

PUBLIC PETITIONS COMMITTEE

Tuesday 1 February 2000
(Afternoon)

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CONTENTS

Tuesday 1 February 2000

	Col.
NEW PETITIONS	149
CURRENT PETITIONS	158
CONVENER'S REPORT	163

PUBLIC PETITIONS COMMITTEE

2nd Meeting 2000, Session 1

CONVENER

*Mr John McAllion (Dundee East) (Lab)

DEPUTY CONVENER

*Pauline McNeill (Glasgow Kelvin) (Lab)

COMMITTEE MEMBERS

*Helen Eadie (Dunfermline East) (Lab)
Phil Gallie (South of Scotland) (Con)
Christine Grahame (South of Scotland) (SNP)
Mrs Margaret Smith (Edinburgh West) (LD)
*Ms Sandra White (Glasgow) (SNP)

*attended

THE FOLLOWING MEMBER ALSO ATTENDED:

Nora Radcliffe (Gordon) (LD)

SENIOR ASSISTANT CLERK

Steve Farrell

ASSISTANT CLERK

Jane Sutherland

LOCATION

Committee Room 3

Scottish Parliament

Public Petitions Committee

Tuesday 1 February 2000

(Afternoon)

[THE CONVENER *opened the meeting at 14:06*]

The Convener (Mr John McAllion): I welcome everyone to the second meeting of the new millennium of the Public Petitions Committee. I extend a warm welcome to Nora Radcliffe, who is not a member of the committee but is here today because of a constituency interest in one of the petitions. When it comes to the part of the agenda in which you are interested, Nora, feel free to contribute to the discussion.

Nora Radcliffe (Gordon) (LD): Thank you, convener.

The Convener: I have had an apology from Christine Grahame, who will be unable to attend this afternoon.

Before we turn to the new petitions, it may be useful to have a quick discussion about Mr Harvey, who, members will remember, had six petitions on the previous agenda. He has a further three on today's agenda and four more will be on the agenda at our next meeting. Mr Harvey will make this committee work hard, as he obviously intends to send a great many petitions to the Parliament.

However, we must prevent the Parliament and the other committees from becoming overburdened. We do not necessarily have to refer every petition that is put to this committee to another committee or to the Executive. It is possible for us to agree not to take action on a petition. For instance, we could take the view that the time that the Parliament would have to give to the petition to allow it to go further would not be justified, or that the first recourse of petitioners should not always be to the Parliament, particularly if the issue is the responsibility of another elected organisation, such as a council.

Two of you know Mr Harvey—do you have any views on this?

Ms Sandra White (Glasgow) (SNP): I know Mr Harvey, as does Pauline McNeill. I have always said that it is great that the Public Petitions Committee exists, not just for pressure groups but for individuals. Although I agree that Mr Harvey is good at submitting petitions, particularly on local issues that affect him, I would not like us to decide whether people may submit their petitions to the committee. I would back up your idea that petitions

could be sent to local authorities and so on, particularly when—as has been the case with some of Mr Harvey's petitions—they regard issues that are relevant to local government.

This committee was set up so that members of the public could air their grievances. I agree that sending petitions to the Executive might be a waste of time, as the Executive would perhaps refer them to local government, where we should have sent them in the first place, but I certainly think that it should be possible for any petition to be presented to this committee.

Pauline McNeill (Glasgow Kelvin) (Lab): I put on record last week my view that Mr Harvey had a useful contribution to make. However, I concur with you, convener, that, although petitioners should be allowed to submit petitions, it is not on for them to submit five or six. We have a responsibility to ensure that we do not burden committees and the Executive with petitions every week.

I will make proposals about where particular petitions should be referred and will be happy to recommend that a petition that is on a subject that I think is directly relevant and useful be sent to a specific committee. You are right, convener, to say that we should think in every case whether Mr Harvey could get an answer from somewhere else before we refer his petitions to a committee or to the Executive. There must be balance.

Helen Eadie (Dunfermline East) (Lab): I agree with Pauline McNeill. We should highlight to the public the value of the work of the Scottish Parliament in this regard. I get the sense that the way in which we monitor petitions and take action on them is unique; it demonstrates that other organisations need to be as accountable. Petitions such as those from Mr Harvey are often born of frustration with trying to get action elsewhere. If we can lead by example on what is expected of petitions, other organisations may decide that what we do gives them another option. Therefore, the clerks should check whether petitioners have done x, y, and z before the committee accepts the petitions.

