

JUSTICE AND HOME AFFAIRS COMMITTEE

Monday 11 September 2000
(*Afternoon*)

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2000.

Applications for reproduction should be made in writing to the Copyright Unit,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now
trading as The Stationery Office Ltd, which is responsible for printing and publishing
Scottish Parliamentary Corporate Body publications.

CONTENTS

Monday 11 September 2000

Col.

ABOLITION OF POINDINGS AND WARRANT SALES BILL	1661
SCOTTISH PRISONS	1662
LEASEHOLD CASUALTIES (SCOTLAND) BILL: STAGE 1	1688
SUBORDINATE LEGISLATION	1699

JUSTICE AND HOME AFFAIRS COMMITTEE

27th Meeting 2000, Session 1

CONVENER

*Roseanna Cunningham (Perth) (SNP)

DEPUTY CONVENER

*Gordon Jackson (Glasgow Govan) (Lab)

COMMITTEE MEMBERS

Scott Barrie (Dunfermline West) (Lab)

*Phil Gallie (South of Scotland) (Con)

*Christine Grahame (South of Scotland) (SNP)

*Mrs Lyndsay McIntosh (Central Scotland) (Con)

*Kate MacLean (Dundee West) (Lab)

*Maureen Macmillan (Highlands and Islands) (Lab)

*Pauline McNeill (Glasgow Kelvin) (Lab)

*Michael Matheson (Central Scotland) (SNP)

Euan Robson (Roxburgh and Berwickshire) (LD)

*attended

THE FOLLOWING MEMBERS ALSO ATTENDED:

Dorothy-Grace Elder (Glasgow) (SNP)

Mr Adam Ingram (South of Scotland) (SNP)

WITNESSES

Eric Fairbairn (Her Majesty's Deputy Chief Inspector of Prisons for Scotland)

Clive Fairweather (Her Majesty's Chief Inspector of Prisons for Scotland)

Brian Henaghan (Her Majesty's Inspectorate of Prisons for Scotland)

Ms Linsey Lewin (Law Society of Scotland)

Professor Robert Rennie (Law Society of Scotland)

CLERK TEAM LEADER

Andrew Mylne

ACTING SENIOR ASSISTANT CLERK

Alison Taylor

ASSISTANT CLERK

Fiona Groves

LOCATION

City Chambers, Glasgow

Scottish Parliament

Justice and Home Affairs Committee

Monday 11 September 2000

(Afternoon)

[THE CONVENER *opened the meeting at 14:04*]

The Convener (Roseanna Cunningham): Good afternoon, everybody. It is nice to be here in Glasgow. This is the first time that there has been a Parliament committee meeting in the city chambers, and I hope that our experience in what is a good alternative room for us will encourage other committees to use this venue again.

Members will have heard about the division bell. If it goes off during the meeting, everybody should stop speaking, as it will be difficult for us to hear one another and for the broadcasters to cope with the racket. If the bell rings, we shall automatically suspend the meeting for the duration. We do not want the official reporters to miss any vital questions and answers.

Abolition of Poindings and Warrant Sales Bill

The Convener: This is a formal item. Motion S1M-1151 is shown on the agenda.

I move,

That the Justice and Home Affairs Committee consider the Abolition of Poindings and Warrant Sales Bill at Stage 2 in the following order: section 1, the schedule, sections 2 and 3, long title.

Motion agreed to.

The Convener: Members should be aware that we will move to stage 2 of the bill next Tuesday morning. On Friday, the Executive lodged 27 amendments to the bill, but I have not had a chance to study them in detail, so I do not know how substantive they are. The main issue will continue to be the time scale for commencement. I ask members to be prepared for stage 2 next Tuesday.

Scottish Prisons

The Convener: I welcome Her Majesty's chief inspector of prisons for Scotland, Mr Fairweather, to the committee again. We look forward to this afternoon's proceedings. I understand that members have received copies of the text of Mr Fairweather's opening statement, but I invite him to read the statement to us so that we can ensure that it is included in the *Official Report*. Mr Fairweather, perhaps you should start by introducing your colleagues.

Clive Fairweather (Her Majesty's Chief Inspector of Prisons for Scotland): The line-up is much the same as it was a year ago. On my left is my staff officer, Brian Henaghen, and on my right is my deputy, Eric Fairbairn.

I want to open on an optimistic note. Another year has gone by and the Scottish Prison Service continues to have an excellent record of providing secure custody. I pay tribute to the way in which the service continues to try to protect us from serious criminals by keeping prisoners in secure custody and tackling some of the factors that lead to criminal behaviour. The core business is being done.

In addition, I am encouraged by some of the points that were made last year about the special needs of young offenders. Those needs are starting to be addressed by the recent issue of a new policy. I am also encouraged by some of the changes that have been made in conditions for remand prisoners. Previously, remand prisoners were the most disadvantaged group of prisoners in Scotland's prisons. There is a special irony about the fact that that should be the case for those deemed to be innocent. We have seen improvements for those prisoners at Edinburgh, Inverness and Kilmarnock, and the same is expected soon at Cornton Vale and Perth. However, a big question still hangs over what happens, or does not happen, to remand prisoners at Barlinnie. There, the more than 300 adult remand prisoners are still without integral sanitation, which is disgraceful.

One year on from my first appearance before the committee, I have two new concerns. First, there is a considerable atmosphere of uncertainty among staff. I believe that that has been created by the convergence of a number of factors, including a series of unprecedented prison closures, a major on-going estates review and the threat of further closures and privatisation. Staff morale is as low as I have seen it in six years in quite a number of prisons.

My second concern is about how well the SPS estate will cope in the year ahead and over the

next two or three years when the overall capacity has been so abruptly reduced. That follows three rationalisations, one mothballing and the closure of Longriggend, Penninghame and Dungavel. The combination of those closures and the estates review amounts to the most radical reshaping of Scottish prisons in living memory. This time last year there were 24 prisons; now there are 17. I ask myself, "Just where did all this change come from?"

Looking at the prison population a year on, and with the benefit of hindsight, we may think that it was a more finely balanced argument as to whether Dungavel should have been closed quite so quickly. Current prisoner numbers and the available capacity are very close to each other, only a short time after the closure of those prisons. On Friday, the prison population was 5,801 whereas the capacity was 5,802—there was one spare place. Of course, Dungavel is to be replaced by Friarton, which has become a satellite of Perth prison. However, Friarton had to be refurbished at a cost of £2 million and I understand that it is unlikely to be fully available for another few months.

The overall question is how the SPS—now with an uncertain staff—will cope if the prison population increases. There are underlying indications that the population is likely to increase, particularly the number of prisoners serving sentences longer than 18 months. Even if planners make a guesstimate tomorrow or next week and decide to build new blocks or prisons—and that looks unlikely—it will take considerable time to get planning permission and to complete building work. In addition, it is important to recruit and train the extra staff that would be needed.

It is perhaps appropriate that we are in Glasgow today, because Scotland's largest jail, Barlinnie, is in a state of suspension, having had to sustain yet another 12 months of slopping out and a big squeeze in its accommodation. One hall, itself half the size of some prisons in Scotland, has been sitting empty for more than 12 months. In the absence of any definite new plan, the reissue of the old plan for refurbishment or a simple order to reopen the hall, that situation is set to continue. Surely, that is unacceptable when prisoner numbers in Barlinnie are so high.

Those are my prime concerns although, as I said in the report, other factors might lead to a reduction in the prisoner population, such as the effects of the European convention on human rights and the loss of temporary sheriffs. The answer is that I simply do not know what will happen. The number of women being imprisoned is still rising, although we had hoped to halve the female prison population by the end of this year.

A year ago, I was cautiously optimistic about the

future. A year on, I find myself sitting on the fence. That is where I am likely to remain until there is a new plan for the future. The key to a smoother ride is probably staff morale and the reassurance of staff.

I am happy to take questions. My report covers the period until 31 March 2000, but since then we have carried out two intermediate inspections at Dumfries and Peterhead. As those inspections are detailed on the website, it might be appropriate to consider them as the most up to date. At the moment, we are in the middle of a further formal inspection of Edinburgh, although I would not like to comment on that today.

The Convener: Thank you, Mr Fairweather. You have made comments on a variety of subjects. I am interested in overcrowding. At one point you suggest that to some extent the prison system was simply lucky last year that prisoner numbers were not greater. You said that the steady prison population was "fortuitous", which is a posh way of saying lucky. Elsewhere, you refer to "underlying indications" that prisoner numbers will increase. Can you elaborate on what those indications might be? That could be particularly important in the coming years.

Clive Fairweather: The report was published the day before the annual statistics were published by another department—I do not know whether the Parliament sees copies of those. However, one of the clear trends in the statistics showed that, in the most recent period that was examined, the number of prisoners serving sentences of 18 months and longer was increasing.

In addition—this information has come from a number of prison inspections—there are more lifers and long termers are, by and large, getting longer sentences. That, together with the increase in the number of prisoners with sentences of longer than 18 months, will lead to an upward trend in the prison population. It is hard to determine by how much the population will go up. On top of that, there are the vagaries of how many offences are being committed and how many people are being sentenced. No one can predict that.

I have said before that it would be sensible to think about whether prisons for longer-term prisoners should have houseblocks or something similar. I know that there are plans for that—for instance, at Edinburgh—but they have not yet materialised. Such plans might begin to deal with the problem.

In the past year, there has been overcrowding at two prisons—Perth and Barlinnie. It is always difficult to predict where there will be overcrowding. Overcrowding has been a fundamental issue in the past, but a year ago we

might have said that it was not such an important issue. However, the spectre is beginning to appear again. I think that it is some way off, which is why I am asking how we will cope in the next year and into the intermediate term.

14:15

The Convener: Will that have to be dealt with by way of new build?

Clive Fairweather: Yes.

Phil Gallie (South of Scotland) (Con): I will follow on from the convener's question on longer sentences. Because longer sentences will prevent some reoffending, will that mean fewer people in court and fewer people on remand?

Clive Fairweather: Yes, I suppose that that is a possibility.

