

JUSTICE 2 COMMITTEE

Monday 14 November 2005

Session 2

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CONTENTS

Monday 14 November 2005

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POLICE, PUBLIC ORDER AND CRIMINAL JUSTICE (SCOTLAND) BILL: STAGE 1	1799
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JUSTICE 2 COMMITTEE

31st Meeting 2005, Session 2

CONVENER

*Miss Annabel Goldie (West of Scotland) (Con)

DEPUTY CONVENER

*Bill Butler (Glasgow Anniesland) (Lab)

COMMITTEE MEMBERS

Jackie Baillie (Dumbarton) (Lab)

Colin Fox (Lothians) (SSP)

Maureen Macmillan (Highlands and Islands) (Lab)

*Mr Stewart Maxwell (West of Scotland) (SNP)

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

COMMITTEE SUBSTITUTES

*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

*Carolyn Leckie (Central Scotland) (SSP)

Mr Kenny MacAskill (Lothians) (SNP)

Margaret Mitchell (Central Scotland) (Con)

Mike Pringle (Edinburgh South) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Iain Blair (Scottish Premier League)

Kenneth Elder (Scottish Federation of Football Supporters)

John Fleming (Convention of Scottish Local Authorities)

Tony Higgins (Scottish Professional Footballers Association)

James MacLean (Grand Orange Lodge of Scotland)

Betty McAllister (Calton and Bridgeton Community Council)

Willie McDougall (Scottish Football Association)

Councillor Jean McFadden (Convention of Scottish Local Authorities)

Dave Moxham (Scottish Trades Union Congress)

James Proctor (Supporters Direct in Scotland)

Chief Superintendent Kenny Scott (Strathclyde Police)

Kathy Simpson (Ibrox and Cessnock Community Council)

Jim Slaven (Cairde na h'Eireann)

CLERKS TO THE COMMITTEE

Gillian Baxendine

Tracey Hawe

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Steven Tallach

LOCATION

Glasgow City Chambers

Scottish Parliament

Justice 2 Committee

Monday 14 November 2005

[THE CONVENER *opened the meeting at 13:48*]

Police, Public Order and Criminal Justice (Scotland) Bill: Stage 1

The Convener (Miss Annabel Goldie): Good afternoon, everybody. I welcome you all to the 31st meeting in 2005 of the Justice 2 Committee. On behalf of the committee, I thank Glasgow City Council for allowing us to meet in the city chambers this afternoon. The committee was anxious that, in its scrutiny of the Police, Public Order and Criminal Justice (Scotland) Bill, it should take evidence in the west of Scotland. This has been a very convenient way of enabling us to do that.

I have received apologies from Colin Fox, Maureen Macmillan, Jackie Baillie and Jeremy Purvis. I welcome Cathie Craigie and Carolyn Leckie, who are attending as committee substitutes. Members have been issued with the agenda and relevant papers have been circulated. The purpose of the meeting is to continue our scrutiny of the Police, Public Order and Criminal Justice (Scotland) Bill.

Without further ado, I welcome the first panel of witnesses. Representing the Convention of Scottish Local Authorities is Councillor Jean McFadden, Mr Jon Harris and John Fleming. I also welcome Betty McAllister, who is from Calton and Bridgeton community council, and Kathy Simpson, who is from Ibrox and Cessnock community council. We are glad that you have been able to join us this afternoon. I know that members want to put a lot of questions to you. I ask Bill Butler to kick off proceedings.

Bill Butler (Glasgow Anniesland) (Lab): Good afternoon, ladies and gentlemen. Could the panel tell the committee in what specific ways marches impact on local communities?

The Convener: I suggest that one of the COSLA representatives might wish to formulate a view on behalf of COSLA. I will then speak to the two ladies who represent the community councils.

Councillor Jean McFadden (Convention of Scottish Local Authorities): Mr Fleming will deal with the issue of public processions.

John Fleming (Convention of Scottish Local Authorities): Sir John Orr has highlighted the fact that every public procession causes a degree of

disruption to local communities. His report clearly says that there is a significantly high volume of public processions in certain areas. In some places, there is a degree of public concern about the number of processions.

The Convener: Could you expand a little on that? Those areas of concern are of interest to the committee.

John Fleming: From personal experience, I would say that the greater areas of concern relate to inconvenience rather than to anything of greater moment. The situations that we are discussing are not similar to what happened during the G8 summit, when a great degree of disruption and damage to property was occasioned by the public processions. Most of the representations from the public that my local authority receives are about inconvenience and the cost of policing processions.

Bill Butler: In your experience, and judging from the experience of COSLA's membership, do you believe that it is only a matter of inconvenience? Is there no indication of disruption or anything more than that?

John Fleming: The distinction between inconvenience and disruption is not particularly clear. Marches and parades vary. There are some fairly small marches and parades, which can cause a degree of inconvenience, but there are also some very large events. We find those not only in the large cities such as Glasgow, but in areas such as North Lanarkshire, South Lanarkshire and West Lothian, where a number of marches and parades will come together on one particular day in one particular town. The impact felt by that town in hosting such a large procession is significant.

That said, the distinction that I was trying to make is still applicable. People will often experience difficulties going about their normal, day-to-day life—for example, going to get the messages at Safeway or Morrisons. That is more likely than people feeling particularly intimidated or there being any significant damage to property. There is a real distinction between the sort of public processions that we are discussing and events such as the demonstrations during the G8 summit.

The Convener: We would be interested to hear the views of the community councils on the matter.

Bill Butler: Indeed. That was COSLA's view, but do the community councils think that such processions are merely a matter of inconvenience?

The Convener: Let us hear first from Mrs Simpson. I remind you that the question was about

the specific ways in which marches impact on local communities.

Kathy Simpson (Ibrox and Cessnock Community Council): Marches have an impact. It is probably more a matter of inconvenience than of disruption. In our neck of the woods, the marches mainly involve the Orange order and other orders and religious groups. There is certainly no damage, disruption or bad behaviour. The marchers are very well organised and managed.

The Convener: That is helpful.

Betty McAllister (Calton and Bridgeton Community Council): I think that I must live on a different planet from some people. Really and truly, if people were to come to Calton and Bridgeton, they would see that, because of the disruption caused by some, but not all, marches—I am not saying that we should not have any marches or parades—we are afraid to go out. Because of the masses of people, we cannot walk on the street. The police can bear witness to that, because they have films of marches, but nothing has been done about it. The problem affects people in our community. I am not speaking just for myself; I am here today to represent the people in my community, who feed back to me.

Every time there is a march, there is total disruption. As I said, I do not mean all marches and I will not identify any particular march, as that would not be right. The marches change our whole lifestyle. People dare not go out—they cannot take a child out in a pram—and they feel intimidated and threatened. If anybody here has not seen the disruption that the marches cause, I ask that the police show the films of some of the parades in my area. Something has to be done about the marches, because they are life threatening. I ask those people who think that the parades are perfectly ordered to come out and stand with a baby in a pram as one passes to see how intimidated they feel, because we just cannot go out.

The Convener: It would help the committee to know what is frightening about being out in the community when a march takes place. What causes you concern specifically?

Betty McAllister: The concern is caused probably not by the march itself, but by the people who follow it. However, if there was no march, the people would not follow.

The Convener: So it is not so much the marchers as the people who follow the march.

Betty McAllister: Yes. They go up and down the little streets in people's communities. I do not mind fighting for a parade or a march that is happy and gay, but some marches get quite hazardous and people are afraid. They might not want to

express that generally, but they express it to the community council. That is why I am here today to tell the committee that, really and truly, we have to draw a line somewhere so that we can all have a happy lifestyle and not feel intimidated by some of the people on those marches.

The Convener: Would you like stricter policing of the people who group behind the marches? As far as I can gather, the problem is not so much the conduct of the people on the march as the people who group round about.

Betty McAllister: It is the people who group round about. Those people have no care for anyone walking on the pavement or in the street. They are there for one reason that day and they are abusive in the things that they say. If a local were to say, "Sorry, son, wait a wee minute," they would turn around and hit them in the face. That has been done; it happens all the time.

I would like marches to have specific routes and the marchers to keep to the main road. They should not walk through every part of people's communities. Why should people be terrorised? They will not even go out the door or go to their window. This is 2005—let us get with it and change things, because I am sick of the situation.

Bill Butler: That is clear and I am grateful for it. There is an obvious difference of opinion among the witnesses.

Mr Stewart Maxwell (West of Scotland) (SNP): When does inconvenience become disruption? Do certain communities become disproportionately inconvenienced or disrupted because of the volume of marches? Does that not happen in other communities? Should the volume of marches be taken into account? Is the problem not just the actions of individual marches, but their cumulative effect?

John Fleming: Yes, I would be happy if the volume could be taken into account. I am conscious that Sir John Orr addressed that point in his report. In light of the legal position, he considered that the volume of marches could be reduced only by voluntary action by the organisers. I think that that is the case. There is a real difficulty in relation to the generality of marches as the law focuses attention on each individual march and limits local authorities' powers to determine whether to make an order in respect of an individual march. Local authorities have a real difficulty in being able to act in response to the number of marches in their local areas.

14:00

Mr Maxwell: Let us move on to discuss the current legal situation. What are the strengths and

weaknesses of the current legal arrangements in relation to marches?

The Convener: Is that something to which you want to respond, Councillor McFadden, or do you want Mr Fleming to deal with it?

Councillor McFadden: Mr Fleming will deal with the issue of marches generally.

John Fleming: The strength of the current legal situation is probably that it is fairly settled. People know and understand the law as it stands, which does not require anybody to ask a local authority for permission to hold a march—the position is very different from that under the licensing regime. The only requirement is that a person who proposes to hold a march should notify the local authority. There are circumstances in which a local authority can make an order either to ban a public procession or to place conditions on it. The legal position has been fairly well developed through a series of court cases, which have tested the law and made fairly clear the parameters within which local authorities can operate. That is the strength of the current law. The difficulty is that it is not commonly realised that no one is required to seek permission to hold a march. Often, local authorities are asked, “Why did you grant consent for this?” In fact, local authorities have no power to grant consent.

The bill will, in effect, change nothing. There is a high level of community expectation that, under the bill, local authorities will have significantly increased powers to deal with public processions. That is not the case. Local authorities will have just about the same powers as they have at present. The bill is helpful in several respects; for instance, it illustrates matters of which account can be taken. Nevertheless, those matters could currently be taken into account in any event. The difficulty with the bill is the level of public expectation surrounding it and the extent to which it fails to meet that expectation.

Mr Maxwell: We will discuss the detail of the bill as we develop our questions. Do the community councils have a view on the strengths and weaknesses of the current situation?

Betty McAllister: The community councils have some powers, but we do not have enough powers to deal with certain situations. I do not think that the bill will change much. I thought that we were coming here today to give our input and to find out whether you were going to listen to us and whether you were going to change anything. You say that we are just going to talk things through and say yes and no, but I do not know why the council or the police do not have special powers to say, “I’m sorry, but because of the disruption these marches can’t go ahead.” They have to have some power and some say; after all, they

represent the city. I think that the bill does not go far enough.

The Convener: Do you feel that, at the moment, your community council has any say in the matter?

Betty McAllister: We do not have any say in it at the moment; we just get told, “Here, this is happening,” and that there is going to be this parade or that march. We are not informed of everything.

The Convener: Would you like your community council to have more of a say?

Betty McAllister: Every community council should have a say, as we are the people’s representatives. We should know about these things, but that is where the system has failed us. We do not get told, although we should be told. It should be a matter of negotiation between us and the council, because we are the people.

The Convener: So you would like community councils to have more of a say before marches or parades are allowed.

Betty McAllister: Yes. We would like the police to inform us.

Mr Maxwell: Does Mrs Simpson have a view on the proposal?

Kathy Simpson: It is a good idea, because community councils could liaise with the police rather than with the marchers if public order was a worry.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): Mr Fleming pointed out that, under existing legislation, some organisations merely notify local authorities of a march—the notice is often short. What dialogue do local authorities have with march organisers? How will the bill change the present situation?

John Fleming: At present, local authorities have little dialogue with organisers. Local authorities perform what is, in essence, a quasi-judicial role in the matter. The backdrop is the European convention on human rights, which enshrines a right of free assembly. That is not an absolute right; it can be interfered with only if doing so is

“necessary in a democratic society”.

The convention goes on to recite certain aspects that must be taken into account.

The Convener: I presume that, if Mrs McAllister is having the wits scared out of her, the local authority can do something.

John Fleming: Sorry?

The Convener: Mrs McAllister has given us evidence that her community can feel alarmed and intimidated when a march takes place. The

definition of free assembly under the ECHR pays respect to the democratic interest. Surely the situation that Mrs McAllister outlined is against the democratic interest. Does that not mean that the local authority would have a locus to form a view?

