we welcome it but are going to find out what happens in practical terms.

Gil Paterson (Clydebank and Milngavie) (SNP): The clerk's paper indicates that the prison cells in question are not used.

Margaret Mitchell: If they are not used then—

The Convener: Could you discuss the instrument through the chair, please, instead of having a little general debate?

Gil Paterson: Sorry, convener. The evidence that we have is that the police cells are not used. If the idea was that we would keep something because maybe it will be used, we could have every motor on the road for ever, could we not?

The Convener: We are back to cars, Gil. I wonder what your connection with them is.

Gil Paterson: It always comes back to cars. If something is not being used—

The Convener: There is no harm in trying to find out where they go.

Gil Paterson: They do not go anywhere.

The Convener: I take it that members are content to make no recommendation on the instrument.

Christian Allard: Sorry, but who is going to go where if they are not used?

Gil Paterson: That is exactly the point.

The Convener: I feel somebody has put something in the water today. Let us just rewind: to keep Margaret Mitchell sweet, I am going to find out where they go pro tem. Okay? That is all. Now, can we just move on? Do you have any recommendation in relation to this instrument?

Alison McInnes: No.

The Convener: Thank you, Alison. I have hope when I look at you.

Police Pension Scheme (Scotland) Amendment Regulations 2015 (SSI 2015/325)

The Convener: The second negative instrument for our consideration is the Police Pension Scheme (Scotland) Amendment Regulations 2015.

John Finnie: Sorry, convener, but I should have made this point earlier: I was unable to open the link to this instrument and, although I think that it is unlikely that it will relate to me, I should declare a possible interest as I am the recipient of a police pension.

The Convener: Yes. Let us hope that they put their funds in the right place.

John Finnie: Very much so.

The Convener: Anyway, John Finnie having stated that, we can continue.

The purpose of the instrument is to amend the Police Pension Scheme (Scotland) Regulations 2015 to correct errors and omissions in that instrument. Again, the DPLR Committee had no concerns on the instrument. Do members have any comments on the instrument? No. Are you content to make no recommendation in relation to the instrument?

Members *indicated agreement.*

Legal Aid (Miscellaneous Amendments) (Scotland) Regulations 2015 (SSI 2015/337)

The Convener: The third and final negative instrument for consideration today is the Legal Aid (Miscellaneous Amendments) (Scotland) Regulations 2015. The instrument adapts the framework and arrangements in existing regulations to accommodate changes to criminal proceedings in the sheriff appeal court, all-Scotland sheriff courts for specified civil proceedings, and judicial review.

Members will recall that last month this committee rejected by a majority an affirmative instrument making provision in broadly the same area as this negative instrument. The Government responded by withdrawing that affirmative instrument and laying this one in its place. This instrument does not require a solicitor to seek prior approval from the Scottish Legal Aid Board before instructing counsel for cases in the new court, and it makes provision for solicitor advocates to be paid counsel rates for criminal legal aid work in the sheriff appeal court.

The DPLR Committee made no comment in relation to the drafting of this instrument but has drawn our attention to the failure to comply with the 28-day rule and the explanation from the

Scottish Government for that breach, which that committee says that it has accepted. Do members have any comments in relation to this instrument?

Alison McInnes: It is welcome that the Government has responded in this way to the decision that the committee took, but it is only an interim arrangement. The Law Society of Scotland has pointed out—quite rightly—that we need to keep an eye on this matter and move it forward. The Law Society points to an interim scheme relating to the police station duty scheme in 2011, which is still an interim scheme and has not been resolved. Therefore, if there is a way for this committee to monitor the situation and encourage the Government to resolve it amicably within six months, that would be very helpful.

Elaine Murray: I, too, welcome the fact that the Government listened to the majority view of the committee. I presume that, whatever the final scheme is, it will have to come to us in an instrument for discussion after it has been drawn up.

The Convener: Yes, if it changes.

Elaine Murray: Only if it changes, although I thought that Alison McInnes had said that it was an interim scheme.

The Convener: Roderick, you always look anxious, but I did notice you.

Roderick Campbell: Presumably, the committee, in monitoring its own workload, could seek a progress report from the Government in January or February to see how we are doing on this matter.

The Convener: Yes. Indeed, according to the letter from the Law Society, it is going to report to us on the discussions early in the new year. We therefore have two tranches: we have the Law Society and we will also be able to monitor the scheme through the Government.

As agreed, we will now move into private session.

10:50

Meeting continued in private until 12:26.

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