Phil Gallie: On page 43 of your report, you have listed items of best practice. Out of 13, 12 are at Kilmarnock. Would you comment on that?

Clive Fairweather: The other one is at Dumfries. We found many examples of best practice at Kilmarnock—the largest number that we have come across. On the other hand—I do not want to go into the inspection that I am currently carrying out in too much detail—we are also finding items of best practice in Edinburgh. The number at Kilmarnock is unusually large. Not all the items are major, but we have listed a lot of tidy and innovative practices. We hope that the public sector prisons can now follow them.

Phil Gallie: We would welcome that. Obviously at Kilmarnock there is the opportunity of using new facilities, which gives an advantage.

From what I can gather, the cost per prisoner at the private prison are about £11,000, compared with £20,000 plus in the public sector prisons. Are we comparing like with like or are there private finance initiative costs that are not reflected in that figure of £11,000?

Clive Fairweather: We could be here for some time discussing costs; I may ask my deputy to comment. I would like to read out what we actually said on costs at Kilmarnock in our report. We said:

"We have been told that the average (net present value) cost per available prisoner place at Kilmarnock is approximately £11,000 per year, based on 1997 prices for 500 prisoner places. This figure however, is not directly comparable with the SPS average cost per prisoner place (CPPP), which is in the region of £28,000 per year."

Later we point out that

"it would be unfair to compare staffing levels"

and so on because of the way in which the prison is configured.

That is what we were told; but I am not an

auditor and I cannot say honestly to the committee that the cost per prisoner place at Kilmarnock is £11,000.

The Convener: I am aware that the issue is a matter of considerable controversy, as the figures that have been produced are not unchallenged. I am not sure that we can go too far into the matter at this stage; the committee might want to come back and take evidence on the issue. I do not know whether Her Majesty's chief inspector is really in a position to shed light on the subject. However, there is controversy about the comparative figures.

Phil Gallie: I recognise that, convener, and I thought that it would be interesting to find out whether an inspector had a remit to investigate the issue. There are unfair comparisons within those figures.

Finally, I want to ask about Dungavel prison. When we were told that the prison was to close, we had great reservations, which were reflected when a negative instrument came before the committee just before the recess. The deadline for that instrument is 19 September. Is it too late for the Scottish Prison Service to admit that it made a mistake and perhaps take Dungavel back into the fold for the immediate future?

Clive Fairweather: I do not know whether that is possible. The prison, along with Penninghame and Longriggend, has been advertised for sale. However, I do not know whether there has been a buyer. Although it is never too late, one of the immediate problems would be finding the staff, who have been absorbed elsewhere.

Phil Gallie: I stand to be corrected, but I do not think that the SPS can move on the sale until 19 September, which means that there would be time if the inspector of prisons thought that keeping Dungavel open were a good idea. I will press you on that point.

Clive Fairweather: I have said that Dungavel might yet prove to be one closure too many. However, that is still in the future.

The Convener: As a matter of information, I think that the statutory instrument has been in force since 7 July.

Phil Gallie: Okay.

The Convener: I think that we were slightly unhappy with the Executive about the time scale for introducing the instrument, which meant that it came into force about a week after we were asked to consider it.

Phil Gallie: Just for the record, convener, is it the case that, if the committee had not supported the negative instrument, it would have had to stand until 19 September and would have been

debated in the chamber?

The Convener: Yes, that is true.

Phil Gallie: Thanks.

The Convener: Are you finished just now, Phil?

Phil Gallie: Yes, but I would like a second go at the next opportunity.

The Convener: I always assume that, Phil.

Christine Grahame (South of Scotland) (SNP): I hope that you will assume the same with me, convener, in case I want another nibble. There is such a wealth of information and I have so many pink slips with all the questions that I want to raise.

On safety at Kilmarnock prison, Mr Fairweather, you say on page 17 of your report:

"In this respect, it compares favourably with other prisons of a similar size and role, although the number of misconduct reports was very high."

What is a misconduct report?

Clive Fairweather: I will ask my deputy to reply to that question, as he investigated that point. After making a comparison with an equivalent prison, which was Perth, we found that the number of misconduct reports was particularly high at Kilmarnock prison.

Eric Fairbairn (Her Majesty's Deputy Chief Inspector of Prisons in Scotland): A misconduct report is made when a prisoner is alleged to have breached prison discipline, perhaps for testing positive for drugs, abusive language, fighting or disobeying a lawful order. It is a minor summary procedure. For the 12 months that Kilmarnock prison had been open, there were 3,000 such reports. As the chief inspector said, we compared that with Perth, which has similar numbers and a similar prison mix, and found that there were fewer than 1,500 reports at that prison. The situation is not too unusual in itself. When a new prison opens, people push the boundaries or explore what can or cannot happen. However, the figure for misconduct reports was significantly higher at Kilmarnock.

Christine Grahame: Your report says that

"the vast majority of staff had never previously worked in a prison".

Might the fact that the staff were inexperienced be a component of the situation?

Eric Fairbairn: That could be a component, as well as the fact that they were operating in a new environment. The number of reports was dropping off. To start with, prison staff might not have known about or perhaps were not confident in pursuing alternatives—taking somebody to one side, explaining what the situation is and, in effect,

giving an unofficial warning. There were signs that they were becoming more confident in saying, "That's not on. Go away and if you do it again you will be on report."

Christine Grahame: Was another component the fact that the staff to prisoner ratio in Kilmarnock is much lower than in other prisons? There is closed-circuit television, but the ratio of men to men is not so good.

Eric Fairbairn: The ratio was lower than in many other prisons because of things such as CCTV, different architecture and good sightlines—at Kilmarnock, you can see what is going on, so you do not need so many staff to control the environment.

Christine Grahame: I would challenge that. There are things that you can see on CCTV, but there could be things going on that you cannot see.

Although you say in the report that there were good relationships in Kilmarnock—a different attitude between the prison officers and the prisoners—you say that you would

"caution against possible exploitation and conditioning of staff by the more manipulative and experienced prisoners."

I take it that you have evidence of that.

Clive Fairweather: I will take the first part of that question. The main thing that came over to me and other members of the team was that the relationship between staff and prisoners was very different and, we thought, particularly good. All the prisoners who spoke to us said that the staff were much more approachable and treated them as individuals. The staff were very proud of that—it was obvious that they had been trained to take that approach. If there was one thing that I would want to take from Kilmarnock for the public sector—there are many things that I would not necessarily want to take away—it is that. That is not to say that that attitude does not exist in many public sector prisons, but it seemed to be more consistent at Kilmarnock. That is one positive thing that I can say about the staff-prisoner relationship.

Christine Grahame: Why did you say "possible exploitation"?

Clive Fairweather: We would have said that even before we arrived at the prison. It is a new prison—it has been open for only a year—into which a whole lot of volunteer long-term prisoners have been put. It is our experience that there is a question of balance—how will things go in the first year? Ninety-one per cent of the staff had no previous prison experience. In the report, we are saying that the prison has not done badly after a year. However, there are manipulative individuals in the prison—as there are and always will be in prisons—and we hope that the prison can get

further on top of things in the next year.

Christine Grahame: There were two serious assaults on staff at Kilmarnock, which is twice the number at Barlinnie. That gives me concern.

The Convener: I am curious about the initial understanding that there were four serious assaults. In the report, you say in a footnote that the figure has been revised. Can you explain why you thought that there were four in the first place? Have two assaults been demoted in some way?

Clive Fairweather: I apologise for the fact that the report has a footnote. When we were not far from going to print, we understood that there had been four serious assaults, which certainly would have made Kilmarnock the most violent prison in Scotland in terms of violence by prisoners on staff. My deputy will explain the detail but, at about the same time, the SPS had been revising some of the key performance indicator standards, and it turned out that two of the assaults were not classified as serious. We were told that they were at the time, but subsequently that changed.

The Convener: Before we go on, does that mean that there were four assaults on prison staff—two of which were somehow reclassified as less serious?

Clive Fairweather: Yes.

The Convener: So there were four assaults on prison staff, two of which had their classification changed.

14:30

Eric Fairbairn: There was a range of assaults on staff, one of which involved somebody being hit with a chip. That was recorded as being technically an assault. Kilmarnock reported every such incident from no-injury assaults—for example, a prisoner pushing a prison officer—to somebody being punched in the face and receiving a broken tooth. All those incidents were reported to SPS headquarters, which classified the assaults separately according to whether they felt that an incident was a serious assault or not. The SPS then reported the figures to us as four serious assaults. We spoke to the SPS controller for Kilmarnock who said that there had been only one serious assault. We said that the controller should speak to prisons headquarters, because they told us that there were four. There was dialogue between Kilmarnock prison and prisons headquarters, after which we were told that the cases had been reviewed and that the number of serious assaults should be two, rather than four.

Clive Fairweather: Nevertheless, the number of serious assaults was high there compared with elsewhere.

The Convener: Presumably the number of reported incidents was more than four. How did the number of reported incidents compare with other establishments? Do you have information on that?

Eric Fairbairn: No, but it would appear that the number was significantly higher at Kilmarnock because it reports occasions on which somebody was pushed and jostled, whereas other prisons do not.

Christine Grahame: I would like to pursue another line of questioning.

The Convener: That is okay. I wanted only to deal with Kilmarnock.

Christine Grahame: I know that other members have questions.

I see that the figure for remand suicides is up again. I worked out that the figures are nine for remand prisoners and eight for convicted prisoners for 1999-2000. Do you have any insight into that? Are the figures anything to do with induction procedures, which is an issue that you raise in your report? Does that need to be addressed? Could young people who are more likely to commit suicide be sussed out? From speaking to prison officers, I understand that prisoners who are not thought to be a suicide risk succeed in committing suicide. Officers are as concerned as anybody else about reducing suicides.

Clive Fairweather: In previous reports we always said that remand prisoners were probably most at risk. I feel that they are—although I do not have evidence for that—because in many cases they do not know the outcome of their trials. There are many other factors that probably make remand prisoners more vulnerable and one such factor is that the throughput of remands is pretty high. All the factors indicate that remand prisoners are particularly at risk.