The Convener: It is nice that everyone is in agreement. I stress that there is nothing personal against Mr Harvey. We are just setting a precedent for dealing with individual petitioners who submit a large number of petitions. The principle is that everybody has the right to petition the Scottish Parliament and to be heard. However, it is the job of this committee to judge each petition on its merits and to decide whether further action by the Parliament is justified. I am very pleased by what members have said on the matter.

New Petitions

The Convener: The first new petition is PE69, from James McPherson, on the quinquennial review of the Crofters Commission. Mr McPherson has petitioned the Parliament to open up that review process. He calls on the Crofters Commission to hold public meetings in crofting areas in Scotland and to inform and consult the public properly about the purpose of the review.

The Crofters Commission review was announced in Parliament in June, began in July and has reported. The review report was placed in the document supply office earlier this year. The Scottish Executive rural affairs department has issued a consultation paper to interested parties about the review's two key recommendations: first, that the commission's development functions in the Highlands should be transferred to Highlands and Islands Enterprise; and, secondly, that the commission should be converted into an agency or a modern non-departmental public body.

It is suggested that we pass this petition to the Rural Affairs Committee with the recommendation that it asks the Executive to consider Mr McPherson's request, although I will be happy to listen if any member takes a different view. Do members agree to the proposal?

Members indicated agreement.

The Convener: The next petition is from James and Anne Bollan on the rules governing legal aid. The petition calls on the Scottish Parliament to examine and amend as necessary the rules that govern the award of legal aid to ensure that any family that has lost a close relative whose death has required a fatal accident inquiry shall have a right to legal aid, enabling them to access the justice system.

The suggestion is that we pass the petition on to the Justice and Home Affairs Committee and ask it to give serious consideration to the points raised and to conclude whether there is a case for amending the legal aid rules.

Ms White: I am not a member of the Justice and Home Affairs Committee, but I believe that, because of the concerns raised by other people about the Legal Aid Board, it is imperative that we pass the petition on to that committee. The legal aid situation is anomalous.

I know that we should not comment on individual cases, but it appears from the petition that the couple are seeking justice for their granddaughter, rather than for themselves.

Pauline McNeill: I would support sending the petition to the Justice and Home Affairs Committee. Several issues relating to the legal aid

rules are currently on the table.

14:15

The Convener: Is it agreed that we pass the petition on to the Justice and Home Affairs Committee?

Members indicated agreement.

The Convener: Petition PE72 comes from the Parents and Community Association of Boharm and calls on the Scottish Parliament to take such action as it sees fit to prevent the closure of Boharm primary school. Attached to the petition are various items of correspondence and background material. Nora Radcliffe has joined us to comment on this petition.

Nora Radcliffe: Members will have seen from the petition how strongly the community feels about retaining the school. Boharm is a small rural school and, although I understand the argument for closing rural schools in certain circumstances, Moray Council has not made a case for the closure of that primary school.

The council says that the school is fulfilling all the educational requirements; there is no criticism of the school in that respect. The school roll has dropped in the recent past because the school has previously been threatened with closure and there were some staffing problems. The staffing problems have now been resolved, the community has confidence in the new staff and the roll is now rising.

I have concerns about the quality of the consultation undertaken by the council. The report that went to the council education committee and then on to the full council had misleading information about the school roll. There was an opportunity to amend the report, but it was not taken; the correct information about the size of the school roll was put in an appendix. I thought that that was somewhat misleading. Irregular comments were made about the councillors' opinions on the quality of the submissions made in the consultation process.

Boharm is in the Moray Council area, but in the Gordon constituency. When papers were sent out for consultation, they were sent to Margaret Ewing, as the member for Moray, rather than to me as the member for Gordon. The council notified all Highland MSPs, but none of the north-east MSPs. That demonstrates the lack of attention to detail in the consultation process.

For several reasons, the proposed closure should be challenged. The matter will be referred to the First Minister for a decision but, because of the surrounding issues, it may be appropriate to refer the petition to the Education, Culture and Sport Committee and to the Rural Affairs

Committee.

Helen Eadie: I agree with the recommendation that we refer the petition to the Education, Culture and Sport Committee. It would be difficult for us to go into the issues in depth, but the matter merits further discussion with colleagues elsewhere.