John Fleming: Absolutely. Sorry, I was possibly being a trifle long winded, but I was hoping to come to that point. The local authority can consider making an order to restrict the right of free assembly if that is necessary in a democratic society for one of the specified reasons, one of which is public safety. Local authorities take account of all the available information—they have good information from the police and local councillors—in determining whether it is appropriate to make an order. Only at the stage of a formal hearing would there be anything that approaches dialogue with march organisers. Local authorities must take proportionate steps. Therefore, at that point, it would be decided whether the requirement was for an absolute prohibition on the march; a condition to alter the time of the march so that it started at a less busy or less inconvenient time for the community; or a condition imposing a restriction of or variation on the route. At that stage, having regard to the views of the police and all the representations, the local authority would consider the matter.

Cathie Craigie: You said in answer to my colleague Stewart Maxwell that the bill would change the existing situation very little. I am not sure whether those were your exact words.

John Fleming: That is certainly the sense of them.

Cathie Craigie: If so, how will the bill change the way in which local authorities deal with the issue? The second part of my question is a political one for Councillor McFadden. Given that the bill will change the situation very little, will it change it enough and, if not, how would you improve it?

John Fleming: The real difficulty with expanding the measures much further relates to the European convention on human rights. In a fairly recent case in Aberdeen—I think that it was in 2002—the sheriff, having considered the European convention on human rights, said that it was clear that there is a right to express views that may not accord with those of the majority. I do not have the sheriff's words in front of me, so I may not have quoted him exactly. He went on to say that that right is the hallmark of a democratic society.

The case highlighted a major difficulty. Matters such as those that Mrs McAllister mentioned can be taken into account perfectly correctly and acted on by local authorities under the current law; the same would be true under the bill. However, there

are lesser matters. People could say, "No, I'm sorry, but we really aren't in favour of the parade and we want to go about our lives quietly and not be inconvenienced. We don't want the disruption that the parade will cause to delay us when we want to get our messages." However, that would be insufficient for a local authority to act. The difficulty that we see is that the level of public expectation has been raised so that the public think that saying such things would be sufficient for a local authority to act. I am conscious that I have not fully answered the question, as I have difficulty in seeing how the bill could be extended to meet the current level of public expectation and still comply with the European convention on human rights.

Councillor McFadden: Mr Fleming has pinpointed the problem. The bill proposes to give communities the right to be consulted, which will lead them to think that their views will be implemented. As he said, the problem is that local authorities will not have increased powers to ban marches. Having been consulted, communities may find that their local authority allows a march to go ahead, perhaps after rerouting it or changing the time at which it takes place, without significantly reducing the disruption that will be caused. Consultation will therefore be seen as a sham.

Local authorities should have appropriate discretion to use the extended notification procedures for all marches. We see a distinction between, for example, a parade of brownies and a republican or Orange order parade. The bill seems to imply that one size fits all, but we are saying that one size does not fit all.

The Convener: I would like the points that have been made to be considered in more detail. Mr Fleming, are you saying that the bill will need to be more specific in defining criteria if local authorities are to make a judgment on whether to allow a march to proceed? Are you saying that a vague phrase such as "public opinion" is meaningless because it does not cut across the fundamental right of free assembly? Does the bill need more specific hooks to let local authorities make judgments?

John Fleming: I see a real difficulty in providing specific hooks. It may assist the committee if I refer it to paragraph 80 on page 16 of the bill's policy memorandum. The paragraph, which is on alternative approaches that the Scottish Executive considered, is relatively short. It states:

"During the review consideration was given to banning marches which had in the past attracted violent/disorderly conduct, either from participants or from those who follow the march. However, the Executive considers that this approach would not be compatible with the Article 11 of the Human Rights Convention to ban marches, potentially involving a large number of people who intend to be

peaceful, based on the conduct of a smaller number of people who may not even have been members of the organisation who arranged the previous procession."

In that situation, I would have thought that it would be relevant to consider the evidence of the previous march by the same organisation in the same circumstances. However, the Executive has identified that, under the European convention on human rights, it is difficult to ban a march even if a previous march by the same organisation has attracted violent and disorderly conduct.

The problem is also reflected in Sir John Orr's report. He said that, even if all his recommendations were implemented, he would not expect more marches to be banned. He went on to say that banning a public procession should be a rare event in a democratic society. My problem is not with the detail of the bill but with the parameters within which it must work.

The Convener: That is helpful.

14:15

Bill Butler: You are saying that prohibition is a last resort. As you say, the right under the ECHR is not absolute, but are you saying that applying conditions to certain marches is almost impossible, given their history?

John Fleming: No.

Bill Butler: Is it too difficult to contemplate?

John Fleming: No. At present, the imposition of conditions is, if not routine, not uncommon.

Bill Butler: And prohibition is not unknown. Is that correct?

John Fleming: Prohibition is certainly not unknown.

Bill Butler: Thank you.

The Convener: I want to find out what happens at present. You explained what dialogue, if any, takes place between the local authority and the march organisers, but do local authorities have discussions with police, community groups, local businesses and other interested parties?

John Fleming: No. I speak principally for my own local authority and I am conscious that Councillor McFadden might want to comment on the situation in Glasgow, because a pilot scheme is running there. In general, local authorities take their soundings from the local elected member, who has a clear appreciation of the situation in her or his local patch. They are well able to bring to the attention of the local authority the effects of previous public processions and the expected effect of the proposed public procession.

As far as wider consultation is concerned, there is no problem with obtaining information from

wider sources—indeed, that can only be advantageous. However, as Councillor McFadden highlighted, a problem arises if the impression is given that the local authority can give effect to the consultation. The vast majority of respondents may not want the procession to go ahead, but the local authority is powerless to base a decision on those views.

The Convener: Hence the concern in your submission about the implications of consultation.

John Fleming: Absolutely.

Bill Butler: You keep saying that you would not want to raise expectations. No one wants to raise expectations that cannot be fulfilled, but is it not the case, as you have said, that people such as representatives of community councils do not expect to be consulted?

John Fleming: I think that everyone around the table is as well equipped as I am to answer that question. My impression is that there is significantly raised public expectation.

Bill Butler: What is your evidence for that?

John Fleming: I can only state my impression that there is a general expectation that if the bill becomes law, there will be a significant difference in the number and nature of public processions. I may be quite wrong on that, and there may be no such expectation, but that is my impression.

Bill Butler: Surely there is nothing wrong with raising expectations about consultation, given that there is no real consultation at the moment, except with the local member, which is absolutely proper. What do you say to that?

John Fleming: My difficulty is with consultation on which a local authority cannot act. Local authorities are very much dependent on public consultation. We have to foster it across a wide range of service. Public consultation depends very much on local trust, which depends on the local authority engaging in valid consultation, taking full account of what comes back and acting on it. My fear is that consultation in this regard will lead to responses on which the local authority cannot act.

The Convener: May I clarify one point? For the sake of argument, suppose your local authority consults Mrs McAllister's community council and it says, "Whenever we have that march, people urinate in gardens and up closes. People can't go shopping, they can't go to the health centre, children can't go out with their parents, and babies can't be taken out in their buggies, because everyone is intimidated and scared." To you, is that just an insubstantial consultative response?

John Fleming: No. As I think I said before, a response of that nature would give sufficient

information to the local authority to act even currently.

The Convener: Perhaps we are getting somewhere. The issue is not so much the principle of consultation, but the specifics of what the consultation will produce. If the consultation response is specific and signifies instances of previous behaviour that is unacceptable by any standards, it ceases to be a generic consultative response and becomes Mrs McAllister's local community council telling you what actually goes on in her area.

John Fleming: That is perfectly valid, provided that the people whom the local authority consults appreciate the nature of matters that the local authority can properly take into account and act on.

Bill Butler: Surely it would be up to local authorities to make that clear to folk, as they do with school rationalisation proposals, for example. Would you not agree?

John Fleming: I agree that there is a job for local authorities to do, but it comes back to my previous point. I may be entirely wrong, but my impression is that there is a general view that if the bill becomes law, the situation will change, because local authorities will have significantly more powers.

Bill Butler: That is if you keep saying that that will be true. If we say clearly that there are no absolutes and that local authorities will proceed on a case-by-case basis, you will dampen down that false expectation, will you not?

John Fleming: I would hope to inform it in individual cases.

The Convener: I think that we have shone a little light down a dark tunnel.

Carolyn Leckie (Central Scotland) (SSP): I was interested in the comment about the bill not making much of a difference. In a way, that reassures me, because I have concerns about the proposed increase in the notice period from seven to 28 days. What impact will that have on how local authorities approach decisions about marches, processions and demonstrations? Will it affect whether permission is granted? I come from the perspective of a democratic concern. How will the bill affect authorities' ability to show that they are transparent, open and accountable, and that their decisions are not prejudiced or political in any way?

For example, if the council has announced cuts in services and people want to organise an immediate demonstration, would that have an impact on the decision? Would the council waive the 28 days' notice in those circumstances? Do the witnesses envisage that councils would waive

the 28 days' notice in many circumstances? Will the—

The Convener: Let Mr Fleming answer the question.

John Fleming: In general I do not see much difficulty in extending the notice period from seven to 28 days. Notification of the vast majority of public processions is given well before the seven-day period, so for the majority of public processions, the length of notification will not be much different. There are instances, such as factory closures, when public processions are arranged at much shorter notice. I know that in every case in which there has been a reasonable ground for not having given notification, my local authority has exercised the power to dispense with the notice, and I would expect most local authorities to do so. The one issue that would not be relevant to local authorities in considering whether to dispense with the notice is the purpose of the procession and whether the local authority agrees with that purpose.

I cannot recall whether it is the bill or the policy memorandum that seeks to restrict the power of local authorities to dispense with the period of notice. The suggestion is that local authorities should exercise the power only in very limited circumstances. I am not particularly concerned about that; I am satisfied that, even with that limitation, local authorities will have the power to dispense with the notice in appropriate cases. I have no apprehension that local authorities will fail to exercise that power.

Carolyn Leckie: One of the written submissions that we have received refers to the 28 days and suggests that the bill puts no obligation on the local authority to respond to the organisers to tell them what its decision is. The submission suggests that there should be an onus on the local authority to respond within 14 days. What is your response to that suggestion?

John Fleming: There would be a difficulty, as local authorities often have to take account of information that comes to light at a very late stage in proceedings. Currently, the law requires local authorities to give intimation of their decision two days before the proposed date of the procession, but even that is not an absolute obligation, so if a new fact comes to light even the day before a public procession, the local authority still has the power either to make or to rescind an order on that day. There would be difficulties in restricting authorities' power to make a decision to a period within 14 days of a procession, for example. That would make it hard to take account of facts that might come to light later.

Carolyn Leckie: Can I—

The Convener: I really want to make progress, if you do not mind. There is still a bit of ground to be covered with this panel of witnesses and we have a busy afternoon ahead of us. I ask members to keep their questions crisp, and perhaps witnesses can keep their responses as brief as is reasonably possible.

Mr Maxwell: I know that we have gone over this ground, but I am not clear that I understand fully what Mr Fleming is saying about local authorities' ability to take into account all the relevant factors when they make a decision about whether to impose restrictions or changes on a march or whether to ban it. Does the bill change the situation in any way? Does it provide sufficient flexibility to allow local authorities to take such decisions?

John Fleming: The bill does not in any way restrict local authorities' flexibility, but it does not give local authorities any greater powers than they already have to make decisions.

Mr Maxwell: So to be absolutely clear, in your opinion, the bill changes nothing in that regard.

John Fleming: In essence, that is the case.

14:30

Mr Maxwell: Is the bill flawed because of that? I agree with you about the impression that has been given, and I recognise the expectation that has been raised. Does the bill need to go further? For instance, there appears to be no problem in Northern Ireland with the Parades Commission's ability to impose quite onerous restrictions and changes on marches; in fact, it has banned many more marches than your evidence suggests.

John Fleming: That has not invariably been the case in Northern Ireland. There was a review of the operation of the Parades Commission around three or four years ago, and the report of that review has been published: it is the Quigley report on the operation of the Northern Ireland Parades Commission. In essence, the review concluded that quite a lot of trouble in Northern Ireland stemmed from an incorrect appreciation of the underlying legal position. That incorrect appreciation led local communities to believe that the commission had greater powers to restrict or ban a procession on the basis of a local community's wish that the procession should not proceed than was thought. The legal position was that the commission had no such powers. That led to some unfortunate and highly publicised incidents. The fact that those problems no longer occur is probably because there is now a wider appreciation of the underlying legal position.

Mr Maxwell: Should there not be some way for a local authority to take into account the factors that communities think are relevant? Those would not necessarily relate to the legal position of the marches themselves; I am thinking of difficulties to do with public order—the followers of marches, the drunkenness, the threats and so on, which were mentioned earlier. Should not a local authority take into account the right of a community to a peaceful life? If the bill does not enable that to happen, should it?