There has been a major change in how suicide risk factors are dealt with. All prisons have undergone change as a result of a central policy change. We have always said that the induction process when a person comes into prison is critical. The induction process is particularly good at Inverness prison, for example. We are going over old ground here, but on the other hand, although the induction process at Barlinnie is as good as it can be, the number of prisoners who come through the door—including remands—makes it much more difficult to compare it with somewhere like Inverness. That does not answer the question completely. It is always possible to look for improvement, but for those reasons remands are particularly at risk. I suppose what I am saying—I have been saying it for some time—is that we need particularly to address the

procedures for remands. Most suicides occur in remand prisons—the report shows that few have occurred elsewhere.

Having said that, places such as Shotts and Glenochil had not had any suicides for some time. I notice that figures for suicides of convicted prisoners are now coming through for prisons such as Peterhead, Shotts and Glenochil, which is unusual. However, I still say that the focus needs to be on remand.

Christine Grahame: A short time ago I spoke to senior prison officers about the problem of remand suicides. One point that they made was that, although there is a warning on prison telephones indicating to prisoners that phone calls are monitored, mail is no longer monitored. The cause of suicide can often be a “Dear John” letter that prison officers do not know about. Would it be possible to examine the mail of prisoners who might be considered to be at risk?

Clive Fairweather: Eric Fairbairn has considerable experience of that. I do not have all the details, but I think that two suicides were related to information that was received by letter.

Eric Fairbairn: There have been a number of “Dear Johns”. Are committee members familiar with that term?

The Convener: My clerk has just asked me what a “Dear John” letter is. It might be useful to explain that a “Dear John” letter is a euphemism for a letter from a girlfriend—or, occasionally, a boyfriend—to their partner, which tells them that they are now an ex-partner because the boyfriend or girlfriend has found somebody else while their partner was away. I suppose that that can be rather devastating.

Christine Grahame: I thought that the term “Dear John” letter was within judicial knowledge.

The Convener: It turns out that it is not. Perhaps it is an outdated euphemism. We should probably say “Dear John” e-mail now.

Eric Fairbairn: When mail was censored and checked, “Dear John” letters and bad news generally would be picked up and dealt with. The hall would be notified and the individual would be told about the letter. That happens less often because mail is no longer censored, but merely checked to ensure that its content is appropriate and that things are not being smuggled in. That is the right course of action.

The strategy to address the risk of suicide involves everybody in an establishment being prepared to come forward when a person is depressed and has not been behaving normally. Despite being extremely busy, prison staff are sensitive to changes in prisoners’ behaviour and can pick such changes up. Individuals who are

despairing tend to be noticed fairly quickly. However, once a person has decided to take his or her own life, they become very settled and appear perfectly normal. That can allay people’s fears and cause them to think that the person is now okay. I know that the SPS is alive to that and that it checks on prisoners, but far too frequently those who commit suicide are those of whom that was never expected.

Christine Grahame: Are you saying that of the nine suicides in remand, two had received “Dear John” letters?

Clive Fairweather: I was referring not solely to remand suicides, but to the 17 suicides in Scottish prisons last year, of which one is still an alleged suicide. I do not want to go into individual cases, but I think that two of those suicides had something to do with information from outside. I am not sure whether that information came by letter or by telephone.

Christine Grahame: My inclination is that we should intercept mail, as we do phone calls, if that would save a couple of lives.

Clive Fairweather: We could talk about this for a long time. It would be equally, if not more, important that the family of an individual who was going to prison, who feared that that individual might be a suicide risk, were able to convey that information to the Prison Service in a more channelled way. I do not know whether there is such a system at present. One might argue that that is as important as opening mail.

The Convener: That would, of course, raise privacy issues.

Christine Grahame: Monitoring of telephone calls also raises privacy issues.

Maureen Macmillan (Highlands and Islands) (Lab): My question follows on from what Christine Grahame said about vulnerable people on remand. Last autumn I was at Longriggend and saw the situation there. For example, there was a small unit there in which there were some very vulnerable young men, some of whom had learning difficulties. What provision has been made for them in the transfer from Longriggend?

Also, there was a unit there for men in custody who were awaiting deportation. Although the staff did their best to make those men feel at home and to look after any religious dietary requirements, it was a depressed little unit because the men were aimless. I notice that those men have been transferred to Greenock and that you say that that transfer is inappropriate. What are the conditions for those men in Greenock? I have been told that an open prison such as Dungavel would be more appropriate for them, if they have to be in prison at all.

Clive Fairweather: I will deal first with people awaiting deportation. In our inspection of Greenock in 1995, we said that we did not think that prison was the right place in which to hold such people. At that time, we described the conditions for those people in Greenock—in A hall, I think—as raw and unfortunate. We also suggested that, if it were not possible to find somewhere that was run by the immigration service rather than by the Scottish Prison Service—that is what should happen, but the numbers of people that are involved are very small—somewhere more central and with better conditions should be found. The Prison Service reacted to that suggestion by moving those people to Longriggend. I do not think that anyone would have wanted Longriggend to remain open only for that purpose. We are all pleased to see it close, but a side-effect has been that people awaiting deportation have been returned to Greenock.

We inspected A hall in Greenock earlier in the year. There has been a lot of refurbishment there and there has been a change to the prisoner mix. The staff are very experienced in dealing with people who are awaiting deportation. I have not carried out an inspection of that aspect of the prison since those awaiting deportation were moved from Longriggend. I imagine that their conditions are probably better now, but we are still faced with the original question whether such people should be in prison at all. I think that most people agree that they should not, but the problem is one of resources. It is a Home Office issue rather than one for authorities in Scotland.

The difficulty is that there are too few people awaiting deportation for a cost-effective unit to be opened and run by the immigration service. I have heard the suggestion that Dungavel—without its fence, which could easily be taken down—might have been a suitable location in which to hold such people. On the other hand, there are something like 150 places in Dungavel. I do not know what the cost benefit analysis would show; there would still be the question whether the unit would be run by the Prison Service or the immigration service.

We are delighted that remand prisoners have been moved from Longriggend to Barlinnie. In the section on Barlinnie in the report, we mention that although those prisoners will have better physical conditions—they were meant to go to Letham hall, but they have gone to the newly refurbished D hall—it would be unfortunate if their arrival put a further strain on an over-burdened system. I am certain that they will put a further strain on facilities such as the gymnasium, education resources and so on. I am not at all certain, however, that the Prison Service was able to put in enough additional resources at such short notice, but we will not know that until we go back and inspect

Barlinnie.

Maureen Macmillan: I am keen to ask about educational resources because I am impressed by what is happening.

Clive Fairweather: We pay tribute in the report to the education unit at Longriggend—it was one of the prison's plus points.

Maureen Macmillan: There is a question whether that can continue at Barlinnie.

Clive Fairweather: I am not sure, but I imagine that once the extra people from Longriggend are squeezed into an already overcrowded prison, and if those young remand prisoners are all right, someone else will be disadvantaged. It might take quite a while to set that balance right. Nevertheless, I still think that they are in the right place, rather than being at Longriggend.

14:45

Pauline McNeill (Glasgow Kelvin) (Lab): I want to ask about three subjects: Kilmarnock, challenges to conditions under the European convention on human rights, and capacity. I welcome the opening statement, which is useful to members in looking ahead to see what sort of issues are of concern to the prison population. I am especially mindful of what was said about staff morale.

In the light of what the convener said, I feel that I ought to press you a wee bit on the controversy surrounding Kilmarnock. We all know that the debate centres on whether the private sector can deliver. Some news stories implied that the private sector could do the job better.

On page 19 of your report, you say that

"Scotland's first privately managed prison can expect to present further serious challenges to other SPS establishments."

That is not the first time that I have heard that phrase. I notice on the list of best practice that you have drawn out a number of points that relate to my next question on ECHR, and which should be standard practice in other prisons. Having skimmed through the report and followed the debate, I feel that the successes at Kilmarnock are superficial because they relate to administrative procedures and things that should be happening in other prisons. However, when it comes to the real meat of the matter—whether the Scottish Prison Service is successful at rehabilitation and prevention of reoffending—Kilmarnock is as unsuccessful as everywhere else. It is no further on than any other establishment. The real measure of success should be the extent to which we provide the right resources and strategy for rehabilitation.

On the anti-drugs strategy at Kilmarnock, you say that it lacks the necessary integration and co-ordination. I would have thought that that is quite a serious failure, given that we have already identified the drugs problem in prisons as the most pressing concern except, perhaps, overcrowding.

Clive Fairweather: We went to Kilmarnock at an unfortunate time for that establishment. It had been open for only a year. Ideally, I would have liked to delay our inspection until at least two years—if not longer—had elapsed. That would have given prison staff, management and everyone else involved in the prison the time to get all the services up and running. I took that advice from my deputy and others when Shotts prison first opened under the SPS. Its first year was a nightmare for a variety of reasons.

We pay tribute to staff in the opening paragraphs of our report, where we say that we would not usually carry out such an inspection. However, I was forced to carry it out in the end because I felt that there was so much media attention, much of it adverse and speculative, which was not going to help the private prison. I was also aware that there might be a debate ahead about the public sector versus the private sector. We therefore took a very large inspection team to the prison and did our best to write a report that leaves people able to make up their minds about how a private prison compares with a public sector prison—with the rider that the inspection had taken place after only a year.

I would prefer to answer questions about Kilmarnock in another year, when we have seen how things have settled. Nevertheless, I am clear that Kilmarnock has had decent conditions built in from the start—as they should be—under the contract. I should add that, although conditions may be decent for prisoners, they are not decent for staff. In fact, staff facilities in Kilmarnock are among the worst that we have seen; they were perfunctory.

As far as safety is concerned, I consider prisons according to three criteria: security, decency and what a prison does to reduce future crime. The reputation of Kilmarnock, on the first of those criteria—keeping people in—is second to none: it is an extremely secure prison. We were most critical of Kilmarnock on meeting the third criterion, although it should be borne in mind that the prison had been in operation for only a year. We felt that an awful lot more had to be done about addressing offending behaviour—challenging prisoners about that on every occasion it occurred—and dealing with issues such as drug misuse. The main message that we left was that we would be back in a year's time to see how the situation had developed.