The Convener: As Nora Radcliffe was saying, the issue is under consideration by ministers and officials. That is the normal process for school closures, particularly in rural areas. We could pass this matter on to the Education, Culture and Sport Committee, for it to consider further action. However, we recommend that that committee requests the relevant minister to consider the points that are raised in the petition. We also suggest that that committee considers in more detail the points that have been raised about the role of rural schools and the procedures that should be followed in their closure. Moreover, wider implications arise from the closure of this school. Does the committee agree to those recommendations?

Pauline McNeill: As the matter is being examined by ministers, perhaps we should mark it as urgent, for the immediate attention of the Education, Culture and Sport Committee, to ensure that that committee does not miss out on its consideration.

The Convener: I think that we would all agree to that.

Ms White: Nora Radcliffe mentioned the Rural Affairs Committee. As this issue has wider implications, which go beyond education, would it be appropriate for us to refer it to that committee as well?

The Convener: The clerk has suggested that, when we pass the matter on to the Education, Culture and Sport Committee, we should ask that committee to consult the Rural Affairs Committee in its consideration of the petition. Does the committee agree to that?

Members: Yes.

The Convener: The next petition, PE73, is from Mr Harvey, and calls for the Scottish Parliament to order a public inquiry into the social work department of Glasgow City Council, with particular emphasis on the care of vulnerable children. The petition has obviously been generated by the press coverage that was given to the tragic recent case of a little girl who was left in a plaster cast for 10 months. I will give way to the experts on this issue, with Mr Harvey in the background.

Pauline McNeill: I am concerned about this petition. I support everything that Mr Harvey says in it, and I welcome his interest in the issue—such interest is always a good thing. However, Margaret

Curran, the MSP for Baillieston, is already heavily involved in the issue. It would be against protocol not to approach Margaret Curran before we pass the matter on to the Health and Community Care Committee. I would like Margaret Curran to see this petition, and we should recommend that she keeps Mr Harvey informed of developments. It would be wrong simply to pass the petition on to the Health and Community Care Committee, as an MSP is already heavily involved with the social work department.

Ms White: I take on board what Pauline McNeill is saying, but we were talking about trying to cut down work. If an MSP has a particular interest in a petition that we receive, or if consultation is ongoing, it would double our work load to tell that MSP that a petition had been received, which we were sending to the Health and Community Care Committee. All members have access to the public petitions that we receive. If the Public Petitions Committee is considering anything that is relevant to any of the other members in my party, I let those members know. That is the way in which we should proceed. If we informed the local MSPs every time an issue arose, that would set a precedent. We would be performing a dual role, which I would not be happy about.

Any member can lodge a question to the First Minister about this matter. Mr Harvey has got there first, and has submitted this petition, which is the type of petition that we should pass on to the Health and Community Care Committee. If members of the public are interested and concerned enough to submit such petitions, we should pass them on to the Health and Community Care Committee, not to the local MSP. In response to other petitions, we could inform the petitioners when the local authorities were dealing with the matter. I would not like to set a precedent of passing on petitions to local MSPs.

Helen Eadie: I have a warning signal in my head, which says, "Be cautious with this one." We are dealing with social work issues, unions and potential legal cases. We should ensure that we have good information. If an MSP has taken a strong lead in the investigation, it would better inform our deliberations if we consulted that member. I suggest that we ask Margaret Curran to provide us with any relevant information, if the committee agrees that that would help.

Nobody would disagree that absolute care and attention is merited where a child has been put at risk. However, we do not want to endanger anyone by leaping at this. I have no objection to the petition being referred to the Health and Community Care Committee, but it might be helpful to have the additional information that I mentioned.

The Convener: Glasgow City Council is elected,

and we do not know what appropriate or inappropriate action it has taken in this tragic case. Perhaps in the first instance we should refer the case to the council and its elected members, and ask them what action Glasgow City Council is taking in relation to it. I would not like to see the Public Petitions Committee leaping over the heads of elected local authorities and sending petitions to the Health and Community Care Committee or other committees without giving local government the chance to say what it is doing.

Helen Eadie: I endorse that absolutely. Those are the kind of warning signals that I was trying to send.

The Convener: Glasgow City Council may be doing all kinds of things that we do not know about. Do we agree, in the first instance, to refer this petition to Glasgow City Council?