John Fleming: I am absolutely certain that the members of my local authority would be delighted were there to be such a power in the bill. However, the difficulty—as has been expressed before—is not so much with the bill as with the feeling that the parameters in which the bill has to operate do not permit the bill to go that far.

Mr Maxwell: I presume that you are referring to the ECHR.

John Fleming: Exactly.

Mr Maxwell: My original point about the Parades Commission in Northern Ireland was that it seems to have gone much further in attaching conditions and in banning marches than you suggest would be possible under the bill. Why is there a difference? The ECHR applies in Northern Ireland just as it applies here.

John Fleming: I am absolutely certain that, whenever the Parades Commission has exercised its powers, it has done so within the parameters of the ECHR. Without knowing the particulars, I cannot comment; however, I would be rather surprised if the Parades Commission had exercised powers in any wider way than I have suggested.

The Convener: Those are technical matters that the committee can pursue further.

Cathie Craigie: The bill provides that local authorities should have regard to any guidance that is issued by Scottish ministers in carrying out their functions in relation to public processions. On community consultation, which we have spoken about this afternoon, COSLA's written submission asks specifically that no ministerial direction be given either directly in the bill or indirectly, through guidance. Therefore, what would you expect to see in the guidance and how could it be written?

John Fleming: We have probably covered the dangers that COSLA would expect in having a requirement for community consultation. We do not have an aversion to consultation; indeed, it is because we acknowledge that consultation is so important that we would be apprehensive about anything that could discredit or devalue it.

There are some areas in which guidance would be useful. The committee has touched briefly on

provisions in the bill that for the first time illustrate factors that local authorities can take into account. My view is that the factors are not new—local authorities could always take them into account—but it is not unhelpful to illustrate them. One factor is

“disruption of the life of the community”.

It is clear that the larger the procession, the greater the potential for disruption. On the face of it, that suggests that the larger the procession is, the greater is local authorities’ power to limit, restrict or even ban it. However, I do not think that that will be the case. If the bill cannot be expanded to make clearer what can be done on that ground, guidance to expand on that would be helpful.

Similarly, local authorities can take account of

“an excessive burden on the police”.

The first reading suggests that that factor will be particularly helpful in my local authority’s area, where members of the public frequently say that they do not want money to be spent on policing public processions that could better be spent on other policing matters. The provision appears to cover that, which is helpful.

However, paragraph 175 on page 32 of the policy memorandum shows that the standard is higher than that. It says that

“The State is under an obligation to take reasonable measures to protect those who are exercising their right to free assembly”

and refers to the Plattform case. It continues:

“Section 17 of the Police (Scotland) Act 1967 ... also imposes a general duty on the police to protect life and property. The Executive therefore also considers that it is not incompatible for a procession to be prohibited, or conditions attached to it ... after considering whether there are sufficient numbers of constables or resources to police the event.”

Unfortunately, that is a higher standard than the bill suggests. From reading the bill, one would assume that if the cost of policing were considered to be disproportionate to a parade’s merits, that would be a ground for taking action. In fact, the policy memorandum makes clear what has always been the case. If the police say that they do not have the resources to police a public procession, that is a ground for banning it. That is the current legal position and processions have been banned on that ground several times. If the guidance clarified those points, or if the bill were made clearer on those points, that would help.

Cathie Craigie: I know that COSLA and the Scottish Executive will want to work in partnership to make the legislation work. Has COSLA discussed with the Executive what will be in the bill and in guidance?

John Fleming: Yes. The Executive has

established a working group that includes representatives of COSLA and of local government professional associations. It is hoped that the group will produce draft guidance in the next two months.

The Convener: The bill will remove local authorities’ ability to exempt march organisers from notification requirements. Is there a danger that that provision and perhaps others will add to bureaucracy in dealing with whether marches are to be allowed?

John Fleming: Yes. That is a real danger that concerns local authorities considerably. Councillor McFadden was correct to highlight the example of a brownie parade. Sir John Orr’s recommendations are prescriptive. They are that all processions should undergo the process, which involves not only an extended notification period but meetings with organisers and debriefing meetings following processions. Meetings cannot take place without a significant input of resources. However, the greater fear of the process is one that I have already articulated: devaluing consultation. That is the enormous fear that local authorities have.

There is a very real question of value for money. There is also a very real question of imposing very prescriptive requirements on absolutely every public procession, when they may be appropriate for only very few. If a procession is prescribed, that will require resources, and if the requirements are to be carried out, they cannot be carried out at a junior level. Therefore, considerable resources will be involved.

I am also conscious that Sir John Orr’s report suggests that resources will be required not only in local authorities but also at Scottish Executive level in monitoring, assessing and reporting on the performance of local authorities. There is a very real fear that there will be poor value for money here.

The Convener: Therefore, you would like to see local authority discretion preserved on whether or not these matters need formal attention.

John Fleming: Absolutely.

The Convener: I know that Bill Butler has a final question about resource. We have been talking principally about processions, but does anyone on the panel want to say anything about football banning orders? That is also part of our scrutiny, although they may not come within your immediate concerns. I do not think that COSLA expressed any views on football banning orders in its written submission.

Councillor McFadden: No. We had expected to make some points about the Scottish police services authority that is dealt with in part 1 of the

bill.

The Convener: We will come to that in a moment.

Mrs McAllister and Mrs Simpson, do you have anything to say about football banning orders?

Betty McAllister: Where I stay is near Celtic Park, where there are often large crowds. I would like to congratulate the police—for once, not for always—because they are really on top of the situation; they organise people going up and down the street well and properly. On the odd occasion, boys get a wee bit boisterous but, that said, we are quite happy. One set of fans goes one road, and the other set goes another road. Some of those parades should do the same thing. We would not have much difficulty if they were kept to the main streets.

Again, I congratulate the police on this one.

Kathy Simpson: I have to say the same. We have Ibrox near us. The organisation by the police is fine; we have no bother. There is an underground station near us, and the staff there and the police manage things very well.

The Convener: That is encouraging.

Betty McAllister: It is well managed because there is a police impact. The cause of many problems in the area is not enough policing. Everybody should be aware that unless we have people controlling things, nothing will work.

The Convener: Thank you for that. Before we ask for your brief comments on the provisions on the structure of the police force, Bill Butler has a final question.

Bill Butler: Mr Fleming, you said that the added bureaucracy that the bill envisages would lead to considerable resource implications. Will you amplify on that a little? What kind of resource implications do you mean—staffing or extra cash? You said that processions would have to be dealt with at a very senior level and that they could not be dealt with at a junior level. Can you give us some detail?

John Fleming: I am conscious that COSLA gave evidence to the Finance Committee on Tuesday of last week. I have its evidence with me, but unfortunately it is in rather a full bag.

Bill Butler: Just the salient points will do.

John Fleming: The requirements in Sir John Orr's report would have to be carried out by fairly senior members of staff, and that involves resources. Having a meeting with persons who propose to organise a public procession and considering, first of all, whether their procession can proceed or whether conditions should be imposed on it is not a routine or basic clerical

function. A degree of discretion is required and different options must be identified. Knowledge of the parameters that exist and of what powers, ultimately, the local authority has is also necessary.

I do not want to prolong the meeting, but members know that it is hard to hold a short meeting, especially when many people are involved.

The Convener: I think that that depends on the participants.

Bill Butler: That is right, convener.

It would help to bring the session to a close if Mr Fleming could provide the committee clerks with a little more detail in written form. You have given the generality of your response, which is that more resources will be needed.

The Convener: It would be very helpful if you could do that, Mr Fleming.

14:45

John Fleming: In summary, there are staffing implications and—if public advertisement was required—cost implications.

The Convener: Anything that you could do to flesh out those areas for us would be helpful.

Councillor McFadden, you mentioned that COSLA had a desire to say something about the proposals in the bill for the Scottish police services authority. We have received your written submission, which I know the committee will have paid careful attention to. Over and above that, is there anything that you want to emphasise?

Councillor McFadden: The issue of the politicisation of the police and ministers leaning on the police has become more prominent over the past week or so. We just want to emphasise that what is proposed for the governance of the Scottish police services authority would greatly distort the traditional tripartite arrangement for the governance of police bodies that goes back more than 100 years. That tripartite partnership involves central Government, local government and the chief constables. We think that the appointment by ministers of lay members—who will be in the majority on the authority, will not be elected, will have no professional expertise and will not be used to meeting in public or to the kind of accountability that a police authority is used to—will be bad for democracy. That is a serious constitutional issue that must be considered in more detail.

The Convener: Thank you for that. Just for the accuracy of the record, am I correct to say that you are still the convener of the Strathclyde joint police board?

Councillor McFadden: Yes.

Bill Butler: I have a brief point. Are you saying that COSLA is against lay members in principle?

Councillor McFadden: We are opposed to the authority having lay members, but we are certainly not opposed to its having lay advisers.

Bill Butler: So you are opposed to lay members in principle?

Councillor McFadden: Yes. We are against lay members with a vote.

Bill Butler: That is clear.

The Convener: As there are no other points that members wish to clarify, on behalf of the committee I thank all the members of the panel for joining us this afternoon. It has been extremely helpful to have the chance to speak to you directly. We are most grateful for the full submission that COSLA has given us, which has certainly assisted us in understanding where its areas of interest lie. I hope that the COSLA representatives have found it helpful to be able to comment further on their organisation's submission. I also thank Mrs Simpson and Mrs McAllister for joining us; I am not sure whether we have ever had representatives of community councils give evidence to us before.

Betty McAllister: It is about time that you did.

The Convener: It was my idea that we should do so. We might repeat the practice. Thank you for attending this afternoon.

I welcome the members of our next panel of witnesses. They are: James MacLean, who is the deputy grand master of the Grand Orange Lodge of Scotland; Dave Moxham, who is the assistant secretary of the Scottish Trades Union Congress; and Jim Slaven, who is the national organiser of Cairde na h'Eireann.

I know that you have been watching the previous proceedings, so you will have some idea of what the format of our discussion will be; indeed, some of our questions will be repeated, but that is because we are interested in getting the fullest canvas of views from various sectors of activity. I will ask questions of our witnesses in sequence—Mr MacLean, then Mr Moxham, then Mr Slaven.

We are anxious to establish what you think is wrong with the current situation and what you think are its strengths. Are there obvious weaknesses in the current system in relation to organising marches?

James MacLean (Grand Orange Lodge of Scotland): Yes. We feel that the scales are stacked against the organisers of marches and we have particular experiences of that in at least six

local authority areas in which we have been obliged to take legal proceedings to secure the right to freedom of peaceful procession. That process has been painful and expensive, but we undertook it because we feel that it is vital that such democratic rights be protected.

The Convener: That is clear. Could you identify any virtues of the current system?

James MacLean: Yes. There is nothing much wrong with the current situation. The fact that it has been abused by half a dozen rogue councils identifies an area of concern. However, our litigation was successful on each occasion, so there is a mechanism that can help the organisers of public processions achieve their democratic right to march.

The difficulty that we see was touched on by one of the representatives from the Convention of Scottish Local Authorities. In relation to some processions, we have given six months' notice of our intention to conduct a procession—in some cases, we have given 18 months' notice—but the council has procrastinated for an inordinate time and issued a prohibition order at two days' notice. It is extremely difficult to get into court and to brief a Queen's counsel within two days. The Civic Government (Scotland) Act 1982 provides a right of appeal to the Court of Session but, given the timescale, it is impossible to exercise that right. We have been fortunate until now, as we have invariably been successful in the sheriff court.

Improvements to the bill are called for. It is not right that some organisations should be exempt from the requirement to give notice of their intent to conduct a procession. There should be one democratic process for all.

The Convener: A point emerged earlier about situations in which smaller organisations want to march—COSLA's example was the brownies. Should no one be exempt?

James MacLean: Yes. One presumes that a brownies march, like a Salvation Army march or a Boys Brigade procession, still needs to be notified to the police, who would have to divert traffic to ensure the health and safety of the young participants. I cannot see a necessity to exempt such organisations from notifying their local authority. The present proposal gives rise to well-grounded fears that there would be bias in certain instances.

The Convener: I have a similar question for Mr Moxham. Are there weaknesses in the current system?

Dave Moxham (Scottish Trades Union Congress): In relation to the type of marches that our organisation and affiliated organisations tend to run, that is not the case. As one would expect,

minor irritations arise in negotiations over routes and timings, but our general view is that, where flexibility is adopted on both sides, organisation of marches is relatively trouble free.

The Convener: From that, I take it that your organisation's experience is reasonably positive.

Dave Moxham: I have to say that it is. As I said, from time to time, we have disagreements with authorities over specific routes. The aim of the public demonstrations that we organise is to be noticed by as large a percentage of the population and passers-by as possible. As long as that principle underlies our discussions and negotiations, we tend to find that there is no problem.