Of all those shortcomings, I was most surprised

by the drug misuse aspect. I would have thought that that could have been picked up and dealt with more comprehensively. On the other hand, the management of the prison had an enormous amount to do in that year. I am not defending them, but I know that they had a lot of things to get up and running. However, drug misuse is one aspect of the prison that we want to be changed.

It is doubtful whether projections can be made from that assessment because it was based on the situation after only a year. I have tried to give as fair a comparison as possible between Kilmarnock and public sector prisons, but there is a question mark over the prison's drugs strategy.

Eric Fairbairn: The SPS has a drugs strategy that is to be deployed in every public sector prison. One of the benefits of Kilmarnock—which was put to us by members of the prison's board—was that it could address things afresh and do things differently. That was why that prison took a different approach to the management of drug misuse. It was not simply implementing SPS policy; it was developing new and fresh ways of doing things, which was one of the reasons for its existence.

Pauline McNeill: In the light of what you say about the decency issues that exist at Kilmarnock, do you foresee any European convention on human rights challenges in relation to the conditions in Kilmarnock or in other prisons?

Clive Fairweather: We mentioned that in our report on remand—"Punishment First Verdict Later"—which was published earlier in the year. In summary, there are two possible challenges ahead for remand, although they could be made by any sort of prisoner. The first concerns the decency of conditions and practices such as slopping out. We have referred to the possibility that that issue could be raised on 3 October. The second challenge from prisoners could come if the conditions that were configured in one way in one prison were not as good elsewhere. Someone might complain about slopping out in Barlinnie and make a further complaint that being held in Barlinnie did not compare to being held in Kilmarnock, where there is no slopping out. I do not have the legal answers to those challenges, but I am told—having consulted fairly widely—that those are possible future challenges. I think that there has already been one challenge this year over slopping out at Barlinnie, but we do not know the outcome of that. Nobody knows whether there is a raft of challenges waiting to be made, or whether they will be successful.

Pauline McNeill: The report makes it clear that you are concerned about capacity and you give us the figures for this year. I have worked out that there are only 11 spare places. Throughout its inquiry into prison closures, the committee has

been concerned about the capacity of the Prison Service to deal with an upsurge in the prison population, or with an emergency. Can you comment on any concerns that you might have about prison capacity as it is and as it might be in the next year?

Clive Fairweather: For now, we are managing, although Barlinnie is overcrowded because one hall is shut. I have been pressing for something to be done there. However, one feels that, up ahead, capacity will not match demand, especially if decisions continue to be made as to whether new builds are required. There is some concern about that. What was the second part of your question?

Pauline McNeill: You have given the current figures, but I wondered whether you have thought about whether we will face difficulties with capacity next year.

Clive Fairweather: Because the population has remained low, it is possible that the situation can be managed as of now. However, statistics indicate that the number of prisoners will creep up. No one knows the effects that the ECHR will have. It would be wise to think in the medium term about building. In the shorter term, however, we must deal with the question of the hall in Barlinnie.

You asked about contingency arrangements. We do not like to go into that in too much detail, but there are places in Barlinnie—in the hall in question, I think—that could be used if individuals needed to be decanted in a hurry because of an operational necessity.

Eric Fairbairn: In addition to capacity, there is the issue of putting the right prisoners in the right places. As was pointed out, the increase in the number of prisoners who are doing between 18 months and two years will cause overcrowding in local prisons—principally in Barlinnie and in places such as Edinburgh, Aberdeen and Inverness, where prisons are between 12 per cent and 18 per cent overcrowded. However, there might be vacancies in long-term establishments. It is not simply a question of matching capacity with prison population.

Clive Fairweather: We covered that aspect last year and talked about the fact that prison cells do not operate on the same lines as hotel rooms.

The Convener: I want to ask about overcrowding and capacity. When the earlier closures were announced, the committee was advised that the closures would not lead to overcrowding—although it is fair to say that there was some scepticism about that—because the prison closures related to lower security clearance prisoners. We were advised also that overcrowding pressures were to do with the higher security categories. Does that remain a reasonable assessment? I ask in the light of your

comments in this year's report. If, as I presume you are saying, further refurbishment is needed, where—in the current prison system—is the spare capacity for people to be decanted to while that takes place?

Clive Fairweather: Overall, I do not think that the closures have led to overcrowding, but I do not think that they have helped the situation in places such as Barlinnie. The closure of Penninghame, for instance, is different. When it was closed, it was an open category D prison and the other open prisons were working at less than capacity. Therefore, I do not think that that closure has contributed to any difficulties. Dungavel was a category C prison and I think that there was spare capacity in the overall category C estate. Therefore it would also be fair to say that that closure has not created any problems of overcrowding. However, the closure of Longriggend will edge up the numbers in Barlinnie as the remand prisoners move in.

At the back of my mind is the thought that the matter of decanting and rebuilding will make life difficult for places such as Dungavel and Low Moss. What will the prisons do with prisoners during the decanting and rebuilding process? Unlike the prisons' board, however, I do not have the options in front of me. We have raised the issue of space in Edinburgh prison. I believe that house blocks are scheduled to be built, but a final agreement on that has not been reached.

Eric Fairbairn: There are some 6,200 available cells in Scotland. A number of those are out of use pending refurbishment, such as part of A hall in Perth, and parts of Cornton Vale and Barlinnie. At the moment the available capacity matches total prison numbers. As the buildings are refurbished they will come on stream, which will allow other accommodation to be taken off stream for refurbishment.

15:00

The Convener: That means that we will always be almost matching prisoner numbers with prisoner beds.

Clive Fairweather: There will still be pockets of overcrowding. The possibilities for dealing with that are places such as Edinburgh, which is a local prison, and Shotts. However, I repeat what I said in my opening statement: Barlinnie, Scotland's largest prison, is sitting there with one hall empty and no plan for it.

Michael Matheson (Central Scotland) (SNP): I want to focus on two issues: Barlinnie and female prisoners. From Clive Fairweather's report, I understand that at present Barlinnie is overcrowded by some 25 per cent. Is that still the case? The refurbishment programme at Barlinnie

also appears to have stopped. Has the Scottish Prison Service explained to you why that has happened and what its intentions are for the programme? Does it have any intentions to continue with the refurbishment of Barlinnie?

Clive Fairweather: At the moment, Barlinnie is overcrowded by 17.5 per cent, which is not far off the figure that you cited. The original plan was that each of the halls at Barlinnie, starting with D hall—whose refurbishment took 18 months and cost £5.4 million—would be refurbished sequentially, with each refurbishment taking 18 months. Refurbishment means putting in WCs. That plan was put on hold. B hall was emptied, ready for remands; it was also kept empty for the millennium, for contingency reasons. It was hoped that the refurbishment programme would start this year, but the estates review that was announced this side of Christmas put that on hold, because the Prison Service was not prepared to spend any money until it knew whether refurbishing the four halls at Barlinnie was the right answer, or whether there were other options.

As far as I know, the future configuration of Barlinnie is one of the central issues that the estates review is considering. That is fine, but meanwhile the months are dragging on. When will we get the answer? The results of the estates review were expected in May. For staff, the sooner those results are published, the better. On the other hand, the estates review needs to be detailed, so it may take a long time.

The Convener: I have a question about the estates review. Originally it was supposed to be completed in May.

Clive Fairweather: That is correct.

The Convener: You completed your report in June and published it in August, but the review had still not appeared. There is, as yet, no word of when it will be published. It can be argued that that is not unreasonable, given what needs to be examined. Perhaps a few months here or there is not out of order. I invite you—although you may not want to take up the invitation—to speculate on what is holding up the review. If a three-month, four-month, five-month or six-month delay in the estates review is not unreasonable, given its importance, how was it possible for the Prison Service to come to a decision on closing prisons in three weeks? It did not regard that as unreasonable. There seems to be a contradiction in terms. Could you speculate on why the review is being held up and the perspective that that puts on the three-week decision on closures?

Clive Fairweather: I do not think that there was any difficulty about reaching the decision on Longriggend—that had probably been on the cards for some time. Similarly, I suspect that

Penninghame had been considered for closure for some time. I suspect that the original loss of savings brought that closure much further forward. A very quick exercise was carried out at Dungavel. However, bearing in mind what I have said about categories and so on, I can see how that decision was arrived at. The other actions were rationalisations—merging one prison into another and so on. I said at the time—and again in my report—that I was not sure what the effect of those rationalisations would be in the long term and whether the savings would materialise. I am still unsure about that.

I really do not know why the further estates review is taking so long. I suspect that targets were set, but that when it came down to it, consideration of the various options was probably more complicated than expected. I imagine that that is the reason for the delay, rather than people dragging their heels. I suspect that the answer may come out in bits and pieces, although I am pressing for a decision on Barlinnie.

The Convener: The SPS has reduced seriously its margin for manoeuvrability and is only just beginning to realise that.

Phil Gallie: I have a question on the estates review. Mr Fairweather has twice referred to the role of categories in enabling closures. However, there is an inevitable knock-on effect. Why did he think that, as Dungavel had only one category of prisoners, that would not knock on to the other prisons?

Clive Fairweather: It has not as far as category C is concerned.

Phil Gallie: What about overall?

Clive Fairweather: Overall, that leads to a reduction in capacity. At the time—November—I had half an hour to comment on the closures, and considering the population, the figures just about balanced. As I said in my opening statement, with the benefit of hindsight I am not so sure—it might have been one closure too far.

Michael Matheson: You referred to the fact that the reason for the delay is the on-going prison estates review. Currently, there are more than 300 adult remand prisoners in Barlinnie who do not have integral sanitation facilities. Surely there would need to be a seismic shift in sentencing policy to reduce the demand for remand places in Barlinnie? Even after the estates review has taken place, there will be a similar demand for remand places.

Clive Fairweather: Yes, there will be.

Michael Matheson: To all intents and purposes, the delay in the review is simply delaying an inevitable need to upgrade the facilities at Barlinnie.