Pauline McNeill: I am not entirely happy with the way that this is going. If I were dealing with a constituency issue and the relevant petition was referred directly to an outside body, I would not be pleased about that. That is not to say that other parties may not have an interest—I am sure that they have—but due consideration must be given to the person who has taken up the case. How do we know that Margaret Curran has not already written to Glasgow City Council and has not received a reply? I am not opposed in principle to what you say, convener, but I feel that the member who has been driving things forward in this case should, at the very least, be copied in. That is the bottom line. We should inform the member that this petition has been submitted to us and ask her what action we might take.

Helen Eadie: There is a halfway house. We can do what Pauline McNeill is suggesting as well as what the convener has suggested, before reporting to the Health and Community Care Committee.

The Convener: I see no problem with that. Is it agreed that we refer the petition to Glasgow City Council, and that we also copy it to Margaret Curran, tell her what action we are taking and ask her whether she wants to advise the committee about any further action that might be taken in respect of it?

Members indicated agreement.

The Convener: Petition PE74 relates to the housing stock transfer process. It calls for a moratorium on stock transfers until the Scottish Parliament—and, in particular, the Social Inclusion, Housing and Voluntary Sector Committee—has had a chance to complete its study of the subject. There are three other petitions almost identical to this, which we did not receive in time for this committee meeting but which will be on the agenda for our next meeting

in two weeks' time. Because the Social Inclusion, Housing and Voluntary Sector Committee is currently considering the issue of housing stock transfer, it seems sensible to refer this petition to the committee and to ask it to take the petition into account when forming its view on the subject.

Ms White: I think that that is the right approach, as the committee is dealing with the issue at the moment.

The Convener: Is that agreed?

Members indicated agreement.

The Convener: Petition PE75 is from Mr Harvey and relates to animal circuses in Scotland. It calls on the Scottish Parliament to ban all animal circuses in Scotland immediately, because they

“are cruel to animals and unacceptable in a civilised society.”

The suggestion is that we pass the petition to the Local Government Committee and ask it to consider whether the issues raised carry sufficient weight to merit an amendment to the legislation governing the licensing of circuses in Scotland, which, we think, is the Local Government etc (Scotland) Act 1994. However, we do not have to do that. Can anyone think of a better way of disposing of this petition?

Helen Eadie: Mr Harvey must have been reading the Fife newspapers, because in the past couple of weeks Fife Council has banned animal circuses on council grounds. To refer the petition to the Local Government Committee would be one way forward. As I cannot think of any other way forward, I endorse the suggestion and Mr Harvey's views.

Ms White: Helen Eadie is absolutely right. A local council can decide to prohibit circuses on its grounds if they include live animals. I am sure that the Local Government Committee will be aware of that. It is the committee that is most likely to be interested in this issue, and it is certainly the committee that would deal with the legislation relating to the issuing of licences.

14:30

The Convener: We should ask the Local Government Committee to consider whether this issue carries sufficient weight to merit an amendment to the law. We are not insisting that it meets the demand. I have never considered the matter of circuses before. I am sure that some people will take a different view from that of Mr Harvey.

Helen Eadie: There is a distinction between being banned from council land and being banned generally throughout Scotland, which might be the sort of amendment that Mr Harvey would want. If

so, does the petition have wider implications? Would it also be relevant to the Justice and Home Affairs Committee? That committee keeps sending petitions back to us—we seem to send a lot of petitions to it.

The Convener: The advice that I have received is that the petition falls under the remit of the Local Government Committee. That committee is best placed to consider it and make a recommendation. Are members agreed?

Members: Yes.

The Convener: Petition PE76 is also from Mr Harvey. It calls for the Scottish Parliament to order a public inquiry into the gas industry in Scotland, following the recent fatal gas explosion in Larkhall. The recommendation is to pass it to the Enterprise and Lifelong Learning Committee to note and for it to consider whether further action is necessary, in the light of the action that has already been taken. Transco are replacing 200 miles of ductile iron gas pipe and there is a continuing Health and Safety Executive inquiry into the incident to which Mr Harvey refers.

We could pass the petition to the Enterprise and Lifelong Learning Committee, or we could write back to Mr Harvey and state that there is an inquiry being undertaken by the House and we should await its outcome before considering whether the Scottish Parliament should take action.

Ms White: We do not want to jam all the committees with petitions. We should send Mr Harvey a letter, stating that this matter is being investigated by the HSE. We should not pass the petition to the Enterprise and Lifelong Learning Committee at this stage.