The Convener: Mr Slaven, at the risk of sounding repetitive, I ask you the same question. I want the committee to get a feel for what your organisations think about the current system, whether there is a pressing need for change and, if so, whether the bill will meet that need. What are the weaknesses or strengths in the present system?

Jim Slaven (Cairde na h'Eireann): The biggest weakness of the present system is that it is patchy. We want best practice to be adopted throughout the country so that every council and police force adopts the same set of rules. At present, that does not happen, so we can have good relations with one council that takes a flexible and sensible approach but, with another council, there is no input from elected representatives and the issues are just passed to the police, who can be unhelpful at times. We want one set of rules that applies to everyone throughout the country.

Bill Butler: What discussions do you have with local authorities, the police and other bodies about planned marches? How will the bill change that?

James MacLean: We have detailed discussions, primarily with the police. We negotiate directly with elected representatives in the local authority only in a few instances and generally only for larger marches; negotiations for small parades are normally carried out only with the local constabulary.

Bill Butler: Is that sufficient?

James MacLean: Yes. We organise hundreds of marches and very few problems are reported.

Bill Butler: How will the bill change the present situation, if at all?

James MacLean: The bill clearly envisages a greater role for local authorities than they have hitherto had. I do not necessarily accept that that is a bad thing, but nor do I accept that it is altogether necessary, given that we organise

hundreds of marches and very few problems are reported.

15:00

Bill Butler: How do you feel about the proposal for greater involvement of communities?

James MacLean: We view the proposal with deep suspicion. First, someone will have to provide an acceptable definition of what is a local community. We heard the evidence of Betty McAllister of Calton and Bridgeton community council, but community councils are not necessarily very representative of their communities. My wife is a former secretary of a community council, and the area that Betty McAllister is from has literally scores of Orange lodges, which are just as much a part of the local community in Bridgeton and Dalmarock as the community council.

We tend not—perhaps never—to hold marches in areas where we do not have members. We are an integral part of local communities. In many cases, we have members on the community councils. In other places, we do not have members on community councils; it can be as difficult to join community councils as it is to join the Labour Party in some places, because they are closed shops.

The Convener: I could not possibly comment.

James MacLean: I know that you could not be expected to comment, convener.

Bill Butler: I shall also refrain from commenting on that. Are you in principle against the proposal to involve the community, or do you simply view it with deep suspicion?

James MacLean: We view it with deep suspicion.

Bill Butler: Are you against it in principle, though?

James MacLean: No, we are not against it in principle, but there will have to be proper definition of terms. For example, if the annual Orange march goes through eight streets, does that mean that eight residents associations will suddenly form, all of them claiming to represent the community?

Bill Butler: Thank you for that.

Mr Moxham, do you want to respond to those questions?

Dave Moxham: In broad terms, our approach is to seek permission as soon as possible. That is in our interests, given that we would normally aim to advertise our march as widely as possible. Thereafter, we would check with the council as soon as possible whether there were any other key civic events taking place on that day, and we

would then hold discussions with the police about the march. As I indicated, that is generally a positive process for us.

To answer your general questions—I am sure that you will remind me if I miss any—we are in principle in favour of consultation of communities, although we accept that definitions might require some tweaking and that processes might need to be monitored to ensure that they are working as they should.

Bill Butler: Would other proposals in the bill change your usual consultation routine?

Dave Moxham: We are obviously concerned that the extension of notice from seven to 28 days should be dealt with sufficiently flexibly. As I said, in the majority of cases it is in our interests to give maximum notice and to derive maximum publicity. However, for marches on dates that cannot be predicted—such as a march to mark a factory closure or a world event such as a war—we are keen that maximum flexibility be shown in relation to the notice period. We appreciate that, in such situations, consultation of the community would be less than would be the case under the general provisions of the bill.

Jim Slaven: On Bill Butler's final question about whether the recommendations would change the way in which we operate, the answer is that they would not. We always give more than 28 days' notice: our calendar of events for 2006 is already complete, never mind our calendar for next month or next week. We were against the idea of extending the notice period, not because it would impact on us but because we feel that people have a right to respond as events occur. We do not necessarily think that councils or the police will be as flexible as they should be.

As for our experience of the current situation, like the Orange order, we often have to deal with the police rather than with elected representatives or officials but, unlike the Orange order, we are unhappy with that situation. We think that they are political decisions and that local elected politicians should take responsibility for them.

Bill Butler: Are you unhappy with having to deal with the police?

Jim Slaven: No, we are not unhappy about that at all. We recognise that the police have a role to play. However, it is unfair on the police to give them the responsibility to deal with organisers and to decide what is and is not acceptable. That is a job for the council; it is why people elect councillors.

Bill Butler: What about the proposed community involvement?

Jim Slaven: We embrace that absolutely; we proposed it in our written recommendations to

John Orr. We believe that march organisers have a responsibility to negotiate with host communities and to inform them fully about what they intend. *Cairde na h'Eireann* always involves the community—we always ensure that all businesses and communities are informed of our events, why we are having them and what the disruption will be. We accept that there will be disruption as a result of any events of such size.

Bill Butler: What would be your organisation's response if the community turned round and said, "Thanks very much for the consultation, but we don't want your march in our community"?

Jim Slaven: I accept that some republican marches are contentious; given the nature of politics, political marches will be contentious. The responsibility that we have is to enter into dialogue with the host communities in good faith. We have to try our best to convince them that we have the right to march, give the reasons why we want to march and tell them what efforts we are making to limit disruption. Banning marches is not the solution; neither is legislation. The problems are fundamentally political because they involve ethnicity, religion and identity. Ultimately, dialogue is the way in which to resolve the problems. We welcome the involvement of the community and we urge councillors to get involved in any discussions, because they do not do so at the moment.

Bill Butler: I am grateful to the gentlemen for their answers.

The Convener: I know that Carolyn Leckie was interested in the 28-day notice period, which I think Mr Slaven has dealt with to some extent.

Carolyn Leckie: I just want to explore the extension of the notice period. I appreciate that most organisations, depending on the events to which they are responding, give more notice because it is in their interests to do so. What concerns do you have about the factors that will be taken into account in that period if you want a council to waive the notice period? Is there any concern about prejudice? The earlier panel referred to G8 protests, which is a controversial subject.

The Convener: I will just interrupt you for a moment, Carolyn. We just want to get a straight answer to whether the 28-day notice period presents any of the witnesses with a problem.

James MacLean: No it does not. We already give much more notice than that.

Carolyn Leckie: I have a different question.

The Convener: I just wanted to clarify that point and to get it on the record.

James MacLean: The importance of the notice period has been overstressed. If everyone agrees that they already give more than seven days'

notice, why is there such a stress on the necessity to increase the notice period from seven days to 28 days? Will not that increase public expectation that the new notice period will reduce the number of marches? I have never quite been able to grasp why it is thought to be so important when everyone seems to give more than adequate notice. How many marches give only the bare minimum seven days notice? That has happened with almost none of my organisation's marches, as far as I am aware.

Carolyn Leckie: What happens in the notice period? Is there time to consider police resources for example? The earlier panel expressed concern that the size of a demonstration or procession might be a legitimate reason to withhold permission. I think that having 2 million people on the streets of London or 100,000 people on the streets of Glasgow protesting against the war in Iraq is a good thing. Do you have any democratic concerns about the ability to take into account the resource implications of the size of a demonstration?

Dave Moxham: Yes. I see that as being slightly separate from the 28-day or seven-day notice period discussion. Like my colleagues, I do not envisage that extension of the notice period will affect us much in practice. However, it would be a problem for us if there was any implication in the bill that just because a march was popular enough to attract 100,000 people—I was one of the organisers of the march to which Carolyn Leckie referred—permission could be withheld because of the resource implications. A march might just happen to be popular because it provided a service to the public and an opportunity to demonstrate. Indeed, it would be a problem for us if resource implications were not taken into account alongside the importance and general popularity of the event that was being organised.

James MacLean: We have a particular fear that this provision is designed as an attack on the Orange order. After all, people have referred to large demonstrations going through relatively small population centres in North and South Lanarkshire and West Lothian. It is a fact of life that in those areas we count our members in thousands. We are not importing people from the planet Mars; they are local people who are foregathering to participate in a demonstration that is just as important to its participants, supporters and spectators as was Mr Moxham's march against the war on Iraq.

Carolyn Leckie: In your submission, you suggest that local authorities should be obliged to respond within 14 days with a decision about a demonstration. Do you have anything to say about the response that COSLA made on the proposal earlier in the meeting?

James MacLean: The COSLA witnesses seemed to think that our suggestion would pose massive problems. However, the organisers of an Orange order march would certainly face a massive problem if they were to get only 48 hours' notice of a prohibition. We usually give about 12 months' notice for major events, but even eight, nine or 10 months' notice should be sufficient time for the council to respond. Moreover, there should be an onus on the statutory authorities to respond within a reasonable time. I accept that 14 days' notice might not be reasonable, but we frequently find ourselves in direct negotiations with the statutory authorities only two weeks, a week or even days before an event that we had given notification of 12 months previously, which is a gross inconvenience. We are also greatly concerned about the proposed strengthening of statutory authorities' rights to veto a march simply because of its large size.

Carolyn Leckie: I wonder whether Dave Moxham was involved in the discussions with Perth and Kinross Council over the Gleneagles demonstration, which degenerated into a bit of a debacle with the granting then withdrawal of permission right up to the wire.

Dave Moxham: I was not directly involved in those discussions, although I am happy to make a couple of observations on the matter.

Negotiations over whether a march should take place should take some account of the march's objective. In this example, it was quite clear that one of its objectives was to ensure that the participants in the G8 summit would have as close a view of the march as possible. We consider it legitimate to take such considerations into account in deciding whether permission should be granted.

We felt that the trades union movement's participation in that demonstration was limited, because we were unable to understand in time whether the process was legitimate or illegitimate; after all, permissions had not been granted, which was a problem for us. We also felt that the situation was relatively unusual, so it is probably difficult to draw absolute conclusions from the way in which the event was organised.

Cathie Craigie: The bill stipulates that a council will have 28 days to deal with an application, with exemptions for unique events. Dave Moxham said that, in that regard, he was reasonably happy with the bill. Does the bill contain enough flexibility to allow STUC members to demonstrate if anything unexpected should arise?

Dave Moxham: We would like those provisions to be worded carefully. One example that we highlight in our evidence—and which has been carried into Sir John Orr's report—relates to a

situation in which organisations might have to give perhaps four days' notice to hold on a Saturday a demonstration over a factory closure.

15:15

A more difficult situation to deal with is something like the Timex dispute in Dundee, which happened when I was very young. In that industrial dispute, things were happening as a result of day-by-day discussions. However, the talks broke down at a very important juncture. Our interpretation would be that the breakdown of the talks would be a new event. However, that could be interpreted as being part of the overall event, in relation to which a long period of notice could apply. It is important that a flexible attitude be taken in respect of what constitutes an immediate event. We are relatively confident that that could be worked through as part of an honest and straightforward discourse between local government and organisers, but we would want to be clear that that was the aim of the bill.

The Convener: How far in advance of planned marches do you normally get notification of a local authority's decision? Mr MacLean has dealt with that in relation to his organisation. What is your experience, Mr Moxham?

Dave Moxham: In most cases, we are almost immediately given verbal assurance that things are probably going to be all right, with a caveat that the local authority will get back to us. I would have to say that I have not experienced an inordinate delay in the time that it takes for a council to get back to us.

The Convener: Mr Slaven explained that his organisation's marches are known about well in advance because its calendar is well established. How much notice do you get of the local authority's decision?

Jim Slaven: The situation is patchy. Last month, we had a march in Ayr against anti-Irish racism and sectarianism. We gave eight weeks' notice, but did not find out that the march could go ahead until the Friday afternoon before the march—we did not even get two days' notice. We got that verbal assurance from the council's solicitor only after the police had chased them up with questions relating to police resources. Again, no elected representative was involved; the matter was passed to the solicitors and the police. That situation is totally unacceptable.

Bill Butler: As you know, section 67(8) sets out various considerations that local authorities should take into account when making decisions about proposed marches, such as "public safety", "public order",

"disruption of the life of the community"

and excessive burden on the police. Does the bill highlight the right factors or should any factors be added or changed?

James MacLean: Again, we need a definition of the terms. Who is to define

"disruption of the life of the community"?

Further, the bill would have to include something about who had caused the disruption. It might be proper to have a long, hard look at the viability of a procession if there were a history of the processionalists themselves disrupting the life of the community. However, in some cases, the disruption can come from persons opposed to the event. Would that be held against the organisers of a procession? In some cases, disruption can come from others who might consider themselves, in some grotesque way, supporters of the event but who are not part of the demonstration. Evidence—perhaps exaggerated—has been given that such people can cause mayhem in the community. Should that be held against the organisers of the parade? We would say that it should not, because the responsibilities of the organisers of any procession are clearly restricted to the processionalists, and they have no authority—other than, perhaps, a moral one—over people who might, however outrageously, consider themselves supporters.