Clive Fairweather: Indeed. That is why I have said throughout my report that the SPS needs to address the situation at Barlinnie, especially in relation to remand provision. All sorts of other prisons have been talked about, as have other possibilities. However, things have stood still at Barlinnie for so long that I feel I must press that prison as the primary issue. Some of the other issues might be able to wait a bit longer.

Michael Matheson: The figures in the report show a high level of serious assaults at Barlinnie, although the number of such assaults has fallen in the past year. Although Barlinnie is the biggest prison, it seems to have a disproportionately high level of serious prisoner-on-prisoner assaults. What are the reasons for such assaults? I imagine that drug-related crime is one reason. Is overcrowding also a major contributory factor?

Clive Fairweather: I shall get my deputy to say a little about overcrowding in a moment.

I must keep pressing the issue of Barlinnie and remand prisoners. I am much more optimistic that life has improved for remand prisoners at Kilmarnock and Edinburgh. However, that could give the wrong impression, as the conditions for the majority of remands in Scotland—that is, at Barlinnie—are not improving, and we need to move on.

I am sure that much of the violence at Barlinnie is related to drug debt; that will always be the case. In the past, we found that where there is serious overcrowding, one of the issues is that there are not enough staff to look after individuals. That is not necessarily the reason for the overcrowding at Barlinnie, but Perth was a prime example of that. Where there are issues of overcrowding, a higher level of violence can be expected; that can be reduced by the use of closed circuit television.

When we inspected Perth prison, in 1997, it was 50 per cent overcrowded, so we have moved on. There were around 26 serious assaults in a year there, including homicides, but we are moving away from that era. It could be argued, however, that that situation is being replicated at Barlinnie. Where there is overcrowding, there will be a higher level of violence.

Eric Fairbairn: Another problem at Barlinnie is that the closure of a hall has limited the opportunities for dispersal. Barlinnie had five halls, which provided five options for the dispersal of gangs or individuals who have grievances against one another. The closure of B hall, and the fact that remand numbers at Barlinnie are running at 50 per cent of the remand population for Scotland, further limit dispersal options. Remand prisoners and convicted prisoners are kept apart, as far as possible, which means that there are fewer places

for the dispersal of convicted prisoners who may have grievances against one another. Those prisoners tend to be brought together more often than any sensible prison manager would contemplate.

The options for dispersing groups of people and those with grievances against one another are therefore reduced. That is an issue more of available capacity and options than of overcrowding. As Clive Fairweather said, however, if there is overcrowding, there is less opportunity for people to be regarded as individuals. They have to share facilities with a population that is 17 per cent higher than the prison was designed for. There are also fewer opportunities to get out and about, which creates a degree of tension and friction that often results in an impulsive smack in the mouth.

Clive Fairweather: For reasons of safety and decency, there must be change. The problems at Barlinnie have gone on for long enough. In 1997, I wrote a formal report. I am sure that previous chief inspectors did the same, but conditions at the prison still have not changed. I keep returning to that point. There may be only a few months left until the results of the review are known, but at the end of those few months there should be changes.

Michael Matheson: Would it be fair to say that you do not expect a major change, with regard to remand places at Barlinnie, as a result of the estates review?

Clive Fairweather: I honestly do not know. Remand places must be found somewhere else in Glasgow, if not at Barlinnie.

Michael Matheson: In your opening comments, you said that it was intended, by the end of this year, to halve the number of female prisoners. However, that number continues to rise—why is that? Is there a failing in the policy to reduce their number?

Clive Fairweather: That subject is outside my remit, but I got involved with it originally when we examined the whole business of women offenders, suicide and the like. The female prison population could be edging up partly because more women are committing crimes—perhaps a small number of more serious crimes. Nobody really knows whether the higher figure also reflects sentencing policy. When I first inspected Cornton Vale, it had something like 180 female prisoners, but the number is now 207. I know that that increase does not sound much, but the percentage of female prisoners is rising all the time. We will have to wait until we can look back before we can establish how much of the increase is due to sentencing policy and how much is due to the fact that more women are committing offences, or some women are committing more serious offences.

15:15

I also do not know whether alternatives to custody are being used. If they are, the population might have been even greater than it is. However, as I have said, it is clear that there is still a large number of women in prison who are petty offenders, for whom we might be able to find other answers. That is why we said in the original survey that the population should be halved—I think we said that it should be reduced to fewer than 100. I do not know whether that report has stopped the population figure going much higher, although it is edging up.

There is a local overcrowding problem because a remand hall has been shut for a refurbishment that we recommended. As long as there are high numbers of female prisoners in Cornton Vale, prison staff cannot devote the time that is needed to deal with the women, some of whom require an enormous amount of attention—far more than male prisoners require. The prison does not get more members of staff to deal with increased numbers.

Although the increase may be only 20 or 30, it pushes the number of prisoners to a level at which staff cannot cope with the people whom they have in front of them. The increase is not good for anyone, so the sooner that we can find alternatives so that fewer women are jailed, the better. Otherwise, there will be permanent tension. The women who are in Cornton Vale now are as damaged as the women there were when I wrote the report. In fact, Kate Donegan says that some of them are even more damaged. I pay tribute to what staff have done at Cornton Vale with such a high number of women. It is a tribute to the staff that they have kept the prison going without fatalities for such a long time, because there is no change in the women who are coming through the door.

The Convener: After Lyndsay McIntosh asks a question, I will take Dorothy-Grace Elder, who I see has joined us. We will then have to bring this item to a close. I know that members want to ask further questions, but we must move on to other issues. It is entirely possible that we will return to many of these issues.

Mrs Lyndsay McIntosh (Central Scotland) (Con): You spoke about assault figures, Mr Fairweather, and made comparisons between Bowhouse and other prisons. Is it true that some of the misconduct reports that were made at Bowhouse would not have been made at some other prisons, such as Perth? Is it the case that half of those things might not even have been reported in a more experienced environment, where staff were more in tune with the job?

Clive Fairweather: As far as misconduct reports

are concerned, the position may well change in future. I do not think that staff were experienced enough. We had cases of people being given the same misconduct report three or four times. I am sure that that will be sorted out and will settle down. That is not the same for statistics on assault.

Mrs McIntosh: I appreciate that, but I was particularly struck by the figures for misconduct reports.

In your statement, you expressed concern about whether Friarton would be fully available. Do you have any update on that?

Clive Fairweather: No. A consequence of shutting Dungavel was that Friarton was to take on its role. Although it is a separate site, it has been merged with the main prison. To bring it up to standard—we hope that it will take over the drug-free mantle of Dungavel, which was Scotland's only drug-free prison—£2 million has had to be invested. I do not know the detail, but I understand that, since it was decided to close Dungavel and use Friarton instead, it has taken longer than had been planned to go from flash to bang. Although Dungavel closed on 3 July, there are probably only about 20 or 30 places available in Friarton. It will take some time before Friarton can be opened at full capacity, which I believe is about 90 prisoners. Eric Fairbairn may be more up to speed on the position.

Mrs McIntosh: So the Prison Service would not score highly here for forward planning?

Clive Fairweather: The delay could be down to contractors and I do not know what else.

Mrs McIntosh: I wish to raise one more issue, which has not been raised by other members. Do you have any concerns about the dangers that are involved in moving prisoners between prisons?

Clive Fairweather: I do not have figures in front of me, but I know that the SPS has a very good record on escapes from closed establishments—cases of prisoners getting over a fence or tunnelling out. Most escapes have occurred while individuals are being moved under escort, as that is when any system is at its most vulnerable. There was a famous case at the Peterhead unit, when someone managed to get out during an escort and was later found in London.

I do not think that anyone appreciates the number of movements that there are between court and prison—Eric Fairbairn could give you a better idea of the number. Such movements do not happen only once; someone who is on remand may go back and forth many times. That is the case at somewhere such as Polmont young offenders institution. At Edinburgh, which we are inspecting at the moment, an enormous number of

staff is required each day. When they come to work, staff have no idea how many escorts will be required. The consequence of staff being put on escort duty, particularly at somewhere such as Polmont, might be that a shed has to be shut because there are not enough staff to man it, and the prisoner who was meant to work in it lies behind his door doing nothing for the day.

The time and effort that is involved in escorts is staggering. Bearing in mind the number of escorts that there are, I am surprised that there are not more problems. It is not always the most experienced officers who are told that they are on an escort in five or 10 minutes—whatever is available has to go. The movement of prisoners is an area that needs further examination because it places an enormous strain on Prison Service resources.

Eric Fairbairn: The last prison in which I was directly involved was Glenochil, which was a young offenders institution that had an average of 150 prisoners. Five of those convicted young offenders would go to court per day, to answer outstanding charges, or to go for pleading diets.

There has been a significant increase in the number of movements outside prison. For example, prisoners move from Barlinnie to Shotts to start their long-term sentence. Such movements happen every week. There are vans of prisoners moving between prisons around Scotland. A significant number of convicted prisoners are taken to court to face outstanding charges or to act as witnesses. Also, huge numbers of untried prisoners from Barlinnie, Edinburgh, Aberdeen and every local prison move out of prisons every day. The number of hospital appointments is also increasing; prisoners are taken to hospital for planned and emergency treatment.

The SPS must balance the numbers of staff and the escort strength. If the court wants a prisoner in court, it gets him. Without additional staff, a consequence of taking two prison officers for escort duty is closing a shed and putting 20 prisoners behind their doors.

Mrs McIntosh: I have a final question on that: would it be unreasonable for the people who are doing escort duty to know the records of the prisoners they are transporting?

Eric Fairbairn: Generally, they are briefed as to who they are taking out, and why.

Clive Fairweather: Generally.

Dorothy-Grace Elder (Glasgow) (SNP): Thank you, Mr Fairweather, for the usual honesty of your report. There have been destructive rumours about the possible closure of Barlinnie. Many of us would hope that those are just rumours—the prison's closure would be resisted in Glasgow.

Is it your view that it is essential for Scotland's biggest prison to remain at its present location? You referred to 300 or more remand prisoners not having integral sanitation facilities. Beyond that, there is the bigger, more gruesome picture that up to 800 of the prisoners at Barlinnie have a mere 75 toilets between them. That brings me to morale among prison officers. Up to 300 hours of officers' time per day is consumed with the chore of slopping out, which they do not wish to do. Do you find that low morale is linked in particular with those prisons where slopping out takes place?