The Convener: We could state in the letter that, subsequent to the publication of the HSE report, if Mr Harvey is still dissatisfied, that may be the time to write to the Scottish Parliament.

Pauline McNeill: I support Sandra White's comments. Another point is that Jimmy Hood, the MP, and Karen Gillon, the MSP for that area, are also involved in this matter.

The Convener: In this instance we are taking no action, other than writing back to Mr Harvey. We could copy the letter to Jimmy Hood and Karen Gillon.

Ms White: Pauline McNeill's point is well meant, but that would treble the work for the clerk and the committee. The relevant MP and MSPs can access the information in the same way as us.

Pauline McNeill: Any petitioner who writes in about a matter that is already being dealt with by an MSP must realise that they cannot ignore the fact that an MSP is already working on it. That is

an important point, but I support Sandra White's suggestion wholeheartedly and I am not too bothered about whether the MP and MSP are given a copy of this.

Helen Eadie: Pauline McNeill has made a reasonable point. When the clerks receive a petition, the MSP concerned should perhaps automatically get a copy of the correspondence.

The Convener: We will have to resolve this issue. Do members agree that we should give the clerk time to consider and report back to the next meeting of the committee? There are problems in relation to list MSPs.

Helen Eadie: This point is not about the petition that we are discussing, but I was involved when the HSE reported on a derailment in Fife, which nearly caused lives to be lost. I was appalled by the HSE's report, which told me nothing. We are dealing with people's lives. We had to wait until that big incident in Larkhall until we had a public inquiry. The Parliament should perhaps be asking some questions, especially in the light of privatisation.

When I heard a report on the radio this morning about more privatisation by stealth, this time concerning the public water utilities and a forthcoming European directive, I thought, "Here we go again." A water company spokesman who used to work for Margaret Thatcher was talking at great length about how wonderful this privatised water will be. We have seen what has happened to the rail and gas industries under privatisation.

Although I probably have a bee in my bonnet about the privatisation of public utilities just now, I am not happy about just waiting until the inquiry report comes out. We need to examine the wider issue of safety with the public utilities, although I am not sure which committee would deal with that.

The Convener: I very much agree with you. However, although there is a general issue for discussion about whether privatisation puts safety into question, this petitioner is asking for an inquiry into a particular incident. As an inquiry is already under way, we must wait until its report before we call for another one, because the report might well be very good. I do not want to say that the Health and Safety Executive always produces bad reports.

Ms White: If we feel strongly about these issues, we have access to the First Minister and the Executive through written and oral questions.

I have a suggestion that might address Pauline MacNeill's concerns. When we write back to Mr Harvey or other petitioners, we could recommend that they contact their local MSP or MP and leave it up to them to take the matter further.

The Convener: This is an important issue and

we have to get it right. If members have any ideas about handling constituency and list MSPs, they should tell the clerk before the next meeting. We would all be very upset if we found out that petitioners were going over our heads to other committees. In this case, we will copy the correspondence to the MP and the MSP involved.

Is it agreed that we write back to Mr Harvey along those lines?

Members indicated agreement.

The Convener: The next petition, PE77 from Age Concern Scotland on the Royal Commission on Long Term Care for the Elderly, has 10,000 signatures and was presented last week to the chairman of the commission, Sir Stewart Sutherland, and a number of MSPs, including several members of this committee.

The petition raises a very big issue that is currently being considered in the Health and Community Care Committee's long-term inquiry into community care, including care of the elderly. The recommendation is that we pass the petition to the Health and Community Care Committee as part of its inquiry. I am sure that the committee will deal with it in the appropriate manner. Do any members have objections or qualifications to make?

Helen Eadie: I accept the recommendation, convener.

The Convener: The last petition is PE78 from Napier Students Association, which was presented to the committee shortly before last Thursday's debate on tuition fees and calls for the Cubie inquiry report, "Fairness for the Future", to be fully implemented by the Scottish Parliament.

As the Cubie inquiry's recommendations and the Executive's amendments will be very much on the Enterprise and Lifelong Learning Committee's agenda over the next few months, the recommendation is that we pass the petition to that committee and ask it to make the appropriate response to the petitioners. Are members agreed?

Members indicated agreement.