Dave Moxham: We have limited concerns about the issue of responsibility for onlookers—I think that that is the terminology that Sir John Orr uses throughout his report. Our marches tend to be public and we hope that people join them. Our instructions to our stewards would be to dissuade people from walking alongside the march in support and to encourage them either to join the body of the march or to pass on by. We have had discussions with the police about that in-between category, which can cause some difficulties. In general, though, because we are more likely to be saying "Come and join us" than anything else, we tend not to have a problem with what one might call supportive onlookers. Therefore, we do not see that the issue of adopting any further responsibility for the activities of onlookers particularly applies to us. The only exception would be the St Andrew's day march against racism and fascism, on which we worked with the police to obviate the possibility of a counter-demonstration. Both sides worked well together. Again, while we were not prepared to take any responsibility for the activities of organised fascists, we were prepared to enter into a proactive and lengthy dialogue with the police to identify how difficulties might be avoided.

Jim Slaven: This is perhaps one of the areas to which we take a different approach. We accept that our marches cause disruption; any event attended by thousands of people will cause

disruption. We want to lessen that, which we do through dialogue with businesses, communities, the police and local authorities.

As for the issue of followers or onlookers, again, we take a different approach, as we believe that they are the responsibility of the march organisers. If people are out on the sidelines at our marches, whether or not they are supportive, they are our responsibility because they would not be there if we had not put in an application to have that procession. We have an on-going process in which we work with our stewards to get anyone on the sidelines who is supportive on to the march. In some areas that works fine. In Glasgow, it is a bit of a culture shock, and the police have been quite resistant to it because they have traditionally viewed marches as being bands and parades, with people standing on the sidelines watching. We are trying to shift that, so that people participate in the march as they do in other political marches.

Bill Butler: How successful has your organisation been in encouraging onlookers to join in?

Jim Slaven: Very successful. In the past two years we have had no problem with onlookers and there have been no complaints about our marches. Initially, the police were a bit hesitant, but we have explained to them that it is in everyone's interests if people join the march. Our stewards can then control the march and we are fully accountable. Any other way means passing the buck to the police and is just unhelpful.

Bill Butler: I hear that loud and clear—thank you.

Mr Maxwell: I have a supplementary question for James MacLean. The evidence from the Orange lodge talks about your great concern about

“the right to impose conditions or refuse an application if there had been any breaches of conduct by anyone taking part in a previous parade.”

The submission goes on to say, as an example, that you hire in all the bands for the parades. However, surely if a band has been directly involved in a breach of conduct, the onus is on you not to hire that band. If you want to hire bands that have been linked to trouble in the past, surely the local authority has a right to impose conditions on the march.

James MacLean: I think that you have misunderstood what we said. We have our own disciplinary code, and if a band breaches either local authority conditions or conducts itself in a way that would discredit the Orange order, that band stays in the house for the next march. We have a long history of taking that approach. A number of marches under the loyalist umbrella are in no way accountable to the Loyal Orange

Institution of Scotland, and we are not responsible for them. We are greatly concerned that, whether through misconception or whatever, there might be an attempt to attribute the sins of a previous march to the Orange order.

Mr Maxwell: I may have misunderstood your evidence, but you seemed to be saying that if a band that has taken part in an apprentice boys or loyalist band parade has misbehaved, it should be penalised. That is fair enough, but you appear to go on to say that you have the right to hire those bands, and that such misbehaviour should have no effect on you.

James MacLean: A penalty would be appropriate if the band had been the cause of the problem. If there had simply been a disturbance at a march organised by the Apprentice Boys of Derry, the Royal Black Preceptory or the loyalist band alliance, that is not in our direct sphere of responsibility.

Mr Maxwell: I accept that.

James MacLean: There may be an overlapping of membership between some of those other organisations and the Orange order, but that does not make the Orange order directly responsible for other events.

Mr Maxwell: I will move on now, if I may, convenor.

You spoke earlier about the bill seeking to remove the ability of local authorities to exempt particular march organisers from the notification requirements. I think that you were clear in saying that you did not agree with such exemptions. As I understand it, you think that all march organisers should be under the same obligation. Is that correct?

James MacLean: Yes. There is a degree of discrimination in the current process, which favours organisations such as the brownies and the Salvation Army—perhaps even the STUC. Such organisations are deemed to be okay; they are thought to accord with the norms. Organisations such as the Orange order and the bodies that are in amity with it do not have that privilege. We feel that that is wrong.

Mr Maxwell: I am slightly taken aback by that and by what you say in your submission—that “all organisations” should be under the same obligation. Are you really saying that parades of the local brownies, the Boys Brigade, the Girls Brigade, the scouts or the Salvation Army from the church hall to the church and back should be treated in the same way as marches by the three organisations represented at committee today?

James MacLean: Yes, but many—

Mr Maxwell: If I may, I will finish the point. Do you not accept that your proposal would add a completely unnecessary layer of bureaucracy, with all the additional resources that that would require? Frankly, a group of 20 seven-year-old girls in brownie uniforms going up and down a street does not pose that much of a public disorder problem.

James MacLean: No, but similarly, Orange lodges across west central Scotland regularly pass from the Orange lodge to the church on the Sunday before the 12th of July. Are you proposing that they should also be the subject of an exemption?

Mr Maxwell: I am asking you whether you can see the difference between your organisation's marches and those that I have mentioned.

James MacLean: I see absolutely no difference.

Mr Maxwell: Okay. Mr Moxham, do you hold the same opinion?

Dave Moxham: Yes. Uncomfortable though I am with having my organisation compared with the brownies, I accept that the STUC sits somewhere in the middle of the spectrum that you have described in teasing out the issue. In the past, the STUC has benefited from a number of exemptions from a number of local authorities. To some extent, the exemptions are a recognition that we have organised enough marches that have not led to trouble, community protest or inconvenience. Therefore, we are likely to benefit to an extent from such exemptions. We would not cling desperately to that advantage, although it would be helpful if it were to continue.

As I said, the STUC is somewhere in the middle of the spectrum. Although we do not have a history of difficulties with communities or local authorities, we organise marches that at least have the capacity to upset a certain section of the population. However, if we put the STUC to one side, I would not have a problem with certain organisations being granted an exemption. In the example that you cited, an exemption would be absolutely justified. If the provision can be shown to be fair in its application and to save costs in its effect, we would not have a principled objection to it.

Jim Slaven: The principle that should be applied must be that of equality. We would be in favour of having a rule that applied to everyone—although I do not want to be blamed for disrupting the brownies.

Clearly, we accept that there are differences in the nature of certain marches, but the list of exemptions runs into the hundreds. We did not even know that there were exemptions; in all our years of organising marches, we never knew that

we could get one. The response that anyone would give on hearing Stewart Maxwell's example would be, "Fair enough—it's a few brownies." It is clear that they are not the only group to get an exemption, however. The principle should be that of equality.

Mr Maxwell: Does not the flexibility of local authorities speed up the process? Surely that allows authorities to concentrate on the marches or demonstrations that may be contentious—in whoever's eyes, whether they are a member of the local community or have a different political perspective. It is not really very helpful to pin down the local authorities absolutely and give them no flexibility or room to manoeuvre.

15:30

Jim Slaven: The focus on marches has largely been on march organisers, which is understandable. Our organisation should be rigorous and accountable for what we do. We do not have a problem with that. However, people who deal with local authorities across the country when trying to organise marches and parades have no faith at all in how they do things. We need one system across the country that everyone can understand and we need each council to have a single gateway that people can go to. If we could have faith in the process, perhaps we could then discuss exemptions. At the moment, any faith would be abused.

Cathie Craigie: Mr Slaven has taken us on to the point that I want to raise. Does the bill strike the right balance between providing a national framework and allowing flexibility locally for local authorities to have discretion to deal with local circumstances? Does the bill reflect Sir John Orr's recommendations?

James MacLean: We were never convinced that there was an overwhelming need for legislative change. After all, the Orange order is probably the largest organiser of marches in Scotland. We have been organising marches for 200 years without any long history of public disorder—if that were not the case, legislation would have been called for long before now. We do not have too many qualms about the bill. We have sent our written representations to you and I do not think there is any point in my going over them again. I have articulated our other concerns over the right to peaceful public assembly, which is guaranteed by the ECHR. It is interesting to note that, prior to the incorporation of the ECHR into Scottish law, we did not apparently have a guaranteed right to freedom of assembly, which we believe should be paramount.

Dave Moxham: Broadly, we would say that the bill reflects the aim of Sir John Orr's report, which

we are in favour of generally. I hope that I have been relatively clear about the notice period and the responsibilities that are placed on organisers. Some tightening of wording would make it easier for us to have no concerns at all about the effect that the bill's provisions would have on democratic assembly. Generally, we support the bill, with the couple of caveats that I have mentioned.

Jim Slaven: We certainly welcome the recommendations in John Orr's report. However, we doubt whether the proposed legislative changes are necessary. We stated that in our written submission to John Orr. We do not think that the bill would dramatically change conditions on the ground for our organisation, other organisations or, indeed, communities. The problem is that the issue of marches and parades, particularly in relation to Orange and republican parades, is tied up with the whole question of anti-Irish racism and sectarianism, which the First Minister highlighted last year. We need to see movement on those issues if we are going to change circumstances on the ground in the areas in which we have problems with marches. Legislation will not do that. Like the other panellists, I do not have any major hang-ups about the proposed changes, because I do not think that they will make any difference to us.

The Convener: Thank you for that. Do members have further questions?

Carolyn Leckie: I want to expand a bit on the issue of onlookers.

The Convener: As we are pushed for time, could you deal with it swiftly?

Carolyn Leckie: Yes.

The Convener: On you go.

Carolyn Leckie: My question is about onlookers and the different approaches to responsibility. It is fair to point out that there is a difference between membership parades and those that are open to other people, which causes different circumstances to arise for different people. Mr MacLean, are you saying that the people who are onlookers are strangers to the people on the marches? Do you accept any responsibility for onlookers? What proposals do you have in that area?

James MacLean: The answer to your first question is yes. Large numbers of people frequently turn up to support—in inverted commas—Orange order marches, particularly in Glasgow but also in other places. However, we do not know those people, and they are not financially contributing members of our organisation. We think that there are adequate powers in the Public Order Act 1986 and related legislation to enable the police to deal with those folk if they are

causing the kind of disruption that the lady from the community council mentioned earlier.

However, it is completely out of the question to expect stewards at an Orange order march suddenly to direct their attention to the activities of non-members on pavements; indeed, for them to do so would be ultra vires, or beyond their powers. In the past, we have been reminded by the City of Edinburgh Council in particular that our stewards' powers are confined to dealing with people who are taking part in the event. All our marches are membership-only marches, and if we say that there will be 1,200 participants, we can normally guarantee that that number will not be exceeded, which is an advantage. There could not possibly be such a guarantee if every member of the public who thought that they sympathised with the cause was invited to participate. To be fair, we would not want many of the people on the pavements to become members of our organisation.

The Convener: As the other witnesses do not wish to make any further comments, on behalf of the committee I thank Mr MacLean, Mr Moxham and Mr Slaven very much for joining us. The meeting has been an invaluable opportunity for the witnesses to expand on their submissions and for members to elicit views directly from them, and we greatly appreciate their co-operation in appearing before us.

We will now have a comfort break. I have ascertained that the facilities are around two and a half miles away, so a 15-minute comfort break has been suggested. I suggest that the meeting should reconvene at 10 to 4.

15:37

Meeting suspended.

15:50

On resuming—

The Convener: I welcome our third panel of witnesses. They are Chief Superintendent Kenny Scott, Mr Iain Blair and Chief Su—I am sorry; the third panel member is Willie McDougall. I almost forgot Mr McDougall's retirement and gave him a rank that he perhaps once possessed.

Willie McDougall (Scottish Football Association): That was 12 years ago.

The Convener: Willie McDougall is the security adviser to the Scottish Football Association; Iain Blair is operations director and company secretary of the Scottish Premier League; and Chief Superintendent Kenny Scott is very much an active officer in Strathclyde police. We are very pleased to have you with us this afternoon, gentlemen.

You will probably have a feel for the areas that the committee is anxious to consider. It would help the committee if we could get a general preamble from each of you on the steps that your organisations have been taking to try to reduce football-related violence and disorder at grounds.

Chief Superintendent Kenny Scott (Strathclyde Police): The police have a clear role under the criminal law to enforce the existing common-law and legislative provisions. We seek to enforce that law for every match that takes place, particularly international, European and SPL matches. Another, perhaps equally important, aspect to the policing of football matches is public safety. Any police operation for a football match has a dual function: to ensure public safety and to take into account the need to enforce the criminal law.