Clive Fairweather: At present, no. I cannot speak for every prison, but I do not think that it is necessarily those prisons that have the problem of slopping out that have low morale. There is very low morale at Barlinnie in general at the moment, more than I have seen elsewhere. Prison officers are extremely uncertain, no matter whether they have been told that their prison will not be closed, privatised or even considered for anything.

A number of factors come into play. The convergence has led to uncertainty. I am sure that dealing with slopping out adds to the problem of low morale, but I could not honestly pick out that factor and say that the prisons with the lowest morale are those where slopping out takes place.

You asked, Ms Elder, about whether Barlinnie should remain at its current site. I remind you that I am not the inspector of the Scottish Prison Service, but of prisons. My job is to inspect a prison wherever it is and to comment on its conditions. I honestly do not think that I can be required to comment on whether certain prisons should be in certain locations.

As far as the rumours are concerned, I do not know that they are all rumours. I recall a piece of paper; it had not been sent to me, but had been leaked to a newspaper. It was quite an open document to staff, saying that Barlinnie, along with several other prisons, would be assessed, taking into consideration the cost of running it along its present lines over the next 25 years and the cost of refurbishing it. The document hinted at the question, "What would the other options be?" I have not seen the document, but I know that it is around, and that it has been circulated to prison staff. I think that it appeared in *The Herald*.

Dorothy-Grace Elder: Is that a factor in the massive delays in renovating Barlinnie?

Clive Fairweather: I would imagine that all options are being considered.

Dorothy-Grace Elder: Do we really need to wait for the estates review to do what should have been done quite some time ago?

Clive Fairweather: I think that it is right for all costs to be considered. We are talking about big

sums of money for Barlinnie and elsewhere, and it is probably right to pause and consider them.

The Convener: I thank you and your colleagues, Mr Fairweather. You will have seen notes being passed to me from around the table. They are all along the same lines, from members who wish to have you back before the committee to ask further questions. I know that many members have more questions to ask. The notes also included requests that we visit further prisons, including Barlinnie. I think that the committee can organise such a visit quite independently.

There is one question that I wish to ask now, and it requires only a simple yes or no. You issued an open invitation to members who might want to join some of your inspection tours. Can I take it that that invitation remains open?

Clive Fairweather: It still applies.

The Convener: Members of the committee will want to take you up on that. We will try to organise it, now that the Parliament is back from recess. There is a feeling that Barlinnie might be an appropriate place for us to visit, in the circumstances.

Clive Fairweather: We will be doing an intermediate inspection of Barlinnie in the not-too-distant future, and a formal inspection of Glenochil after the inspection of Edinburgh prison is complete.

I am glad that you explained about those little cards that I saw members writing on: I had a horrible feeling that they would be held up like score cards, all reading "1". [*Laughter.*]

The Convener: Thank you very much. We will have a brief adjournment before we begin the next item.

15:29

Meeting adjourned.

15:39

On resuming—

Leasehold Casualties (Scotland) Bill: Stage 1

The Convener: I welcome Adam Ingram to the Justice and Home Affairs Committee. I apologise for the fact that it is now considerably later than the time which you were advised was the rough start time. I know that you know the score with such things. I do not know if you have come ready with a short opening statement, but, if so, I invite you to make it now, and we can then press ahead with any questions.

Members of the committee have had the opportunity to look at the research note from Scottish Parliament information centre, and to have attended, either themselves or their researchers, the informal briefing. Members will therefore have some idea what this bill is about.

Mr Adam Ingram (South of Scotland) (SNP): Thank you, convener. First, I thank the committee for fitting consideration of this bill into its very busy schedule. I am delighted to be here to provide you with background information to the bill and, I hope, to answer any questions that you might have.

I will start with some history. In the 18th and 19th centuries, it became common in some parts of Scotland to lease vacant land for periods of 999 years or more for the erection of buildings on it. Such long leases are found particularly in Lanarkshire, Renfrewshire, Ayrshire and Clackmannanshire. Such long leases are no longer possible for residential purposes, because of a change in the law in 1974.

Under every lease, there is obviously a liability to pay a regular rent to the landlord. However, under some long leases, leasehold casualties also require to be paid. Casualties are additional payments which fall due at regular intervals, typically every 19 years, or on the occurrence of particular events such as assignation of tenancy.

Casualties take various forms, the most iniquitous being based on the annual rental value of the leased property. Landlords can extract something for nothing from tenants by effectively taxing them on the value added to the property by the tenants themselves.

In recent years, landlords in some areas who did not claim casualties have been replaced by landlords who saw financial possibilities in them. One landlord claimed outstanding leasehold casualties, and took legal proceedings in those cases where he felt it necessary. In such cases,

he proceeded on the basis that the tenants may have had a claim against the solicitors for not spotting the liability at the time when they bought the property. Those actions caused considerable distress to tenants. The matter was referred by the Government of the time to the Scottish Law Commission, which recommended that leasehold casualties be abolished and produced a draft bill.

We do not know if the potential for commercial gain from leasehold casualties has been exhausted, but they are an anachronism. Feudal casualties were abolished in 1914. Since 1974, it has been law that residential leases may not, with certain exceptions, exceed 20 years. Now that we have entered a new century, it is time that this anomaly in the law was brought to an end, once and for all.

Although the Scottish Law Commission bill has been available since 1998, no time was made available for it at Westminster. The Scottish Parliament provides an ideal forum for distinctly Scottish legislation of this type. I am very pleased to say that I have received support from all quarters, including invaluable drafting assistance for my bill from the Executive.

The bill contains two changes from the original Law Commission bill. They are to provide for compensation in the case of casualties based on rental value, and to make a saving for legal proceedings pending against the Keeper of the Registers of Scotland. In the case of rental value casualties, compensation will be based on the ground rent only, to avoid landlords reaping the benefit of the work done by successive tenants on the buildings. With regard to the keeper, it is wrong that someone who is entitled to indemnification by the keeper for mistakes on the register should lose that entitlement as a result of this legislation.

Abolition takes place on the day the bill is introduced, provided that the bill is passed. If my bill is passed, abolition will have taken place as of 10 May 2000. The liability for compensation will be triggered by a written notice that must be issued by the landlord within a year of the bill receiving royal assent. A table of compensation payments is provided in the bill, although the level will depend on the amount of the casualty and the length of time the landlord would have to wait to receive it. The idea is to award the landlord a sum of money that, if invested, would have yielded the same amount at the due date. The highest compensation will therefore be payable for casualties that are due soonest. We do not think that, in any case, this will exceed around £60. The compensation scheme detailed in the bill ensures compliance with the European convention on human rights.

15:45

The Convener: I know that Phil Gallie has questions. Pauline McNeill, who is a co-sponsor of the bill, may also want to comment.

Phil Gallie: As Pauline McNeill is a co-sponsor of the bill, I shall let her speak first.

The Convener: She does not have her hand up.

Phil Gallie: In that case, I shall start by congratulating Adam Ingram on introducing this bill. I shall be mischievous and say that this legislation was something that Michael Forsyth had in mind, so I am delighted that Adam is taking it forward. I suspect that he will be the first member to have a private bill implemented in this Parliament, so he will achieve a place in history.

I have a couple of points to make, Adam. On the saving of proceedings, you referred to the fact that the Scottish Law Commission did not feel that that was necessary and had omitted it. Why do you think that it is so important and why have you included it in the bill?

Mr Ingram: Are you talking about the extra compensation for rental values?

Phil Gallie: No. I mean saving of proceedings where legislation has started, in section 8.

Mr Ingram: I am not entirely sure why the Scottish Law Commission did not include that. However, we wanted to introduce a clause that would mean that people could not take action after the introduction of the bill. It stops the rush of landlords seeking compensation, so it is a fairly clever mechanism to stop that type of thing happening.

Phil Gallie: You have built in a date, but there was some time before that date was built in, from the time when the bill was first lodged as a motion, when there were signs that the bill would get support. Were there any signs of a rush then?

Mr Ingram: No, there were not. However, it is difficult to ascertain whether it is possible to take commercial advantage of the leasehold casualty loophole. As you are aware, we are dealing with one or two landlords who saw the advantages of exploiting the loophole in the first place. It could be that the immediate take-up has already happened, and it would be a few years before landlords had another opportunity to take advantage of the loophole again.

Phil Gallie: That is fair comment. You referred to compensation. I recognise that the compensation element is included to cover the ECHR. For those who held the right to apply the existing law for a long period of time there is perhaps some justification for that. However, those who sought to make a quick buck and buy in in recent times will also get compensation for their

actions. Do you feel a bit uncomfortable about that?

Mr Ingram: I would prefer to have a situation, as was outlined in the Scottish Law Commission bill, where there was no compensation for the rental value casualties. However, we have all seen the situations that arise with ECHR compliance, and I did not want my bill to fall foul of that. The compensation figures are so low that I think not many people would consider it worth their while to raise actions.

Phil Gallie: I hope that the ministers will take note of Adam Ingram's open and honest responses.

Pauline McNeill: Any law student or solicitor who has studied Scotland's ancient land laws and feudal tenure, which we have already dealt with, knows that this is one of the many areas of the law that need to be modernised. Although the general public may not exactly be dancing in the streets about a bill on leasehold casualties, the way in which we are presenting it will put across the point that, although there are pockets in Scotland that are affected more than others, the current system has inflicted deep financial damage, risking people's homes and livelihoods.

It is an important piece of legislation. I support Adam Ingram's point that we would prefer to get away with a bill that did not award compensation. The landlords who have taken advantage of the system have known for years that that is what they are doing. Their line has been that they are justified in exploiting any loophole in the law until it is changed. Nevertheless, it would not be useful to frame a bill that would constantly be challenged in the courts.

I congratulate Adam Ingram on initiating this process. I think that this bill will modernise Scottish law, and it is important to get across the message that it will remove a lot of hardship, particularly in the central belt and the south. There is no specific mention of Glasgow in the bill.