Current Petitions

The Convener: The next item on the agenda is consideration of petitions that have already been through the committee. Members have the paper about the progress that has been made on individual petitions.

Petition PE22, from the Island of Cumbrae Tourist Association, concerned the fare structure of Caledonian MacBrayne ferries, and members will remember that Allan Wilson addressed this committee on that petition. We passed the petition to the Transport and the Environment Committee and asked it to pass a copy to the Executive. The Minister for Transport and the Environment, Sarah Boyack, has written back to the clerk, and her letter highlights problems with providing the detailed route-by-route financial information that was requested by the petitioners.

Difficulties arise because of the way certain grants are allocated and the way CalMac calculates operating costs. However, the minister has indicated that both Caledonian MacBrayne and the Scottish Executive recognise the need to make more information available about the company's operation and are committed to doing so.

As a first step, the Executive has invited CalMac to undertake a fares review, including an evaluation of its sea fares policies. The minister says that that exercise will be undertaken in collaboration with the Executive staff, and should go a long way towards establishing the base information that is necessary to calculate profitability on individual ferry routes.

A similar letter from Sarah Boyack has been passed to the Transport and the Environment Committee. It is for that committee to pass on that information to the petitioners, but I suggest that we pass a copy to Allan Wilson, because he came to this committee to support the petition.

Helen Eadie: That is a result, convener. It is at least going down the road of making route costings transparent, and beginning to address the issue of cherry-picking by route operators with regard to the routes that they wish to subsidise. It will be helpful to have that baseline information. That was a worthwhile piece of work.

The Convener: The next item that I wish to report back on is petition PE30, which is from Almodell Terrace residents and is in relation to heavy traffic in Almodell Terrace in East Calder.

Ms White: Do we have copies of this petition?

The Convener: Yes, but you do not have copies of the response. We received a helpful response previously from Stirling Water Seafield Ltd. We

have now received a further letter from West Lothian Council, which indicates that a traffic calming scheme has been prepared, and currently is the subject of consultation with the residents. It is hoped that the scheme will be implemented in the near future.

That is another positive response. I propose that the clerks copy the letter to the petitioners, and ask them to indicate if they are satisfied with the action that has been taken by the parties involved. If they are satisfied, we can formally close this petition. Is that agreed?

Members: Yes.

The Convener: We turn to petition PE32 from Mr Gavin Cleland, which asks for the Scottish Parliament to advise the Lord Advocate to initiate criminal proceedings against Occidental oil company for its part in the Piper Alpha disaster. We have received letters from Lord Hardie on this matter, and everyone should have copies. I am not sure whether members want a couple of minutes to read them, or whether I should read them into the record.

If members read the letter, and paragraphs 2 and 3 in particular, they will see that the

“decision to take no proceedings following upon the Piper Alpha Disaster was taken in July 1991 on the basis of an assessment by the then Lord Advocate—Lord Fraser of Carmyllie—of the available evidence”

that could have been used in a prosecution.

“That decision was intimated publicly. Applying the law as it stands, there cannot now be a prosecution at the instance of the Crown in this matter. Even if legislation was to be promoted to enable a Lord Advocate to depart from an unequivocal public pronouncement abandoning proceedings, it would not be possible to make such a law retrospective.”

As the Lord Advocate understands matters,

“the circumstances surrounding the Piper Alpha Disaster were thoroughly investigated at the time”

and his office

“assisted with Lord Cullen’s Inquiry and in the leading of evidence”

into the Piper Alpha disaster.

“After the publication of Lord Cullen’s report the evidence was considered at length by Crown Counsel prior to the Lord Advocate announcing his decision in July 1991. While all energy issues including oil and gas are reserved, as is health and safety legislation, for which the Health and Safety Commission and Executive are responsible, any potential prosecutions arising in this area in Scotland or in Scottish waters are the responsibility of the Crown Office or the appropriate Procurator Fiscal.”

In the final paragraph, the Lord Advocate says:

“While the Crown is not obliged to explain the reasons behind a decision to take no proceedings, it is worthwhile recalling that Lord Cullen applied the ordinary standard of proof in civil cases, namely, proof on a balance of

probabilities, to his examination of the evidence. Lord Cullen noted that there was no direct evidence as to what happened and that accordingly proof was dependent upon inference from the evidence supported by expert testimony. Very little equipment or physical evidence could be recovered and a number of key personnel on duty at the time of the disaster tragically lost their lives.”