You ask what steps we have been taking to enforce the law and to deal with football-related violence. The situation is very much on-going and developing. Where we see deficits, we seek to draw them to the attention of others who are in a position to bring measures into place to remedy them. We have been one of the prime movers in bringing football banning orders to the fore. As a result of my personal experience over the past five years, when events resulted in the introduction of banning orders in England and Wales, I have lobbied within the Association of Chief Police Officers in Scotland and the police service for the introduction of banning orders in Scotland.

The Convener: I wish to clarify a technical point. If you are the commanding officer at a fixture, am I correct in saying that yours is the role of match officer?

Chief Superintendent Scott: The term “match commander” is ascribed to the person who is in charge of a large football match. However, that is just nomenclature and the more correct term would be “incident officer”. Ibrox stadium and Hampden park have capacities of approximately 50,000 and Celtic park has a capacity of around 60,000, therefore the senior police officers who are in charge of matches at those grounds are dealing with controlled major incidents. Their objectives are to get a large capacity crowd into the stadium, to ensure that the crowd witnesses the event in comfort and safety and to have that crowd safely egress from the stadium, while minimising the impact on the local community. We might be known as the police commander or match commander, but the term “senior incident officer” would be more accurate.

Iain Blair (Scottish Premier League): Since the SPL came into existence in 1998, we have sought to improve the experience of watching the top level of football in Scotland. The clubs have invested in their stadia and facilities, which are

designed to provide the safe and secure environment that Chief Superintendent Scott has just spoken of. We wish not only to attract the traditional football fan, but to extend that audience—we want more women, more children, and indeed more families, to come along to matches. That can be achieved only if bad behaviour is tackled, and we support activities in that direction.

Football banning orders would provide a new approach, which we have discussed with ACPOS, and we fully support their introduction. We have done quite a bit of work on the matter. We meet ACPOS and the Football Safety Officers Association Scotland regularly. With Willie McDougall and the SFA, we have developed and adapted ground regulations that are on display at all our grounds. The regulations make it clear that bad behaviour of any description will simply not be accepted, and provide the authority for action to be taken if such behaviour occurs. We are fully behind the proposals in the bill.

The Convener: That is helpful.

Willie McDougall: I have been in post at the Scottish Football Association for the past 11 and a half years. During that time, and as a result of the new “Guide to Safety at Sports Grounds”, clubs have taken on responsibility for their actions regarding safety and when the police are called in to deal with public disorder. The Football Safety Officers Association was also formed during that time.

I have been involved in two European championships. I took Scottish supporters to England for Euro 96 and to France in 1998 when we qualified for the world cup. I was involved with the Union of European Football Associations last year during the 2004 championships in Lisbon. The Scottish Football Association welcomes the football banning orders, which will allow us to exercise more control. Questions will be asked—people will say, “We’re not England, do we need the orders in Scotland?”—but the facility to ban bad guys from travelling to or attending a football match is a good thing for the game. If the police were to administer the orders, that would be an ideal solution. The police would not overreact and only a small number of people would be banned from attending matches. That would be a good thing and it would send the right message, as well as addressing sectarian issues.

Bill Butler: From what you have said and from your written evidence, it seems that all your organisations fully support the introduction of FBOs in Scotland. Will you say a bit more about the ways in which you think the introduction of FBOs will help you to combat football-related violence and disorder?

Chief Superintendent Scott: I am often asked whether football hooliganism is increasing or decreasing in Scotland. As a result of the fluid nature of the topic, I cannot answer that question accurately. Although I do not know whether hooliganism is increasing or decreasing, I know that it is there. There are people who have been associated with organised disorder at football matches in Scotland for in excess of 10 years. I suggest subjectively that we are witnessing the emergence of a second generation of football hooligans. A younger generation of people who are still in their teens and early twenties associate with that first generation of football hooligans.

Banning orders will be of assistance in reducing the problem from its current level, whatever that is. When people are arrested for, and convicted of, offences that come under the ambit of the bill, the courts will be able to enforce a banning order for the relevant period, depending on the offence. The knock-on effect is that people who have been convicted by a court and who have been proved guilty of an offence beyond reasonable doubt will be banned for a period of three, five or 10 years.

That will have a positive impact on the enjoyment of other people who go to football matches; it will also have a positive impact on people who are going about their normal and lawful business in our city centres on days when football matches are taking place. The additional measures that sheriffs can impose can exclude people from city centres or other locations where football violence has been known to take place. In city centres, innocent people have been caught up in violent disorder that they have no truck with. If football banning orders can go some way towards reducing that, I will welcome them.

16:00

People who are not at the centre of disorder and who do not attract convictions, but who are always on the periphery, could be dealt with by the police through intelligence gathering and through banning orders that are imposed on summary application. I reinforce what Mr McDougall said: we are not talking about a huge amount of people, but we are talking about people who can influence others. "Cunning" is not too strong a term for the people who orchestrate football violence, many of whom go undetected for a long period. If we can build up a picture of regular connection with violence—even if there is no conviction—it would be appropriate for us not to make the decision but to take our evidence to the courts and to allow the courts to decide independently whether to issue a banning order. That would make the streets of city centres safer for normal law-abiding citizens when football matches are on.

The Convener: In section 47 of the bill, is the definition of the circumstances that would justify an application for a banning order wide enough for your purposes?

Chief Superintendent Scott: Yes. A great deal of consultation was done on the definition and I consider it sufficiently wide.

Iain Blair: We must acknowledge what the clubs have been doing—Willie McDougall spoke about that. When people who regularly attend home matches have been identified as troublemakers, clubs have been taking action to try to ensure that those people are no longer able to attend regularly. Season tickets help with such action. However, it is much more difficult to deal with travelling fans, over whom the clubs do not have the same control. We feel that the banning orders could be especially helpful in that regard.

Willie McDougall: The clubs, the national team and the Scotland supporters club have run campaigns on good behaviour and have taken responsibility.

We know from intelligence gathering in Scotland that, in 1998, 52 guys from here went to disrupt the world cup in France. They went on a Thomson holiday to Spain and then headed up into France. If we had had banning orders, their plans would never have got off the ground. On the day of the game in Bordeaux, we had difficulty in ensuring that those people were escorted out.

Things look good and generally the behaviour is great, but the problem is there. I talk for the tartan army. We go round the world and people say we are great supporters. We are great supporters, but there is always that wee element that would disrupt if it was allowed to.

Mr Maxwell: I was interested in Chief Superintendent Scott's comments about the possibility of people who have not been convicted of violent offences still being given a football banning order because they have contributed in some way to violence. Are you talking about people who egg others on, or who use insulting words, behaviour or gestures? Or is it wider than that? You touched on the issue of the organisers of violence; will you expand on your comments?

Chief Superintendent Scott: Experience in England and Wales with clubs that have had serious difficulties with such individuals has shown that collecting sufficient evidence to persuade a court to grant a banning order is a long and arduous task. A person's behaviour may be legally put under surveillance and scrutinised for months or even years. Each small piece of evidence, although perhaps not important by itself, will accumulate and point to a pattern of behaviour by the individual. That is similar to the Moorov doctrine in criminal law, in that one examines a set

of similar acts over a period of time and the character and circumstances of those acts point to a course of conduct by the person who is the subject of one's investigation.

I cannot put together a definitive answer regarding the type of behaviour, but you will note that the bill allows the use of video recording. I refer again to the experience south of the border, where video evidence is used intensively in civil applications.

Mr Maxwell: Do Mr Blair and Mr McDougall agree with that analysis?

Iain Blair: Yes. The authorities must have an opportunity to build and present their case. If that case is well built and made, the application for a banning order will be successful. If the case is not well made, the application will not be successful. However, if there was no such avenue, the potential would be weaker.

Willie McDougall: I agree.

Mr Maxwell: If someone has not been convicted of anything, does any of you think that the restrictions on personal liberty that would result from such a banning order are disproportionate? I presume that you do not agree with that.

Chief Superintendent Scott: The freedom of the individual and the European convention on human rights must be at the front of our minds when we deal with such cases. The police and the authorities will only present the evidence. The safeguard is that cases have to go before the courts.

Often, people who engage in violence and associate with football clubs do not attend football matches. They have no real connection with the clubs that they purport to support, but simply frequent pubs and bars in city centres on match days. It is difficult to tie in those people to the football. That is what necessitates the lengthy process of evidence gathering, during which we link together the evidence that points towards involvement with football. The same people go abroad not to go to football matches, but to resort to city centres. I was in France in 1998 and I have been in Portugal, Belgium and Holland. I was in Charleroi when the English supporters fought the German supporters. Many people who were involved in that—and who are now the subject of banning orders—did not go to a single game in Euro 2000 but they became a national disgrace and almost resulted in England being banned from the championship.

All that we are asking for are powers that will allow us to prevent people who are likely to engage in problematic behaviour from travelling to matches in this country and abroad.

Mr Maxwell: There is no disagreement from the other witnesses. That was a comprehensive answer.

Willie McDougall: I agree with what Chief Superintendent Scott says. The number of such people is small and it is for the court to consider the evidence that is given and to make its decision.

Cathie Craigie: My question follows on from Stewart Maxwell's questions. Section 48 empowers the police to make summary application to the sheriff court for a football banning order, but it does not contain a link to the football match. Does that weaken the bill? Should there be such a link or does the bill give you the powers and the remit that you need to gather intelligence and take cases to court?

Chief Superintendent Scott: The fact that the provisions in section 48 do not mention football matches directly should not be considered in isolation. The provisions should be considered holistically, because they are a package that is designed to cover every eventuality associated with that microcosm of society that is the football supporter. I do not think that there is any deficiency in the bill. Section 48 will allow the police to address the issue quite comprehensively, but I take particular account of Mr Maxwell's point about the need to ensure the liberties of the individual.

In support of Mr McDougall's point, I emphasise that we are dealing with a relatively small number of supporters, particularly when it comes to the Scottish national team. A slightly larger number is associated with some of the Scottish clubs who might travel to Europe, and there is an increasing number that supports clubs domestically. In summary, I would say that the provisions of section 48 are adequate for their purpose.

The Convener: Mr McDougall, do you have the same view?

Willie McDougall: I am talking about a smaller number of football-related incidents. During Euro 96, we had 80 guys running around Piccadilly during the game between Scotland and England. They were not at the game, but they were a thorn in the flesh of the Metropolitan police and they caused a lot of hassle. Those 80 guys could have been dealt with under the provisions in the bill.

The Convener: The banning orders will be for three, five and 10 years. One question in the committee's mind was whether we need to have fixed periods of time. Could we not just leave it to the sheriff to use his discretion and to work out a suitable period for a ban? Would you prefer there to be fixed periods?

Chief Superintendent Scott: The fixed periods, as set out in the bill, are fine. For a banning order on summary application, the term is three years; for a banning order on conviction, the term is five years; and for a banning order on conviction with a prison sentence, the term is 10 years. There are adequate safeguards whereby the length of the ban can be changed where appropriate. The individual has the right to apply for a termination or variation of the banning order. After two thirds of the ban have elapsed, the individual can apply to the court for the ban to be terminated.

Iain Blair: The specific terms of the bans will help us to maintain consistency of treatment from case to case. Without that consistency, the credibility of the provisions would be challenged. I support the standard terms.

Willie McDougall: I agree with that.

Bill Butler: Do you think that additional conditions should be imposed under an order? For example, should people be required to undergo alcohol or drug treatment or to attend courses that are aimed at changing their behaviour? Would that be feasible?

Chief Superintendent Scott: Yes. There would be a great opportunity for the court to consider each case on its merits. There will be factors that have influenced the behaviour of individuals who are made the subject of banning orders, so any conditions that the court believes to be appropriate to that individual's circumstances would be welcomed.

Iain Blair: If there are ways in which we can help individuals to improve their behaviour and to rebuild and reconstruct, rather than simply imposing sanctions on them, that would be to their benefit and to the benefit of the community. We should not miss that opportunity, which is part of a humane society.

Willie McDougall: This is not for the record, but I would have difficulty in that regard with the tartan army. *[Laughter.]*

Bill Butler: I am afraid that everything goes on the record, Mr McDougall.

Willie McDougall: If an individual had a certain problem and the banning order could stipulate an improvement in their behaviour, that could be an ideal opportunity for rehabilitation.

16:15

Mr Maxwell: It seems to me that the failure to comply with the requirements of a football banning order is an absolute offence. Do you think that that is reasonable? Should the bill provide for a defence of reasonable excuse? That would be quite normal.

Chief Superintendent Scott: Can you define the circumstances for such a defence?

Mr Maxwell: A defence of reasonable excuse would be that someone could not comply with the order because they were in hospital, or for some other reason. That sort of defence does not appear in the bill.

Chief Superintendent Scott: I can relate that to the situation that pertains in England and Wales, where some banning orders exclude people from city centres. It has been brought to my attention that, on occasion, people who are subject to such orders are seen out shopping with their wives on a Saturday. The power of discretion is vested in every police officer, and it would be remiss of an officer to enforce the order in such circumstances. However, that does not detract from the fact that the bill makes it an absolute offence.

I do not know what type of provisions you would build into the bill for reasonable excuse. I would welcome the opportunity for officers to be able to exercise that discretion legally. However, would we apply a subjective or objective test to ascertain what constituted a reasonable excuse? That would be my difficulty with that.

Mr Maxwell: As I am sure that you are aware, reasonable excuse is quite a common defence in legislation. Surely it would be more reasonable to include that in the bill than to leave it to the discretion of police officers. I am sure that officers would use their discretion wisely, but there is an obvious problem. If a defence of reasonable excuse was included in the bill, the officer would do his duty and—

Chief Superintendent Scott: It would be for the court to decide.

Mr Maxwell: In effect, yes.

Chief Superintendent Scott: I have no difficulty with that. I return to your earlier point. We are not looking for some draconian measure that restricts people's civil liberties unnecessarily. Whatever safeguards need to be built into the bill to ensure that people are not deprived unnecessarily of their liberty or their enjoyment are welcome.

Iain Blair: I am comfortable with the defence of reasonable excuse.

Willie McDougall: If the person does not adhere to the conditions, the courts can take the matter further thereafter.

Mr Maxwell: I have a supplementary question on section 47, which was discussed earlier. Mr McDougall used the phrase "football-related incidents". It seems to me that the periods of 24 hours before and after football matches—in which certain offences must be committed to qualify as relevant—would negate the point that was made

about the offences being football related. The game might take place on a Saturday, but somebody could be involved in football-related violence during the week, when there are no games—someone in a pub could be fighting with opposition supporters or getting involved in any kind of activity that you might observe during surveillance of somebody who has not yet committed an offence. Therefore, is it not reasonable that the football-related aspect should not be restricted by the 24-hour periods?

Chief Superintendent Scott: Some limitation and parameters must be applied, and the provision mirrors the periods that have worked reasonably well—with reasonable success and little objection—in England and Wales. I consider the provision to be reasonable, workable and feasible.

Mr Maxwell: I accept what you are saying and I understand that the 24-hour periods have worked in England and Wales, where they have been used. However, I am thinking of somebody getting involved, outwith the 24-hour periods, in violent behaviour that can clearly be established as football related. Would it not be reasonable for a court to use that in evidence and also to impose a football banning order in that case?

Chief Superintendent Scott: You are absolutely right. I do not have the bill in front of me, but I know that it allows a court to take account of behaviour that is not football related. Violent behaviour on the part of an individual can be taken into account.

My understanding is that the event should be taken into account if it happens within a 24-hour period. A person's prior behaviour can still be considered when a banning order is being applied for, although it may not be specifically related to that event.

Mr Maxwell: According to the note from the Scottish Parliament information centre,

“certain offences must be committed to qualify as relevant offences”

within that timeframe. Perhaps we need to look at that.

The Convener: A technical issue is involved. I think that Mr Maxwell's point—I was looking at it, too—is whether the window is too narrow for the bill to work effectively. I imagine that people may depart more than 24 hours in advance of a match when they set off for international fixtures.

Willie McDougall: The provision accommodates the travelling support. If people follow a campaign or go to see their team play in Europe, they are there 24 hours before the match. Everyone could be brought into the frame.

The Convener: I do not wish to put any of you on the spot, but would you welcome our looking further at that area with the minister?

Willie McDougall: I would suggest that it is very much a police issue.

Chief Superintendent Scott: The 24-hour period has been mentioned, but section 47(6)(b) says that an offence relates to a football match if it is committed

“on a journey to or from the match”

The Convener: It is unspecific in time.

Chief Superintendent Scott: Yes. Section 47(6)(c) states:

“otherwise, where it appears to the court from all the circumstances that the offence is motivated (wholly or partly) by the match.”

That is what I was alluding to.

The Convener: It is helpful that that area has been identified and the committee might want to ask the minister to specify on it. Your evidence makes it clear that you would expect, under that slightly more loosely phrased section, to be able to deal with non-24-hour parameters.

Chief Superintendent Scott: That is right.

The Convener: Thank you.

Do members have any more questions? Carolyn, is it very tight?

Carolyn Leckie: It is in relation—

The Convener: No. Is it very tight?

Carolyn Leckie: It is very tight.

The Convener: Will you phrase it very tightly?

Carolyn Leckie: I will.

I did not have a planned question, but I have a technical question about the definition of conduct that falls short of violence but which might lead to a football banning order. I am a wee bit concerned about that. Iain Blair spoke about encouraging more women to go to football matches. However, a culture of sexism is associated with football and there are sexist attitudes. Would repeated sexist behaviour be covered by the definition in the bill? Could somebody be subject to a banning order on that ground?

Chief Superintendent Scott: Only if the offence was covered by the definition of disorder. Section 52(5), which lists the things that are referred to in section 52(3)(a), includes “sexual orientation”.

Carolyn Leckie: That is not gender.

Chief Superintendent Scott: I understand that.

Carolyn Leckie: The list includes transgender identity, but it does not include gender.

Chief Superintendent Scott: The points that you make—

Carolyn Leckie: I am concerned in the context of the overall erosion of civil liberties. I am concerned about the definition. Who judges the definition? How is it defined? I would like to see sexism being tackled in football, but it has been omitted from the bill.

Chief Superintendent Scott: I do not have the answer to that question.

The Convener: The issue that Carolyn Leckie raises is now on the record, and it is for the committee to decide how to take the matter further with the minister. It is she whom we will have to interrogate on the bill on the back of the evidence that we have heard.

On behalf of the committee, I thank all our witnesses. I am sorry that you were delayed in coming before us because of the need for the comfort break, but our concentration was more co-ordinated than it might otherwise have been.

I also thank Chief Inspector Scott, on behalf of the committee, for the very capable way in which he looked after Stewart Maxwell, Bill Butler, our clerk Anne Peat and me when we visited the old firm match last Wednesday. We appreciated that experience very much; we all found it invaluable. We were personally very grateful to you for your help. A letter of thanks to you is in preparation, but I did not want to let the opportunity pass without thanking you personally.

Chief Superintendent Scott: Thank you very much. Your visit was one of the more pleasurable experiences of the evening.

The Convener: We now move on to the final panel of witnesses. On behalf of the committee, I welcome Tony Higgins of the Scottish Professional Footballers Association, James Proctor, a caseworker with Supporters Direct in Scotland, and Kenneth Elder, from the executive committee of the Scottish Federation of Football Supporters. We are pleased to have you with us. I am sorry that you have had a long wait. It has been a long afternoon. However, this evidence session might be concise, given what we want to question you about; I hope that you will not be with us for too long.

Cathie Craigie: I am sure that the new panel thoroughly enjoyed listening to the earlier evidence.

The proposed football banning orders could be imposed simply for displaying behaviour that could contribute to violence or disorder—the behaviour would not need to result in a criminal conviction. Would the orders impinge on personal liberty? Would they be a proportionate response?

Kenneth Elder (Scottish Federation of Football Supporters): I tend to agree that, under circumstances of civil application, banning orders could be disproportionate. I thoroughly support the application of banning orders following criminal conviction, such as for football violence, sectarianism or bigotry. I think that the Executive's and the Parliament's activities on other bills supports that position. However, on civil liberty grounds, I am concerned about the interpretation and application of football banning orders. There is increasing evidence from England and Wales that they are not always applied appropriately.

16:30

James Proctor (Supporters Direct in Scotland): I agree to an extent. We work with a fairly small group of people in Scottish football, but I would not say that the issue has caused a great deal of debate. To get a feeling for banning orders, I asked my colleagues in England and Wales about them. Their feeling was that, when football banning orders were introduced, there was a serious problem in English football, especially abroad with the national team, which is obviously not a problem that we have in Scottish football, thank God, although it is recognised that problems are growing in league football here. In English football, there are serious concerns and problems—several teams have fans attached to them who definitely aim to cause problems and violence. Obviously, the authorities must respond to that appropriately. We whole-heartedly support anything that takes violence away from Scottish football. However, we have concerns that the experience in England and Wales has been that, from a fairly small start, the orders are now applied more widely than was originally intended.

Tony Higgins (Scottish Professional Footballers Association): I have no doubt that civil liberties will be impinged upon to some degree, but the issue is about achieving a balance. As I am sure James Proctor knows, clubs can already ban fans from their ground, but that does not preclude them from attending football matches at other venues. Although clubs deal with the matter locally, it is inevitable that we will try to nationalise and expand the measures. I have no doubt that, unfortunately, civil liberties may suffer as a result.

Cathie Craigie: Is that risk worth it to maintain peace and order at football matches and to protect decent supporters?

Tony Higgins: I have taken counsel on that matter from the other two witnesses, who are among the supporters every week. The consensus among supporters appears to be that, for football's reputation, the measure is probably worth the gamble.

James Proctor: I echo that. We realise that a balancing act is required. As I said, there has not been a great deal of debate about the proposal in Scottish football circles—it is a tendency of Scottish football fans to moan about something only once it has been implemented—but we have tried to get a sense of what is going on. People ask why the measure is being introduced; they understand that there was a specific reason for introducing orders in England and Wales, but they do not understand the reason in Scotland. However, given the events that are covered, football banning orders could give the police and the authorities appropriate powers that they do not have at the moment. Our only concern is about civil liberties. Ultimately, a judgment call is needed, but the important point is that a due process will have to be established.

Kenneth Elder: I agree. James Proctor made an interesting point about the reasoning behind the bill. Partly through the First Minister's work on sectarianism, people within football are increasingly showing a willingness to tackle the issues. I agree that people who have been convicted of criminal offences should be shown the door at football matches, but the issue of incitement is a grey area. Incitement could relate to sectarianism, bigotry, racism—which is an issue—and sexism. Most fans appreciate the aim of the bill and believe that banning orders are needed to back up criminal convictions. Where somebody has been convicted in or deported from a foreign nation, people support the civil application of a banning order. However, it will be interesting to see whether the measure is applied only on that criminal basis, or in other situations.

The Convener: I will revert to the current situation. Are clubs doing enough to control violence and disorder at football matches?

James Proctor: I will throw in. The situation is patchy. No uniform penalty is applied across the board for any acts. We occasionally hear about lifetime bans from football grounds, but we do not know how they are enforced. Does the club put up the person's picture and hope to catch them at the turnstiles, or is that person's season ticket revoked? The subject is a concern.

That raises the question of what the current powers are. If criminal activity takes place, I understand that the police have the authority to go in and arrest the people involved, who can be put on trial. How do the football clubs self-police? It is difficult to say that a standard applies across the board. The situation varies from club to club.

Another issue is that activities can take place far from a ground, on the way to a ground or on the way home. Unless a criminal conviction were possible, football clubs would be loth to act on such behaviour.

Kenneth Elder: Clubs are increasingly removing season tickets and denying applications for them, especially when many problems arise from supporters clubs and away club trouble. Banning from grounds is an interesting matter, because it raises issues on both sides. In England, club owners can ban supporters from grounds for no reason other than not liking the look of their faces. Pretty much across the board, clubs in Scotland are applying much more severely their internal rules about fans' behaviour. That is to be applauded.

Tony Higgins: The situation is patchy. To a degree, clubs can control home fans through season tickets. Stewards have a major responsibility, as do people who surround an area where problems arise, because they are involved in reporting behaviour to clubs. However, away support is disparate and difficult to monitor and that appears to create problems. At some grounds, home fans will not get away with singing some songs, but away supporters can do that, because they are far more difficult to monitor. I think that everybody would agree that a consistent approach should be adopted.

The Convener: That is helpful.

Bill Butler: Good afternoon, gentlemen. Are the three, five and 10-year maximum periods for FBOs proportionate or excessive?

Kenneth Elder: When we are dealing with criminal convictions, I have no problem with those periods. It was mentioned that an order could lapse after two thirds of the period had passed. I agree with that, because people reform. Three years for an order that is made on a civil application could be too long, especially if disproportionate action invoked the order.

Bill Butler: Chief Superintendent Scott talked about the cunning individuals who never go to matches. Might such an order be one way to deal with them?

Kenneth Elder: Why would we deal with those people under football banning orders?

Bill Butler: Because, according to Chief Superintendent Scott, such people are allegedly the instigators or organisers of football-related disruption.

Kenneth Elder: To deal with that, some other sort of behaviour order could equally well be invoked. The distinction that is being drawn with football-related activity takes us into interesting ground where the actions of people who are deemed to be connected to football are not connected to football. Those people are guilty of offences such as sectarianism, which have nothing to do with football, to be frank. If evidence

exists, it is right to prosecute people for such offences.

Bill Butler: You mean that such people should have nothing to do with football. You are not saying that they have nothing to do with football as it exists.

Kenneth Elder: Of course I am not saying that they have nothing to do with football. I am saying that they should have nothing to do with football. We are trying to ask what measures can be taken to stop such people associating themselves with football.

Bill Butler: Okay. I hear what you say. Mr Proctor?

James Proctor: As regards the penalties, we are happy with the periods that are specified in the bill.

Bill Butler: That is admirably succinct. Mr Higgins?

Tony Higgins: I have no problem at all with periods of three, five and seven years.

Bill Butler: You mean three, five and 10 years.

Tony Higgins: Ten years? What about 15 years? I have no problem at all with the bill's proposal.

Mr Maxwell: You will be aware that section 48 of the bill does not appear to require there to be any link between the violence and disorder that a person has created and a football match. Do you think that such a link should be required?

Kenneth Elder: Yes.

Mr Maxwell: Why?

Kenneth Elder: I think that my previous answer addressed that.

Mr Maxwell: Okay. Mr Proctor?

James Proctor: It is a difficult issue. As was said earlier, an incident that takes place 24 or 48 hours before or after a match can still be football related. If we are talking specifically about football banning orders, there probably should have to be a link between any misconduct and a football match. Surely any other kind of criminal activity would already be covered by the law.

Tony Higgins: My attitude is slightly different. If football is the catalyst for violence and disorder that is related in some way either to a game in the past or to a game that is coming up, a football banning order could be used to deal with that. I have no doubt that, whether we like it or not, people use football, sometimes on the back of other issues, to start violence. I would be happy for football to make a statement that such

behaviour has no place in football, just as we do on racism, sectarianism and sexism.

Mr Maxwell: I put it to Mr Elder and Mr Proctor, in particular, that if someone is assaulted at the end of July because they are wearing a particular football top, although that crime is not connected to a football match, it is football related. Although the offence would be dealt with in a court of law as an assault, for example, would it not be entirely reasonable for the sheriff to be able to apply a football banning order, even though the crime was not connected to a match?

Kenneth Elder: I will not argue with that point because I agree with what you say. Again, I must draw a distinction between the conviction of someone for a criminal offence and the civil application of a football banning order.

James Proctor: We agree with that.

Cathie Craigie: Do you think that when a football banning order has been served on someone, as part of their rehabilitation they should be asked to attend a support class to deal with any problems with drink, drugs or violence that they might have?

James Proctor: If it is clear that such a problem has caused someone to be the subject of a football banning order, it makes sense for the state or the appropriate authority to assist them to move away from that path and not go back to it. One would hope that the punishment alone would be enough to change someone's behaviour, but if that was not the case and an identifiable problem existed, it would be difficult to argue against sending them to a support class. My only concerns would be about the cost of such treatment and its effectiveness. Those are matters for the committee to consider. Would people be forced to go to classes or would attendance be voluntary? It is difficult to argue against that way of dealing with a problem, but although it would offer benefits, there are doubts at the back of my mind about whether it would be effective in achieving what we want it to achieve, which is to rule out violence at football matches.

Kenneth Elder: I would be uncomfortable about that if an element of compulsion was involved. If someone is to be reformed, they must accept voluntarily that help is required. I would not be in favour of forcing people to take such classes.

Tony Higgins: We would have no problem at all with that suggestion. We provide such treatment for players and, if something is good enough for players, it is usually—although not always, unfortunately—good enough for fans. Support classes are a good remedy to have because, ultimately, we want to change behaviour. If someone shows a willingness to attend such a class, they are trying to address their problem. As

we know, many of the problems from which people in Scotland suffer are alcohol induced.

16:45

Cathie Craigie: The convener asked whether we think that clubs are doing enough to deal with inappropriate behaviour at football matches. What are your organisations doing to deal with any inappropriate behaviour by your members and people who might seek the support or advice of your organisations?

James Proctor: Supporters Direct in Scotland deals with 31 supporters trusts and supporters organisations throughout Scotland. If anyone involved in those organisations was found guilty of committing football-related violence they would probably be kicked out. The organisations are autonomous, but we set the membership policy for the group as a whole. There are measures available to us in that policy, but, thankfully, we have not had to use them.

Kenneth Elder: My involvement with the Scottish Federation of Football Supporters is that I am vice-chair of the Dundee United supporters society, the ArabTRUST. We have run—and are continuing to run—a series of successful anti-racism and anti-sectarianism seminars with kids in the Dundee area as part of existing anti-racism campaigns. We have also had a positive response to a banner that we unveiled about opposing sectarianism and racism in Scottish football, which is now on a permanent hoarding at the ground.

Carolyn Leckie: Under the bill, failure to comply with the requirements of a football banning order is an absolute offence. Do you think that there is a place for a defence of reasonable excuse?

James Proctor: I have considered the question only because I was fortunate enough to hear the previous group answer it. It seems eminently sensible that there should be such a defence.

Kenneth Elder: I totally agree.

Tony Higgins: No problem.

Carolyn Leckie: So you think that there should be a defence of reasonable excuse.

Tony Higgins: Yes.

The Convener: Should the defence be in the bill, rather than leaving it to the individual who is charged with the absolute offence to plead reasonable excuse in court as mitigation?

Kenneth Elder: It should be explicit in the bill.

The Convener: Thank you for your patience and for joining us this afternoon. We have found it extremely helpful to be able to engage with you directly. I know that members have found it a

positive experience to hear directly your opinions and exchange views with you.

We come to item 2 on the agenda. That must be a record; we have had three hours' worth of meeting before getting to item 2, which also concerns the Police, Public Order and Criminal Justice (Scotland) Bill. Bill Butler, Stewart Maxwell and I will report back to the committee, following our fact-finding visit to the football match between Rangers and Celtic at Celtic park. Our senior assistant clerk, Anne Peat, also attended. I am happy to chip in my tuppenceworth, and then invite Bill and Stewart to do the same.

I reiterate what I said earlier: we were comprehensively and capably taken under the charge of the police force. We could not have asked for more detailed attention or more instructive briefing as to what was going on. They picked us up from Queen Street station and took us to the divisional headquarters in London Road. We were permitted to be part of the pre-match briefing. We were then taken to the new video-camera intelligence unit at Govan to observe the techniques of watching as situations develop and gathering intelligence. We were then transported to the match itself, where we were given further briefing. We were placed in the police command section of the ground, which is an elevated unit, which gives the police full visibility of the whole stadium. We were then able to watch how the occasion was policed.

It was all under the total command of Chief Superintendent Kenny Scott, from whom we heard earlier. We were also allowed to go down to the track around the field to get a sense of the situation that the police have to deal with, and we were finally, in shifts, allowed into the tunnel. Bill Butler and Stewart Maxwell went first and spent about 20 or 25 minutes there, and then I and Anne Peat were taken down. I certainly found it an interesting experience, and I have no hesitation in saying that I was hugely impressed with the completeness, effectiveness and competence of the policing operation, which seemed impeccable. It was an impressive demonstration of good policing.

As for behaviour at the match, the three of us found some behaviour absolutely repellent. Sadly, there was evidence of sectarian and divisive behaviour. At times, we did not actually know what individuals were shouting, chanting or singing and the police had to interpret for us. When they explained, we found the behaviour being engaged in by certain supporters absolutely appalling and deeply disturbing. Having said that, the police, through their monitoring arrangements within the ground, were quick to identify where individuals were causing a problem or behaving in a sectarian or provocative manner, and the number of officers

and stewards on the ground enabled them to deal swiftly with the situation. That was most encouraging.

In some respects, it was a rather depressing spectacle, because we saw how some people are prepared to behave on such occasions. In other respects, however, it was an uplifting spectacle of impressive police professionalism.

Bill Butler: I agree with everything that you said, convener. The police management of such a large public order challenge, if I can put it that way, was commendable. It took 604 officers, I believe, to deal with a crowd of about 60,000, and they dealt very well indeed with the challenges that arose in the course of the match. It was interesting to see what I suppose we might call the interface between the visiting fans and the home fans. Again, that was depressing in the sense that some of the behaviour—a large amount of the behaviour, in fact—was sectarian and completely unacceptable, but it was not surprising to me, because I have been to old firm matches before, many years ago. What was different was the fact that, as far as I could see, the police were much more professional in dealing with the challenge that they faced.

The police's task was also helped enormously by the developments in closed-circuit television and surveillance technology that are now at their disposal. The way in which they were able to identify those who were engaging in sectarian behaviour was quite remarkable, and it was only because of their professionalism and the technological advances that the police were able to do that. That is good, because it means that the law can be guaranteed to be effective even when it is difficult to make out exactly what is being sung. Unfortunately, I have the advantage of the convener and of Stewart Maxwell, in that I have heard those songs sung before on various occasions.

It was worth while. What we heard from the police on the ground and outside was that football banning orders for those individuals who were apprehended could be seen as a positive development. I want to thank the police for their hospitality and Chief Superintendent Kenny Scott for taking us novices through the procedure.

Mr Maxwell: I agree with your comments, convener, and with those of the deputy convener. It was an extremely enlightening evening. I had never been to an old firm game. When I was growing up in Glasgow, my parents would rather I had gone anywhere else on the planet than to an old firm game, as they took a certain view of what went on at such matches. Unfortunately, that view was confirmed by what I heard and saw at the game. The police did a fantastic job, although I was somewhat taken aback by the volume of

resources required for a sporting event, which is supposed to be entertainment. More than 600 officers were required, plus an enormous number of stewards—possibly the same number again. It is disappointing and unacceptable that such a large amount of police and club resources is required to avoid violence or confrontations between the two sets of supporters.

Although football banning orders will be useful in dealing with some problems at games, I am concerned about how they will be policed, given that there may be 60,000 people in a football ground, which would appear to make the task almost impossible. However, I was reassured by the technology that we saw, and particularly by the organisational structure of the police, which has teams that are expert in identifying individuals. In addition, the intelligence-led approach of the police was enlightening. I am somewhat reassured that the orders will apply not just in name only, but that they will, in fact, be implemented.

Some of the chants, language and gestures that were used by both sets of supporters were absolutely appalling. It was much worse than even I anticipated, and I had expected it to be pretty bad. It seemed that the visiting support on the night were far and away worse than the home support. It may well be that it is the other way round when the game is at the other ground. I was particularly disgusted by the use of Nazi salutes by large sections of the away support. The sectarian and racist language was appalling. What we heard in the tunnel when one of the Rangers players was sent off was disgraceful. A Celtic supporter was arrested at that time. The language that we heard and the antagonism that we saw when we stood in the divide between the two sets of supporters was depressing. Football banning orders will help, but we have a long way to go to deal with the problem.

The Convener: Do Carolyn Leckie or Cathie Craigie have any questions?

Carolyn Leckie: I want to ask about the role of the clubs, because they make a lot of money out of sectarianism. Members have spoken a lot about the police and the policing operation, but did you get an impression that the clubs were making an effort to disassociate themselves from sectarianism and play it down? Was there any evidence that they do not milk it through merchandising?

The Convener: I do not know if it is possible to answer that accurately, for the simple reason that we were not there under the control of either club. We were in the care of the police, therefore our engagement with the football club was minimal.

Bill Butler: One thing that we did find out, because the police pointed it out to us, was that the two clubs are experimenting with having two

teams of nine-year-olds—one from a denominational school and one from a non-denominational school in the area—take part in a football game before the start of the event. We were also informed that both old firm clubs are taking part in the sense over sectarianism programme, and that when they are able to identify supporters—we have heard that it is easier to identify home supporters—who indulge in sectarian, racist or unacceptable behaviour, they deal with them speedily so that, for instance, they can no longer obtain season tickets.

Those are small steps, but they indicate that things are starting to happen with the support of both clubs. As Stewart Maxwell said, like football banning orders, those are only attempts to ameliorate the situation. Lying behind it is a much bigger and more intractable problem.

17:00

Carolyn Leckie: My question about sexism came from experience. I used to go to football games when I was younger. I was at my last game when I was about 14. I have been to Rangers and Celtic games. I stopped going for a number of reasons, but the most significant was that when I grew up and became a young woman, the intimidating atmosphere created by men became unbearable. Sexual assault was literally a routine part of attending a football match. I do not know if it is any better now. That is the main reason why I would never go back to a football match.

Bill Butler: Thankfully, we did not see any sexual assault, but there was sexist and homophobic chanting. I do not gainsay what you said. There is a big problem. You have highlighted an omission in the bill.

Carolyn Leckie: It is difficult for women to go to football games without being subjected to that behaviour.

The Convener: I have asked the clerk to note the point that you raised in questioning the witnesses because, as far as I can see, sexist behaviour is not included in the bill. Your point is well made, and we will clarify that with the minister.

We move into private session for item 3.

17:01

Meeting continued in private until 17:35.

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