Mr Ingram: I have not come across any examples in Glasgow. I think that the problems are primarily in Lanarkshire and Renfrewshire. A lot of the long leases were for the erection of weavers' cottages and the like, so it is in areas of the country where that kind of home industry was common that those leaseholds were first established.

The Convener: The research paper indicates that Lanarkshire, Renfrewshire, Clackmannanshire and Ayrshire are most affected. The leaseholds follow a 19th century industrial pattern.

Christine Grahame: I congratulate Adam Ingram. I am very jealous that his is the first member's bill that will be passed.

The Convener: We are not sure about that; there is a race on.

Christine Grahame: I also congratulate Pauline McNeill on supporting the bill, which is part of the framework of land reform. For once, I also thank the Executive for the full briefing that it has provided explaining the mysteries of the actuarial table.

Mr Ingram: You are not going to ask me a question about the table, are you?

Christine Grahame: Did you draw up that table?

Mr Ingram: Certainly not.

Phil Gallie: He is an economist, you know.

Christine Grahame: A serious matter has been raised by a senior firm of solicitors, which I shall not name, regarding compensation. The view is that the compensation provision is not really necessary and that the bill would be ECHR compliant without it. I agree with that view, and feel that the bill takes a belt-and-braces approach. What is your view, Adam? Did you originally feel that there should be compensation, or did the Executive pop that in because the spectre of the ECHR is at its back? I agree that the amounts are small, but why should there be a compensation provision at all if it is not needed?

Mr Ingram: It was the latter reason. Because of the margin of appreciation doctrine, the ECHR would probably allow us to get away without compensation. However, as I said to Phil Gallie, I was not willing to take the risk of holding out for that. It is important to get the legislation on the statute books.

Christine Grahame: I was going to suggest that Parliament might have voted for it to be there without the compensation and let the erstwhile landlords take the matter to the courts under the ECHR if they wanted to bear all the associated costs.

Mr Ingram: There was a case four years ago in the Boghead area in Lanarkshire in which the tenant was pursued for around £6,350. The legal bill came to £20,000. A comparison between that level of burden on an individual and the £60 maximum compensation shows that perhaps you are right in principle, but I do not think that £60 is a great deal of money in practice.

Christine Grahame: My question was whether the landlord would try to apply the ECHR in order to receive £60. Would it be worth it? In the end, that is the only part that is affected. The calculations are a different matter in the bill and are based on a rental value that is different from the current rental value, which is correct. It is not worth going to the wire about, but I think that the

measure is not necessary.

Pauline McNeill: As we discussed earlier, a few landlords have taken advantage of the loophole in the law. I would say that the same landlords, if they saw a loophole that had been created by this bill, would simply move their tactics on the ECHR. However, the timing is wrong. Had we been able to consider the matter prior to the ECHR becoming part of our law, we might have been able to run the risk a bit better. The cases that have been successful, and in which compensation has not been required, have been decided on the basis of what is in the public interest. That is vague and I think therefore that it is not worth running the risk.

Gordon Jackson (Glasgow Govan) (Lab): Christine Grahame might be right in saying that no one would bring a challenge, but the legislation would not be compliant until somebody challenged it. The Presiding Officer has to sign a certificate saying that it is compliant. There could be a theoretical problem, even if there is no challenge. Considering the amount of money that is involved, it seems to me that Adam Ingram is right: why go down that path? The Thingmy General in London—

The Convener: I think that the title that you are groping for is Advocate General for Scotland.

Gordon Jackson: She is one of my few remaining friends, but I suppose that I have lost her now too. She or somebody else might bring a challenge, in which case—and considering the amount of money involved—it does not seem worth risking the legislation being non-compliant.

The Convener: I suggest that there is not much point debating this at this point. The legislation may not be signed off as ECHR compliant and we may regret the necessity to pay compensation to people whom we would otherwise consider as being undeserving. Nevertheless, we have to remember that the ECHR applies to everyone, whether we like them or not.

Maureen Macmillan: I am looking for basic information. How come somebody has to pay £6,000 to the person who owns the land? Is that because someone has bought up the lease and the payments have been dormant?

Mr Ingram: Yes.

Maureen Macmillan: I would like more background. Does it relate only to private tenancies or to commercial tenancies as well?

Mr Ingram: I believe that there are some commercial tenancies, but the cases that have hit the headlines have been residential ones. The current tenant was having to shell out for previous payments that had not been made.

Maureen Macmillan: Have there been people

who have not realised that their land was leased rather than owned and have sold it to somebody else, at which point a landlord has demanded £6,000 for the past 20 years, for example?

Mr Ingram: Yes. Essentially, the landlord took the view that it was the solicitor's fault for not pointing it out to the tenant, who therefore had the opportunity to sue the solicitor to recover the payment. That is how he squared his—

Maureen Macmillan: That is how he squared his conscience.

I seem to remember something about a school in Ayrshire. I am aware of problems relating to schools and school houses that are on leasehold. Presumably, you are talking about the same sort of thing.

16:00

The Convener: Are there any other questions for Adam Ingram? No. Clearly, when everybody agrees, we have a less dramatic meeting. Thank you, Adam. You will be advised of the date of our meetings at which we are scheduled to hear other stage 1 evidence in respect of this bill and you may participate in those meetings if you want.

I understand that we are scheduled to hear from one of the key protagonists in the proceedings some years ago. I ask Professor Robert Rennie to come to the table. Professor Rennie, you are here in your capacity as a representative of the Law Society of Scotland today. You are not a stranger to us either. Perhaps you could introduce your colleague.

Ms Linsey Lewin (Law Society of Scotland): Perhaps I could introduce Professor Rennie. I am from the Law Society and am here in my capacity as secretary to the conveyancing committee. It is interested in all aspects of land reform that are going through at the moment. We are actively following the abolition of feudal tenure and leasehold casualties. Professor Rennie is on the conveyancing committee and was a member of the working party of the Scottish Law Commission that drafted the bill. He is the professor of conveyancing at Glasgow University and is also a practising solicitor. I am sure that he will be able to answer any questions that you have.

The Convener: I apologise for the apparent discourtesy in my introduction, but we did not have confirmation that you would be here. We had understood that we would have only Professor Rennie.

Professor Robert Rennie (Law Society of Scotland): The Law Society of Scotland supports the bill in general terms. The Abolition Of Feudal Tenure etc (Scotland) Bill has been passed and the title conditions bill will be produced by the Law

Commission at the end of this month or during next month. Those bills deal only with feudal tenure and there are pockets of non-feudal tenure in various parts of Scotland. There is some allodial or udal tenure in Orkney and Shetland and there are pockets of leasehold tenure in various areas, particularly in Lanarkshire. The reasons why there is leasehold tenure are not clear. One reason is that some estates were entailed, which is to say that they were entailed right down the family so that no one in the family—son to son to son—could get rid of the property except by going to the Court of Session for disentail. One way around that was to lease instead of feu. That has created unusual pockets of 999-year leases.

The bill does not deal with leasehold tenure in general terms. England has legislation dealing with leasehold tenure, as that form of tenure is far more common there than it is in Scotland. The bill deals with the leasehold casualty, which is one of the difficulties of leasehold tenure. As Adam Ingram said, feudal casualties were abolished in 1914. That bill provided that the Court of Session could, if wished, apply the legislation to casualties in leases by passing an act of sederunt.

The Law Society and the Registers of Scotland made a joint approach on that to the Lord President of the Court of Session some years ago. The Lord President took the view that the matter was too controversial to be dealt with by act of sederunt and should be dealt with by primary legislation. As a result of the much-publicised problem of people being asked to pay large sums of money, the UK Government asked the Scottish Law Commission to look at the matter urgently. It produced a report that then lay on the shelf because Scottish legislation was not really of great priority for a UK government. There is therefore an excellent opportunity to show what the Scottish Parliament can do by moving quickly to cure an injustice.

The previous landlords did not bother to enforce the conditions. The largest landlord was the coal board—the Coal Industry Nominees Ltd, to be exact—which inherited the Holdsworth family leases in places such as Wishaw and Bogside. The cost of collecting the tack duties of £2 and £3 a year far outweighed the take. When the government was pushing nationalised industries to get rid of non-core activities, the estates were put on the market and acquired by land speculators who eventually found out that leasehold casualties had not been abolished. That is why the situation arose.

We support unconditionally the abolition of casualties of all types. The rental value casualty is the most pernicious because it involves a calculation of the current market rental value. It can mean a bill for thousands of pounds coming

out of the blue. In most cases, there would be a negligence claim against the solicitor concerned, but the difficulty with that is that negligence claims are not quickly settled. They go to an insurance company that then may argue for some time, and the person who is under threat has the worry of that until it is settled.

It is imperative that the bill includes compensation. Article 1, protocol 1 of the ECHR, which deals with property rights, provides for abolishing or tinkering with people's rights in the public interest, so there can be a public interest factor in a private contract. That is jurisprudentially a little odd, but it has been the decision in cases to the ECHR from other European states. However, if compensation is provided, it becomes increasingly difficult to attack the provision. The compensation here is of course derisory.

The ECHR cases make clear that there is no need for an absolute balance between the compensation and the right that is lost—there does not need to be absolute proportionality. If no provision is made for compensation, then the door is opened to somebody saying that a legal right is being taken away and nothing is being given in return, which is an infringement of article 1, protocol 1 of the ECHR.

The Convener: Thank you. One of the slight difficulties of unqualified and cross-party support for a measure is that there are few questions. Nevertheless, Phil Gallie has one.

Phil Gallie: Just to maintain the tradition, I challenge you on one point, Professor Rennie. Perhaps if Michael Forsyth had had another term to push this, it would not have been left on the shelf. More seriously, section 8 was left out by the Law Commission and has now been added. It talks about the relevant date, which on my understanding is from May this year, when the bill was introduced. Is Professor Rennie aware of any outstanding cases and, if not, is it worth looking to see if there are any? Is the section actually needed?