The Lord Advocate is firmly turning his face against any consideration of criminal proceedings against Occidental. In fact, he says that it is not within his powers to order such an investigation. Perhaps members would like a few minutes to read this letter and the other one.

Helen Eadie: Could Pauline, who is studying law at the moment, advise me on this? Is it only the Lord Advocate who can take action in the courts, or can someone else, on behalf of the applicants who want to prosecute, take action?

14:45

Pauline McNeill: It is the job of the Lord Advocate to decide whether to prosecute.

Helen Eadie: Could an organisation such as the Scottish Trades Union Congress, which has come out in support of Mr Cleland on behalf of all the families concerned, take up the case in court? Does it have to go through the Lord Advocate?

Pauline McNeill: The criminal case would have to go through the Lord Advocate. In the Dekker case, for example, although the procurator fiscal might have been involved, ultimately the Lord Advocate would decide whether to bring a charge of careless driving.

In this letter, he seems to be saying that even when Lord Fraser applied the lower test standard of probability to decide whether there was enough evidence to prosecute, he could not find enough evidence. Piper Alpha was a huge explosion. It would be open to certain parties to bring a civil case; in fact, there were several cases of people who had seen the explosion and had suffered psychologically from nervous shock but who failed to get damages.

Helen Eadie: I have to declare an interest. My husband was a trade union official at the time. We all know of the trauma that everyone went through. We heard all the examples of companies that did not have procedures in place for dealing with all sorts of things that happened, and I have every sympathy with anyone who wants to prosecute those companies. But the question is, can it be done?

Pauline McNeill: The only people who can prosecute are within the Crown Office in Scotland. But civil cases can be taken up by other parties with an interest.

The Convener: Mr Cleland’s petition asked the

Scottish Parliament to request the Lord Advocate to undertake criminal proceedings. The Lord Advocate's second letter makes it clear that

"section 48(5) of the Scotland Act 1998 . . . requires the Lord Advocate to take decisions about prosecution independently of the Scottish Parliament and of the Scottish Executive. The Scottish Parliament has no powers as regards the initiation of criminal proceedings in Scotland. It would be not only constitutionally improper but also unlawful for a Lord Advocate to take a decision about criminal prosecution under direction or influence of another person or body, including the Scottish Parliament."

Helen Eadie: I understand that.

The Convener: Mr Cleland has presented his petition to the Scottish Parliament. Having taken the advice of the Lord Advocate, however, it would seem that we will have to write back to Mr Cleland and to show him copies of those letters and to explain that the Scottish Parliament cannot take any action as requested in the petition, as it is forbidden to do so by the laws of Scotland.

Ms White: There is something in the second paragraph of the last page of the first letter that Pauline may be able to help us with as well.

"It is, of course, open to London Bridge Engineering and Others to appeal the Court of Session's decision to the House of Lords and it will be necessary for your Committee to enquire, either with the Court of Session of the House of Lords, whether this is being done."

Is that another avenue that Mr Cleland and others can go down?

The Convener: That action has been taken by other people. It has nothing to do with Mr Cleland.

Pauline McNeill: That is a civil action, which is what Helen was asking about. That is where the appeal comes in.

Ms White: That is why I raised this point, because, unfortunately, it appears that if criminal damages are sought, nothing can be done.

The Convener: A person taking civil action in the courts does so at their own risk.

Ms White: So people would need to find the money to do that.

The Convener: Criminal proceedings are under the Lord Advocate, and he is clearly telling the committee that not only can he not take action, but the Parliament cannot even ask him to take action.

Helen Eadie: I understand and accept that justice and politics have to be kept apart. This is one of those cases in which, like Mr Cleland and the STUC, I would like to see justice being done. However, this is not the way to do it. We will have to find another way to support the STUC and all the families who suffered.

The Convener: I agree. Knowing Mr Cleland, I am sure that he will carry on fighting and will find

another way to raise the issue. However, the avenue of the Public Petitions Committee has been ruled out by the Lord Advocate.

We will pass on the correspondence to Mr Cleland with a letter explaining the position of the committee.

Pauline McNeill: I want to talk about petition 14 from the Carbeth hutters. Sylvia Jackson and I have become involved in the case and have written to Jim Wallace. We are lobbying hard to get him to legislate to protect the hutters. He is quite sympathetic, but there is a difficulty about whether the rent acts or property legislation would be affected.

Helen Eadie: That illustrates to the public that it is not only the formal procedures of this committee that are useful, but the behind-the-scenes networking as well.

Ms White: I want to talk about petition 29, from Mr and Mrs Dekker. A copy of the Lord Advocate's response has been sent to them. Have we received a copy? I do not think that I have read it.

The Convener: Do members want the response circulated?

Ms White: I would like to see the answer

The Convener: I will ensure that that happens.

Convener's Report

The Convener: The clerk has put together a paper to ask for the support of the conveners liaison group for the funding of our meeting in the Borders. That will be discussed later this afternoon.

We could save around £800 if the meeting were held on a Monday rather than a Tuesday, as no extra broadcasting staff would have to be brought in. Do we agree to meet on a Monday? It will save the taxpayers' money.

Helen Eadie: I am happy to accommodate that.

Pauline McNeill: I cannot make it on a Monday.

Ms White: I might not be able to make it, but I am more than happy for other members to go. I think that we only need three members for the meeting to be quorate.

The Convener: The clerk can consult members. If it possible to get a quorum together, we will go on the Monday, to save money. If not, we will go on a Tuesday.

Helen Eadie: I presume that it would also be cheap on a Friday. Does that help you, Pauline?

Pauline McNeill: I do constituency work on Mondays and Fridays. I am on the Justice and Home Affairs Committee, which might have an impact on my time at that point. Sandra White's suggestion is the best. We should see who is available.

The Convener: We will try to get three or four members together.

At the last meeting, we asked if Professor Hamblen, the chairman of the Greater Glasgow Health Board, would discuss with the committee his decision not to agree to a request to delay the decision on a secure care centre at Stobhill general hospital. He said that he was unable to attend this afternoon because of other commitments but is happy to attend on 15 February.

The suggestion is that that meeting should take place in committee room 1, to allow television coverage, as there might be some interest in the proceedings. Professor Hamblen will be present at our next meeting. We could convene 15 to 20 minutes before the start of the meeting, to discuss the line of questioning that we might want to pursue with Professor Hamblen. Is that agreed?

Members: Yes.

The Convener: The final item is the letter from Mr Ken Murray, which was addressed to me, I presume, as convener. I do not have a copy of the letter here. Mr Murray states strong views about

the meeting that was held in Glasgow, which was attended by Paul Martin, the MSP for Glasgow Springburn, and Councillor Charles Kennedy. He makes remarks about those individuals in his letter.

What does the committee think that we should do with this letter? Should we refer it to the Health and Community Care Committee, as part of the evidence that it should be considering, or copy it to Paul Martin?

Ms White: It is a personal letter, is it not, from someone who holds a contrary view to that of someone else? Paul Martin should receive a copy of it.

The Convener: It is sent under the heading of the Glasgow Association for Mental Health, of which Mr Murray is the chair. It has been copied to Donald Dewar, Susan Deacon, Professor Hamblen and me. The Presiding Officer has also received a copy, so Paul Martin should be sent a copy.

Should we pass the letter to the Health and Community Care Committee, to be considered as part of its evidence?

Helen Eadie: I find the letter a little offensive. The final paragraph says:

"My final point is to suggest to you that you should not be sidetracked by the overtures made by Mr Martin."

My goodness, that is what an MSP is for—to make overtures to people. I will go along with your suggestion, convener.

Pauline McNeill: I presume that David Steel has copied the letter to Paul Martin, as it mentions him. If that has not been done, Paul Martin should be sent a copy.

I do not think that the letter requires any other action, and I agree with what Helen Eadie says. Whether or not Mr Murray, or any of us, agrees with Paul Martin's actions, it is legitimate behaviour for any MSP to state whatever they think is appropriate in the context of protesting on behalf of their fellow members. I would defend any member's right to do that. It should be made clear to Mr Murray, when he attends this committee, that we are not here to hear his views on the matter.

The Convener: Mr Murray will not attend this committee. Professor Hamblen, the chair of Greater Glasgow Health Board, will attend the committee.

You are right and I was wrong. Mr Murray did not address the letter to me as the convener of the Public Petitions Committee. He addressed the letter to David Steel as the Presiding Officer, so it is for David Steel to decide what further action to take.

Is there any other competent business?

Members: No.

The Convener: I thank you all for attending.

Meeting closed at 14:57.

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