Professor Rennie: It depends what you mean by cases. There may be claims for indemnity lodged with the Keeper of the Registers of Scotland that are under discussion but have not yet become cases in law. I suspect the provision is here as a safety net in case somebody has a claim—for example, the situation that occurred when the keeper made the same mistake as the solicitors and thought that the casualties had been abolished in 1914 and left them out of the land certificates for the landlords. That would be a clear ECHR problem—somebody with a rectification indemnity claim under section 9(12) of the Land Registration (Scotland) Act 1979 that falls in May but that would have been paid.

Phil Gallie: It is far better that there is a safety net, but do you see a problem of cluttering up the bill?

Professor Rennie: It is not a big bill, so, in clutter terms, it is not too much. Wait until you see the title conditions bill.

The Convener: We are advised that it will be introduced considerably later than we had expected.

Gordon Jackson: If this is a daft question, tell me. Compensation under the rental value could be a large amount of money whereas under the ground rent it would be a small amount. For people who had a lease allowing them the large amount, that will now be the small amount. Am I right in saying that at times the percentage difference can be substantial?

Professor Rennie: Yes.

Gordon Jackson: While I agree with you, in that situation if no compensation is paid, then that will be open to challenge. If some compensation is paid, it does not have to be proportionate, but even so, if the proportion is way out of line, then it is as if none was being paid because proportionality is a question of degree. Do you see a possibility of a challenge under the ECHR because the degree of imbalance is very great?

Professor Rennie: That is always a potential argument. It is not how the European Court of Justice has dealt with other types of cases, for example, the Duke of Westminster's cases on leases in Belgravia and Mayfair when the UK Parliament brought in the Leasehold Reform Act 1967, which allowed tenants to convert leasehold titles to freehold. The compensation payable was not the value of a house in Mayfair but tended to be the value of the ground, on the basis that the landlord did not build the house. The expense of building the house was borne by the first tenant. The Duke of Westminster's trustees took the case to the European Court of Human Rights, which upheld the UK Government's right to legislate in that manner.

Similarly, Austria was taken to court when it tried to legislate to alter considerably leases and the right to recover rents. It was admitted that the rents that had been negotiated originally were the result of an arm's length negotiation and were commercially the correct rent. However, the European Court of Human Rights ruled that, under the ECHR, the Austrian Government was entitled to make the alterations that it was proposing. When dealing with what is regarded as a land tenure anachronism, there is bound to be a strong public interest argument for allowing a state to interfere with a private contract.

16:15

Gordon Jackson: Invariably, the ground rents are small.

Professor Rennie: Yes. Generally, they are up to £10 a year.

Christine Grahame: I would like to pursue the issue that Gordon Jackson has just raised. The major interference with the rights of the landlord appears earlier in the bill and concerns how the rental value is to be calculated. That is the meat of the bill. The provisions to do with ground rents act merely as belt and braces. However—and I defer to you on this—if it is necessary for the bill to be ECHR compliant, so be it.

Gordon Jackson: How was the figure of £6,000 arrived at?

Professor Rennie: Six thousand pounds was a figure plucked out of the air. The leasehold casualties would generally provide something like one full year's rental according to the value thereof on the entry of every singular successor—that is to say, on the new tenant's taking over the lease. The words "according to the value thereof" meant that the landlord, instead of basing the leasehold casualty on the tack duty of £3, would seek to establish the commercial rent for a year for a semi-detached house or a public house—because this applies equally to commercial properties. They would go to a surveyor, who might say that the annual rent for a public house was £20,000. It does not take more than a few months for the rent for even a house or a flat to amount to thousands of pounds.

Gordon Jackson: I understand. Thank you.

The Convener: Adam Ingram was wondering whether some of the more immediate issues had not been exhausted for the moment. Is that your view? Do you think that we are proceeding with this legislation when the issue is unlikely to become live again for a considerable time?

Professor Rennie: That is my experience in practice. I practise in the Motherwell-Wishaw area, where there was a flurry of activity when it became apparent that leasehold casualties had not been abolished. That has now died down, but the next time that somebody sells a house the issue will be raised again.

The Convener: So leasehold casualties may not be a problem for the moment, but unless there is legislation to abolish them the difficulty will recur.

Professor Rennie: Yes.

The Convener: As there are no more questions, I thank Professor Rennie for giving evidence to the committee. That was short and pretty painless.

Subordinate Legislation

The Convener: Item 4 is a negative instrument, the Human Rights Act 1998 (Jurisdiction) (Scotland) Rules 2000. The Subordinate Legislation Committee intends at its meeting tomorrow to raise an issue with the Executive about the instrument. It would, therefore, be appropriate to put this item on the agenda for our meeting next week, instead of dealing with it today.

I remind members that the next meeting will be on Tuesday next week, at 9.30 am. It will take place in the chamber, and we will consider the Abolition of Poindings and Warrant Sales Bill at stage 2. The deadline for the lodging of amendments will be Friday 15 September at 5.30 pm. If members are still thinking about lodging amendments, I ask them to give the clerks the maximum amount of time instead of waiting until 5.29 pm on that Friday.

Next week, the committee will also take evidence from the Association of Chief Police Officers in Scotland and the Scottish Campaign Against Hunting With Dogs, on the law enforcement aspects of the Protection of Wild Mammals (Scotland) Bill. I do not want this committee to be drawn into extensive debate about the principles of that bill—that is not our place. We are to try to confine our questions and concerns to the bit of the bill that impacts on the criminal justice system, so that we can get through it as quickly as possible.

Christine Grahame: The most useful thing would probably be the report from the Rural Affairs Committee. When will that be issued?

The Convener: No, we are reporting to the Rural Affairs Committee.

Christine Grahame: That committee is also producing a report. When will that be issued?

The Convener: Christine, please listen. We will report to the Rural Affairs Committee. Our report will then be included in that committee's report to the Parliament.

Christine Grahame: Oh, right.

The Convener: We are not going to wait until the Rural Affairs Committee reports. I appreciate that there is much speculation as to what the Rural Affairs Committee might or might not do, but it is our job to take evidence on the criminal justice aspects of the bill. We will take evidence next week and will then have another meeting on it. I do not want the committee to get drawn into long, involved debates about the pros and cons of the bill as a whole—which we might easily do. Stage 2 scrutiny of that bill begins next week.

Next week, we will also debate a motion that has been lodged by Phil Gallie to annul the Prisons and Young Offenders Institutions (Scotland) Amendment Rules 2000, which members considered at the last meeting before the summer recess, on 4 July. That item will be on the agenda again, so members might want to reconsider what we discussed at that meeting.

Do members want to ask any further questions before we bring this meeting to a close?

Phil Gallie: The facilities here have been excellent.

The Convener: Agreed.

Phil Gallie: The acoustics are wonderful in comparison with the committee rooms in Edinburgh. Perhaps somebody could examine the sound system that is in operation here, to determine whether it is the room or the sound system that makes the acoustics so good. We have a lot to learn from the facilities here in Glasgow.

Gordon Jackson: Can Phil Gallie remind us what his motion is about?

Phil Gallie: It is about the negative instrument on young offenders. There are several issues.

The Convener: You can read the *Official Report* of the previous meeting, Gordon.

Gordon Jackson: I am concerned that we might be revisiting something that we have decided on before.

Phil Gallie: No, we are not revisiting it. We have had time to lodge a motion. However, the time scale is such that I do not envisage that my motion will be accepted. On that basis, I did not insist that it be put on today's agenda. Nevertheless, there are points that I would like to raise in relation to that negative instrument.

Pauline McNeill: I would like to know if there will be changes as to when we are going to meet and where. The Education, Culture and Sport Committee has said that it will meet twice weekly. I do not know whether that will impact on us, but if it does, can we talk about it?

The Convener: I have not been given any more information about potential changes to future committee dates, although it is always possible that they could change. I shall ask the clerks to check our position between now and next week and to report on that. I intend to report to the conveners liaison group tomorrow that we think that this venue should be used considerably more often. It is a most appropriate venue for committee meetings in all respects. I shall also mention that we have another meeting outside Edinburgh, in Stirling, at the end of October.

At the moment, I am not aware of any further suggestions for Monday meetings as opposed to meetings on Tuesdays and Wednesdays. However, I anticipate that the suggestion will be renewed. Are members happy to meet on Monday afternoons in Glasgow, should that be suggested? It is quite convenient for some people, but not for others.

Christine Grahame: Monday is my constituency day.

The Convener: I know.

Mrs McIntosh: It was said that Monday afternoons were going to be used for committees.

The Convener: The Presiding Officer has told me repeatedly that Mondays were never envisaged as constituency days, despite the fact that most members have been using them as such. The issue is about members being given plenty of notice in order to deal with things. We have not had any difficulty with today's meeting or that in Stirling at the end of October because we have had plenty of time to put them into our diaries.

Pauline McNeill: However, the message does not appear to be getting through. I do not object to meeting on a Monday, but I object to being given short notice and to having to spend four days in Edinburgh. That does not allow us time to do our work. I do not care whether we meet on a Tuesday or a Monday as long as I have time during the week for my constituency work.

The Convener: We are all in the same position.

Pauline McNeill: I am not prepared to come to Edinburgh four days a week—it cannot be done. After all, we are back benchers, not ministers.

The Convener: That concludes today's meeting. I shall see members at the next committee meeting, on Tuesday of next week.

Meeting closed at 16:26.

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

Members who would like a copy of the bound volume should also give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the bound volume should mark them clearly in the daily edition, and send it to the Official Report, Parliamentary Headquarters, George IV Bridge, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Tuesday 19 September 2000

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5

Meetings of the Parliament annual subscriptions: £500

BOUND VOLUMES OF DEBATES are issued periodically during the session.

Single copies: £70

Standing orders will be accepted at the Document Supply Centre.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £3.75

Special issue price: £5

Annual subscriptions: £150.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0131 228 4181 Fax 0131 622 7017

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 020 7242 6393 Fax 020 7242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 028 9023 8451 Fax 028 9023 5401
The Stationery Office Oriol Bookshop,
18-19 High Street, Cardiff CF1 2BZ
Tel 029 2039 5548 Fax 029 2038 4347

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

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers