

PUBLIC PETITIONS COMMITTEE

Tuesday 26 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

Tuesday 26 September 2000

	Col.
NEW PETITIONS	627
CURRENT PETITIONS	658
CONVENER'S REPORT	663

PUBLIC PETITIONS COMMITTEE

14th 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)

*Christine Grahame (South of Scotland) (SNP)

*John Scott (Ayr) (Con)

Mrs Margaret Smith (Edinburgh West) (LD)

*Ms Sandra White (Glasgow) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Mr Andy Gibb (Westfield Community Council)

Mr Stephen Grant (Scottish Private Investigators Forum)

Fiona Hyslop (Lothians) (SNP)

Mr George McAulay (UK Men's Movement)

Mr Brian Monteith (Mid Scotland and Fife) (Con)

John Moore (No Alignment Action Group)

Mr J S Morrison (Scottish Private Investigators Forum)

James Nixon

Mr Gil Paterson (Central Scotland) (SNP)

Louise Robertson (Save the Vale Campaign)

CLERK TO THE COMMITTEE

Steve Farrell

ASSISTANT CLERK

Jane Sutherland

LOCATION

Committee Room 2

Scottish Parliament

Public Petitions Committee

Tuesday 26 September 2000

(Afternoon)

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

New Petitions

The Convener (Mr John McAllion): I welcome everyone to the 14th meeting this year of the Public Petitions Committee. As we have no apologies from members of the committee, I will move straight on to the agenda.

I remind members that we have 18 petitions to consider this afternoon and that eight people have indicated that they wish to address the committee on those petitions.

Three additional MSPs will also speak at our meeting. I welcome Fiona Hyslop and we are expecting Brian Monteith and Jill Paterson—I mean Gil Paterson; I always get that wrong and he will fill me in one of these days. It is important that members of the committee keep their questions for petitioners brief and to the point.

I should explain to the petitioners that, because of the number of people who want to address the committee this afternoon, we will be strict in limiting speakers to a three-minute statement. After two and a half minutes, I will indicate that they have 30 seconds to wind up. We will then open up the discussion to questions from members.

The first petitioner is Louise Robertson. She will speak on petition PE262, which was submitted by the Save the Vale campaign.

Louise Robertson (Save the Vale Campaign): Thank you. I was told in the letter that I was sent that I would have two minutes, so I should be well within my time.

The Convener: In that case, you will have extra time.

Louise Robertson: Thank you for giving us this opportunity to speak to our petition. We are here to represent the Save the Vale campaign—the vale being shorthand for the Vale of Leven district general hospital. We are proud that we can come to our own devolved Parliament in Edinburgh to make heard our voices on behalf of the huge majority of people in our area who expressed their concern at the prospect of reduced services at the hospital.

Our area is one of great natural beauty, but it has huge social problems in relation to unemployment and poverty. Our local authority has statistics that prove how massive the problems are in our area. We have the highest infant mortality rate and yet we are told that our maternity service must be cut. No longer can women expect to have their first-born at the Vale of Leven hospital. If there are complications with a birth, it will have to be carried out elsewhere. We are proud of our maternity unit and of the people who work in it. We expect our health service workers to be given proper training to ensure that they can provide local people with first-class health care in a local setting.

We also expect our elderly people to be able to look forward to receiving the care that they need in their own area from well-trained staff. We abhor the fact that so many people from our area have sleepless nights worrying about their loved ones in the geriatric unit and about what will happen to that unit.

We were told that the health service would take us from the cradle to the grave—because I was told that I had only two minutes, those are the only two areas on which I can touch.

We all know that good health is not just a matter of good medical care. We are part of the Argyll and Clyde Acute Hospitals NHS Trust. Often, when the Vale of Leven hospital is unable to provide the care that we need, we must go to Paisley for treatment. That might seem like a good idea to bureaucrats, but to people who live on a fixed, low income and who do not have their own transport, that can be a time of social isolation. Paisley is not far away as the crow flies, but it is on the other side of the River Clyde. Travelling on public transport from some of our housing schemes to the hospital in Paisley involves a round trip of two buses and six trains.

While we were out getting signatures for the petition, people who used the Royal Alexandra hospital in Paisley told us that the nurses and the rest of the staff were brilliant and that the food was okay. However, they did not know the other people in the wards and they felt a burden to their families, who took all day to come to visit them.

Our petition urges the Scottish Executive to provide proper funding for the health service, in order to ensure that jobs and services are not cut. We have never said that the Vale of Leven hospital was going to close, but we have been campaigning for a decentralised health service that is provided locally to meet local needs.

We are sure that all MSPs are well aware of the benefits of a devolved, decentralised Parliament. All we are asking for is the same for the people who need to use the services of the Vale of Leven

hospital.

The Convener: Thank you. That was spot on three minutes—well done.

Ms Sandra White (Glasgow) (SNP): Louise, you mentioned the fact that you have to travel to Paisley to use the RAH. I was interested in the lack of maternity care if the Vale of Leven hospital were to close. Has it been confirmed that people would have to travel through to the maternity unit at the RAH in Paisley?

Louise Robertson: We have been told that the service in Alexandria must be cut. People who are having their first child or who have complications at the birth will have to travel to Paisley.

Christine Grahame (South of Scotland) (SNP): I am ignorant about this hospital. How long has it existed as part of the community?

Louise Robertson: The Vale of Leven hospital has existed for about 50 years; it was built after the second world war. Because of the location of the area, it was built to withstand nuclear fallout.

Christine Grahame: Is the geriatric unit at the hospital still open?

Louise Robertson: Yes, but it is rundown. The trust says that it does not have the money to undertake the repairs.

Christine Grahame: How many elderly people are in the unit?

Louise Robertson: I am sorry, but I do not know.

Christine Grahame: Where will they go?

Louise Robertson: That is the problem—we do not know.

Pauline McNeill (Glasgow Kelvin) (Lab): What do you know about the maternity unit? I know the Vale of Leven hospital well, as I was a union official who looked after the nurses there. Can you tell me about the number of births at the Vale of Leven maternity unit? Do you know if that number has decreased? Has there been a decline in population?

Louise Robertson: I think that the number probably has gone down, but I am not sure about the figures. I know that the unit does not reach the official targets that people say must be met for the hospital to be kept open.

Our point is that we must improve the services. West Dunbartonshire has the highest infant mortality rate in western Europe. We need maternity services and we should be improving existing maternity services in our area, rather than making cuts and sending people—the poorest people, who do not have cars—to Paisley, which is what the trust is talking about doing.

Pauline McNeill: I was just asking you what you knew about the birth rate and so on.

Louise Robertson: I do not know what the figures are, although I know that they are falling. Perhaps one of my colleagues knows. *[Interruption.]* No—we are not sure about the figures.

Helen Eadie (Dunfermline East) (Lab): Your petition mentions proposals to cut jobs. How did you come to know about those proposals?

Louise Robertson: There was a leak to the press about a review that was taking place in the trust, which was talking about centralising a lot of the health services. We learned about the situation through that leak.

Helen Eadie: Have the trust or the health board conducted a formal consultation procedure in the hospital?

Louise Robertson: The consultation process is continuing, but the tune keeps changing. We are not sure what is happening. We are told one thing but, when we then hold public meetings, we hear another.

Helen Eadie: Have you seen a consultation document on the issue?

Louise Robertson: No.

Helen Eadie: Who has been consulted? Was it the unions, the staff and the public?

Louise Robertson: As far as I am aware, the public have not been fully consulted. We have invited officials to attend public meetings. They have come along and answered questions, but they have not asked us what we want to be put in place.

The Convener: Thank you. We have heard from the petitioner and members will have read the suggested action. The petition asks the Scottish Executive to provide funding to the national health service to ensure that the area served by the Vale of Leven hospital has the health care that it deserves. We have a copy of a press release from the Scottish Executive, indicating the extra resources that it has allocated to the health service. The suggestion is that we send the petition to Susan Deacon, asking her to contact the petitioners directly.

14:15

John Scott (Ayr) (Con): What are real-time increases? The press release says “real term increases”. Which term is correct and what do they mean?

The Convener: We will have to raise that with the Executive.

John Scott: I am referring to the bit that has been picked out in the petition. If it is inexplicable, it should not be here.

The Convener: I think that real increases are increases over and above inflation, rather than increases that simply match inflation in the health service.

Helen Eadie: I agree that we should send the petition to the Executive. Could we ask the minister to find out what consultation the health board or trust had with local people?

The Convener: Yes. I am sure that we could do that.

Christine Grahame: I may not have followed the matter carefully enough. I would like to know what the specific proposals mentioned in the letter are. There were proposals regarding maternity, but I would like to know about specific proposals on the maternity unit and the geriatric unit. The information seems to have leaked out.

The Convener: Are you suggesting that we ask the Executive for confirmation of the specific proposals for the maternity unit and the geriatric unit and for information on the consultation procedure so far?

Christine Grahame: Yes.

The Convener: Okay.

Pauline McNeill: There is a big debate about the Argyll and Clyde Health Board and the Royal Alexandra hospital in relation to the provision of maternity services. What are the criteria for a maternity service? It would be useful to know how that relates to provision in the Vale of Leven.

Christine Grahame: We could extend that to include criteria for geriatric units. The goal is to keep older people in their communities. The three points are criteria, specific proposals and consultation.

The Convener: We will refer the petition to the Executive and ask it to address the specific proposals for maternity and geriatric provision at the Vale of Leven hospital, the criteria for continuing the present level of service and what consultation had been carried out on any changes proposed by the health trust. Is that agreed?

Members indicated agreement.

The Convener: Petition PE263 is from Ms Joan Higginson. It calls for the Scottish Parliament to investigate the handling of the issues raised in previous petitions on the construction of the A701. Mr James Thompson and Mr John Moore have come to speak in support of the petition. *[Interruption.]* I have been told that only Mr Moore will speak as Mr Thompson has had to leave.

John Moore (No Alignment Action Group): Sarah Boyack's decision on the planning application for the A701 is flawed and could lead to serious doubts about the planning process on the ground that Midlothian Council and members of the Scottish Executive could be seen to have manipulated the planning process to suit their own ends.

The No Alignment Action Group has obtained evidence that shows that, from the outset, Midlothian Council's intention was to avoid a planning inquiry. To that end, Midlothian Council submitted the planning application over Christmas in 1998, to minimise the public response. That failed, as there were 440 objections and three petitions were submitted, containing 266 names. The decision to pass back the application to Midlothian Council before the Midlothian local plan was released has effectively compromised the local people, who have not been given a fair hearing.

When answering parliamentary questions on the landfill site, Sarah Boyack said that no letters of objection had been received detailing geological problems or contamination of the Clippens landfill site. She also stated that there was no suggestion in the environmental subscription of any instability problems. However, NIAG has documents to show that Midlothian Council and the Scottish Executive knew about the difficulties and instability problems. Surely Sarah Boyack should have received that information. If she did not, why not?

The lost petition is now being resubmitted as part of the evidence against Sarah Boyack's statements. It is apparent from the desk-based study that the figure of £18.5 million is not a true estimate of the cost of the new road. That supports NIAG's suggestion that information was hidden and safety compromised to suit the needs of Midlothian Council. The desk-based study, which used old reports and further testing on the site, was carried out only after consultation on the planning application was completed. The details of the further study have never been made public.

Finally, the switch from the private finance initiative after the submission of the application to the Scottish Executive also proves that decisions had already been made, not only on the road, but on the sale of school buildings to pay for the road. That decision was made in late November 1999, which also shows a deliberate fudging of the facts on the road and the academy that was planned for Dalkeith.

Consultation in Dalkeith has also been compromised by Midlothian Council, which knew before it consulted the local people that the back-room decisions had already been made. The cost of the road compromises many factors, including health, safety, the environment and the education

of people in Midlothian. We have a right to a fair hearing and a say in our future.

The Convener: Thanks very much.

Christine Grahame: Was any response received from the Executive or the minister to the earlier petitions in the campaign?

John Moore: I cannot answer that without looking through a lot of documentation. The main expert on this subject went on holiday today; she wrote this submission for us last night. I have copies of some of the parliamentary questions and the replies to them, which may provide you with the details.

Christine Grahame: After the petitions were sent to the minister, did any correspondence come back from the minister or the Executive to the campaigners?

John Moore: When the petition was submitted initially, we received a reply from the Executive, stating that this was a serious matter and that the petition had been presented to the ministers. We heard nothing further; the petition got lost.

The Convener: As there are no further questions, I thank Mr Moore.

The petitions initially came before this committee just before the Executive made its decision; it was agreed that the petitions be brought directly to the minister's attention. The clerk was assured that the request would be considered by the ministers and that this committee and the petitioners would be notified of the outcome. That does not seem to have happened. [*Interruption.*] I am advised that the petitioners were informed of the outcome, but the impact of the petitions on the Executive's decision was not clarified, either to the petitioners or to us.

The suggested action is that I write to the minister, seeking confirmation that the two earlier petitions were taken into account as part of the consultation process and asking the Minister for Transport and the Environment to provide responses to the other questions that have been raised by the petitioners in relation to the Executive's handling of the matter. Is that agreed?

Members *indicated agreement.*

Christine Grahame: Do you mean the Executive's handling of this issue, or its handling of the petitions?

The Convener: Both. The paper from Joan Higginson contains a series of questions to which we should seek a response. The issue concerns not only why the original petitions were not taken into consideration, but the handling of the process.

The next petition, PE264, is from Mr J S Morrison, on behalf of the Scottish Private

Investigators Forum. It calls on the Parliament to urge the Executive to pass a private investigators registration bill. Mr Morrison is here to speak to this petition.

Mr J S Morrison (Scottish Private Investigators Forum): Good afternoon. I have brought my colleague, Mr Grant, with me.

The Scottish Private Investigators Forum, which I represent, was formed by members of the Institute of Professional Investigators and the Association of British Investigators as a result of the UK Government's proposals for regulation of the private security industry in England and Wales. Our chairman, Mr John Grant, who is a fellow of the institute, responded on behalf of the IPI; the Home Office is considering his report. A copy of that report was sent to Trevor Lodge, the head of branch at the Scottish Executive justice department, along with the recommendation that any similar legislation that was proposed for Scotland should be incorporated exclusively in a Scottish bill.

The Scottish Parliament is responsible for law and order in Scotland. It operates a separate legal system from that of England and Wales and is better placed to legislate in the interests of its citizens. Failing to recognise that and simply enacting the terms of an English and Welsh bill would result in problems. There is also a need for a private investigators bill that is separate from security legislation, to avoid problems and unnecessary expense and to ensure sound administration for the investigative profession—which is a completely separate entity. We need a statutory control bill that will enable the profession to self-regulate through an elected registration council, which would issue licences—or, preferably, certificates of practice—that could be withdrawn if necessary after any disciplinary hearing.

Provision of education and training must be made through the Institute of Professional Investigators and the Association of British Investigators to ensure a high standard for all practitioners and to safeguard the public, commerce and government. We need to ensure a level playing field, so that all individuals who undertake investigations—including media investigative journalists and insurance, fire and forensic investigators—are subject to the same legislation. Allowance should be made for other investigators who are licensed or controlled by countries outside Scotland—for example, England, Wales and other European Union countries—to conduct investigations in Scotland on a reciprocal basis.

The human right of an investigator to continue to practise his profession should be protected, as well as that of the client or clients who require his

assistance to obtain evidence in the interests of justice. We must also ensure the protection of the Scottish Parliament against unnecessary and impractical bureaucratic regulations emanating from the European Union. Finally, it must be recognised that, over the years, we have received considerable support from members of Parliament, the judiciary, the police and the Law Society of Scotland.

The Convener: Thanks, Mr Morrison. Do members have any questions?

Pauline McNeill: What vocations does the Association of British Investigators cover?

Mr Morrison: It covers a wide and varied area. For example, security consultants who conduct security surveys on premises come under the heading of investigators. It covers all kinds of investigators who conduct sensitive and confidential investigations, as well as other members of the industry and the obvious commercial investigators who work on cases of vast thefts from factories, for example.

Mr Stephen Grant (Scottish Private Investigators Forum): We tend to fulfil the role in the civil courts that the police would fulfil in the criminal courts. In various cases, we obtain evidence that is put before the civil courts.

Pauline McNeill: What qualifications do you require?

Mr Morrison: One must have special training in current law and in the techniques of interviewing, taking statements and investigation generally. Special standards have to be created.

Mr Grant: The problem at the moment is that there are no standards—anyone can start up as an investigator, and then fleece the public. People can claim that they are investigators despite the fact that they have had no training and are not members of any of the recognised professional bodies. That is why we are seeking new legislation.

14:30

Pauline McNeill: But there is no recognised qualification.

Mr Grant: It is not mandatory to have it, but membership of the Association of British Investigators or the Institute of Professional Investigators is recognised. The institute is working with various Government authorities to provide a national vocational qualification in investigation, so there will be a recognised qualification.

Christine Grahame: In the papers that came with your petition, you say that the Scottish Executive will issue a consultation paper later this

year that will deal with these matters. Why then bring the petition? Why not simply respond to the consultation paper?

Mr Morrison: The petition is designed to focus on a specific area—private investigators—whereas the consultation is about the security industry in general, as was the Westminster consultation. Investigators were tagged on at the end as an afterthought.

Christine Grahame: Would it be fair to call this a pre-emptive move to ensure that the consultation paper addresses that point?

Mr Morrison: Indeed.

Helen Eadie: You make a persuasive case as to why there should be registration of investigators. Can you give us some more information about the bad practices that exist?

Mr Grant: There is an awful lot of bad practice. One of our main concerns is that people are taking advantage of the public. If members look in *Yellow Pages*, they will see about 30 firms in Edinburgh—but they are not the same every year. There are a few regulars, which are the recognised firms, but there are others that are fleecing the public by claiming that they can do things that they cannot. They make up and submit false reports. We have even had cases of false reports, made up by fraudulent investigators, which have been submitted to the Legal Aid Board. Some people will say anything for a fee; we are seeking to protect the public from that.

Ms White: You said that it would be advantageous to have qualifications, but that it was not necessary to have any qualifications whatever.

Mr Grant: Absolutely none. Somebody could come out of prison tomorrow and start up as a private investigator, just like that.

Ms White: That is obviously a worry. On the front page of your submission, you mention that the Home Office intends to introduce legislation. Do you have a date for that?

Mr Morrison: No, we do not. However, the Home Office has been kind enough to place us on its consultative list.

The Convener: Thank you very much for coming to the committee.

Mr Morrison: Thank you, convener. I have given some supporting documents to the clerk, which are part of our file.

The Convener: That is very useful.

The suggested action for the petition is to pass it to the Minister for Enterprise and Lifelong Learning—who is responsible for the consultation

paper that will come out later this year—to draw the views of the petitioner to his attention, and to ask for his response. Once he responds, we can consider further action.

Christine Grahame: We should also draw the minister's attention to the *Official Report* of this meeting and to the points that were raised by the petitioner—particularly the fact that the petition was a pre-emptive move because the petitioner was worried that the issue would just be tagged on to the end of the consultation. That would be fair to the petitioner.

The Convener: I will certainly draw the minister's attention to the *Official Report*.

Members indicated agreement.

John Scott: Should the petition also be passed to the Justice and Home Affairs Committee for it to note?

Members indicated agreement.

The Convener: The next petition is from Mr George McAulay on behalf of the UK Men's Movement. The petition calls for the Parliament to take various actions in relation to false rape allegations, including creating a new crime of false rape allegation.

As well as George McAulay, two MSPs have indicated a desire to address the committee. Brian Monteith will speak in support of the petition. Gil Paterson will also speak—I do not know whether in support of or against the petition, but we will find out eventually. The same rules apply to you, Mr McAulay, as to everyone else. You have three minutes to speak.

Mr George McAulay (UK Men's Movement): Do members of the committee have my petition and a copy of the evidence?

The Convener: Members have all the papers.

Mr McAulay: Ladies and gentlemen, some of you may know me. I suspect that those who do will tend not to like me; I see Sandra White nodding in agreement. I am used to that. I am asking members of the committee to do what Nicholas Fairbairn did. Mr Fairbairn was a Tory. He was instinctively pro hanging, but he voted consistently against it, to his political cost. He did that because he was an experienced political lawyer—a Queen's counsel—who knew that innocent people would be hanged if hanging were reintroduced. He had the courage to rise above his emotional comfort zone and prejudices and to base his decisions on fact. I am asking the committee to do that today.

False rape accusation is a vicious and evil crime. It is utterly malicious. We want to extend the anonymity that is currently given to accusers to men who are accused. Last year in Ayr there was

a case in which a young man was stigmatised by a false accusation. His accuser got four months' probation and the young man, Stephen McLaughlin, hanged himself. If members do not think that anonymity should be extended to the accused, they should give their reasons for that to Mrs McLaughlin, not to me.

Our other request is that a register of false rape accusers should be kept. That is sensible. The useful register of sex offenders has been instrumental in saving a great deal of police time and bringing some individuals to justice. A similar register should be instituted for those who make false rape accusations.

A neutral study should be carried out of all rape allegations from the moment of complaint to the moment of judgment or the dropping of the complaint. That will provide us with proper scientific evidence of the extent of false rape accusation, as well as of how many men are guilty but are evading the criminal justice system.

Our most controversial proposal is for the creation of a new crime of false rape allegation that would carry sentences commensurate with that which the victim of a false and malicious accuser would have received had he been found guilty. If members think that that is draconian, they should consider the effect of false rape accusation on the man concerned, his family and his children. We are asking members to go against the tide of populist fervour on the issue, to put aside their ideological viewpoints and to act on the evidence. Members may find me gritty, rude, abrasive and unpleasant, but allow me to be the bit of grit in the parliamentary oyster that produces the pearl of justice.

The Convener: Thank you very much. Before I take questions from members, would Brian Monteith or Gil Paterson like to make brief statements to the committee?

Mr Brian Monteith (Mid Scotland and Fife) (Con): I would be happy to make my statement now. Thank you for giving me this opportunity.

Until Mr McAulay wrote to me—as he did to a large number of, if not all, MSPs—I had not been aware of the issue of false rape accusation. Rape is an appalling crime, and I share the concerns of many of my colleagues about ensuring that any changes in the law do not diminish the status of rape as a crime that appals us. Neither do I seek any changes in the law that would reduce the possibility of convictions for rapists. However, given that we regard rape as such an awful crime—worse than nearly every other crime—making a false accusation of rape must by definition be a particularly heinous offence.

In supporting Mr McAulay's petition, I am merely calling for his evidence and any other evidence—

including evidence that refutes his evidence—to be heard, so that some consideration can be given to whether changes to the law are necessary.

A number of questions need to be asked. For example, are current laws on perjury and wasting of police time adequate for dealing with the offence that Mr McAulay raises? Is the sentencing for those crimes adequate or appropriate? Would anonymity of the accused in rape cases go any way to prevent the offence of false accusation from taking place in the first place?

Those are the sort of questions that could usefully be explored in the Justice and Home Affairs Committee, which is the appropriate body to deal with the evidence. I hope that the Public Petitions Committee might forward the petition for consideration by that committee.

Mr Gil Paterson (Central Scotland) (SNP): We have laws in place to deal with false allegation. Judges have available to them a full range of penalties. Why single out rape as a special case, especially when reporting of and conviction for rape is low in comparison to other crimes?

All the evidence suggests that people are reluctant to report rape. There are many reasons for that. If we make a peculiar law for false allegation of rape, it would be an enormous barrier to people who wish to report rape. People might assume that if they made an accusation of rape, if the case went to trial and if the judge or jury decided not to convict, there would be a penalty. A rape may in fact have taken place, but it might be difficult to prove it.

If such a peculiar law on rape was implemented, what would effectively happen is that a judgment would be made on an innocent person. That may be before the fact, but the evidence clearly suggests that people are under pressure not to make the complaint of rape.

Mr McAulay: Can I respond to any of those points?

The Convener: To explain the position, the two MSPs who have just spoken asked to address the committee on the subject. Committee members will now question you on your contribution, then the committee will discuss the merits or demerits of the petition.

Pauline McNeill: Do you have any statistics on what you say are false rape allegations?

Mr McAulay: No. You will notice that one of the submissions that we have made is that a neutral study should be undertaken. We are not salaried. We do not have the resources that the women's movement has, but we have a considerable body of—

Pauline McNeill: What do you believe the

statistics to be?

Mr McAulay: I have an opinion, which may or may not be accurate. There are women who do not report rapes. I would wish women to report rape, as it is a filthy crime, which should be punished seriously. However, it is equally vile to inflict—

Pauline McNeill: I have heard what you have to say, but if it is okay with you, I want to ask you a few questions now.

Mr McAulay: Have you seen the report from the US Department of Justice, commissioned by Janet Reno, the Attorney General?

Pauline McNeill: If we can move on to—

Mr McAulay: You asked me whether I had statistics. I do have some, but not for this country. The US Department of Justice investigated a sample of cases and applied retrospective DNA testing to them. It concluded that almost a third of the men accused of rape were not guilty and that the judicial system had been skewed by political and social pressures to arrive at convictions. I would contend that that is extremely dangerous, not only for men and their families but for society in general.

We have some reports, which we have submitted to the committee—

The Convener: All that information has been circulated to all members of the committee.

Mr McAulay: In that case, I do not understand why Pauline McNeill asked me the question.

Pauline McNeill: I was interested to know whether you had any statistics on—

Mr McAulay: This is one of our submissions: we want a neutral, proper, scientific study to be undertaken. If I am wrong in the matter, I will hold my hands up and admit it.

Pauline McNeill: In your opinion, how do you suppose that it is possible to distinguish between a false accusation and a trial in which there has not been enough evidence? Gil Paterson has already pointed out that—

Mr McAulay: Yes, I have pointed that out as well.

Pauline McNeill: If I could finish—Gil Paterson has already pointed out that the problem with the crime of rape is the very low conviction rate. It is that low conviction rate which means that women do not come forward to report rape, because they do not have confidence in the current system.

14:45

Mr McAulay: First and foremost, the low conviction rate does not necessarily indicate that

prosecutions are false; it might indicate a spate of false allegations. That may be a pretty biased standpoint, but that is why we want investigation.

A not guilty verdict by no means indicates that a woman who makes the accusation will face charges of malicious allegation. It may be a case of mistaken identity, as occurred in a third of the cases that were investigated in the US; it may be because of a grey area of the law; or it may indeed be the case that a guilty man has gone free, which I would regret as much as—

Pauline McNeill: What I was specifically wanting to know—if you are able to answer this—was how you can distinguish between a false accusation and there not being enough evidence for a conviction. Do you think that that is possible?

Mr McAulay: Absolutely. A not guilty verdict means only that the Crown has failed to prove a case beyond reasonable doubt. For a woman to be convicted of false accusation of rape, the Crown would have to prove that beyond reasonable doubt. The mechanisms by which the Crown could do so could include confession—as in the cases of Wendy McClung and of Eilidh Connell, who caused the death of Mr McLaughlin—skilful interrogation, or physical evidence proving impossibility. For example, there was a case at Butlin's a couple of—

The Convener: Can we be careful, please: we must be careful about individual cases.

Mr McAulay: Those cases are well documented; I understand the laws of libel.

The Convener: We are not protected in the same way that the Westminster Parliament is.

Mr McAulay: Thank you for pointing that out.

The Convener: You could be subject to legal action for things that you say here, so you must be careful.

Mr McAulay: I understand that, and thank you for looking after my interests.

The Convener: My interests as well—I would have allowed it to happen. We are simply trying to obtain information on which to base our judgment.

Christine Grahame: I want to clarify that you are making a distinction between a not guilty or not proven verdict and perjury.

Mr McAulay: Could you clarify your question, please?

Christine Grahame: Are you focusing on cases in which the woman has been found guilty of perjury in a trial?

Mr McAulay: That is one of the areas that we are focusing on.

Christine Grahame: I am asking specifically whether we are considering perjury, which is a clear case of not telling the truth while under oath, and—clearly distinct from that and another matter entirely—a not guilty or not proven verdict.

Mr McAulay: I am still not quite clear about what you mean.

Christine Grahame: People can be found not guilty or the case can be not proven for want of sufficient evidence. Perjury is very clear: it means that the accuser has been found by the court to be telling lies. Are you focusing on cases of perjury or on the whole gamut—not guilty, not proven and perjury?

Mr McAulay: On the whole gamut—but I repeat that the safeguards must exist, and that a not guilty or not proven verdict by no means indicates that the woman has made a false and malicious allegation. It would be up to the investigative authorities to decide whether the allegation had been malicious before they took any action. That would be subject to the same burden of proof—

Christine Grahame: Can I be clear that, after a trial, which has disposed of a case, you want a further investigation into the evidence in that trial?

Mr McAulay: Only if it comes out in the trial that a malicious allegation was made. Many of the malicious allegations never get to trial. We would want a further investigation only if it was perfectly clear on the evidence offered, for example, perjured testimony or physical evidence, that there was a malicious allegation, should a woman be charged with—

Christine Grahame: Does not the law on perjury already deal with that?

Mr McAulay: Not adequately. We have found that there is a lack of political will among fiscals and the judiciary in general to prosecute for this crime. I suggest that that does no favours to women who are genuinely victims of rape, because every false allegation plants a seed of doubt in the mind of the jury with the result that a real rapist may escape justice.

The Convener: I remind members that we are asking questions now; we are not debating the matter.

Ms White: Are you saying that in any rape case the accused man should remain anonymous?

Mr McAulay: Only until found guilty.

Ms White: You say that false rape claims may be made for

“advantage in marital disputes now that prosecutions are made for rape in marriage.”

What do you mean by that?

Mr McAulay: We were approached by Johnstone Stallard, who was the first victim of the false allegation of rape within marriage. Unfortunately, it was one of my old commanding officers, the fiscal at Dumbarton, who prosecuted him. Allegations were made twice against Mr Stallard, but the prosecutions failed. If an allegation of rape, domestic violence, or any form of abuse is made against a man in marital proceedings, it is game, set and match to the wife, regardless of any rights or wrongs, because the court will immediately—

Ms White: I think that you are giving an opinion—I have heard enough.

Mr McAulay: The court will immediately award interim custody to the woman. It is very dangerous to have such a crime.

The Convener: Thank you, Mr McAulay. As there are no further questions, we will move to consideration of the petition.

It is up to us what we decide to do. We can decide to take no further action or to copy the petition to the Minister for Justice, and to ask him whether there are any proposals in this area. We should distinguish between the issue of the false allegation of rape and the radical proposals that are contained in the petition. We could ask what, if anything, the Executive plans to do in this area before we decide what we do with the petition.

John Scott: I do not believe that we should burden the minister with the petition.

Christine Grahame: I think that there is an interesting general issue relating to press regulation and the naming of people who are accused. The minister may be able to tell us of any policy moves in that area.

Helen Eadie: I support Christine Grahame. It would be worth passing the petition to the minister and writing to him on that basis.

Ms White: I agree with John Scott that we should do nothing further with the petition.

Pauline McNeill: I will try to take an objective view of the petition. The difficulty with Christine Grahame's suggestion is that we could not refer the petition to the minister because there is no prospect of our turning Scots law upside down so that one would examine the evidence at the end of a trial. There are perjury laws, whose adequacy could be examined.

The issue of anonymity could be considered. That would have to be extended to all accused persons who are innocent until proved guilty. I do not know how that issue could be picked out of the petition.

Christine Grahame: That is the only issue which I would like to take up.

The Convener: It would be possible to seek the views of the Minister for Justice on the suggestion that people should be anonymous until proved guilty and should be protected from the press.

Christine Grahame: What is the current position?

The Convener: I do not know.

Mr Monteith: I do not want to express an opinion; I want to provide information. It is my understanding that, in Scotland, the anonymity granted to the victim in rape cases is not a legal regulation but an observance by the press. That is quite different from the position in England, where it is law. You might want to clarify that point first, as it would be germane to the discussion. Were a law to be brought in to give the accused the right to anonymity, it would be absurd not to have a law in relation to the victim.

The Convener: Is it the committee's view that the issue that we should now raise with the minister in response to the petition is clarification of the legal position in relation to the anonymity of the victim and the accused in rape cases?

John Scott: We should seek clarification, but I do not believe that we should take the petition any further.

The Convener: Other than seeking clarification on the matter of anonymity, is it the committee's view that we should take no further action on the petition?

Members indicated agreement.

The Convener: The next petition, PE269, is from James Nixon, who calls for the Scottish Parliament to repeal sections of the Education (Scotland) Act 1980 regarding religious beliefs in the employment of teachers.

James Nixon: Equal opportunities and social inclusion have been the bywords of the Scottish Parliament since its foundation. Members of the Parliament have gone out of their way—often against media-led public opinion—to stress that the new Scotland must be free from discrimination and that genuine equal opportunity should exist for everyone in our society. However, the Scottish Parliament is responsible for the continuation of institutionalised religious discrimination against a majority of Scotland's teachers because of its failure to amend the Education (Scotland) Act 1980, which gives denominational bodies the right to issue certificates of approval based solely on adherence to a particular religious denomination. Such certificates are a prerequisite of employment by public bodies, that is, local authorities.

My current employer, Glasgow City Council, claims to be an equal opportunities employer and states that all applicants for teaching posts will

receive equal treatment irrespective of race, colour, disability, age, sex or religion. However, of the 20 jobs advertised in an internal newsletter dated 22 August, teachers who did not possess a certificate could apply for only 12, while their colleagues who had a certificate could apply for all 20. Equal opportunities clearly do not exist in that situation. It is in pursuit of that fundamental human right that I invite the Public Petitions Committee to consider my petition on ending religious discrimination in the employment of teachers.

As can be seen from my submission, I have been a primary school teacher for almost 30 years. Throughout that time, I have made several attempts to have the matter considered by responsible authorities. On each of the previous occasions, the official response has been that, in the absence of any legislation relating to religious discrimination, the Education (Scotland) Act 1918 and all subsequent education acts legitimised the practice. I believe that the incorporation of the European convention on human rights into Scots law from 2 October 2000 will mean that there will be in place legislation that prohibits religious discrimination. That being the case, I call on the Scottish Parliament to amend section 21 of the Education (Scotland) Act 1980 and establish genuine equality for all Scotland's primary school teachers.

The Education (Scotland) Act 1918 appears to give all denominational groups and faiths the right to establish separate school systems and to have them maintained by local authorities. Unless amended, the 1980 act gives each of those groups equal rights to discriminate in the employment of teachers. Such a fragmentation is undesirable and, in the interests of the genuine equality and social inclusion policies put forward by the Scottish Parliament, I call on the Scottish Parliament to merge the existing school systems in such a way as to maintain the strengths of each while overcoming the anxieties of those who might see that as an attack on their rights.

This morning, on a news broadcast, Mo Mowlam, the former Secretary of State for Northern Ireland, stated that her biggest regret in the job that she had done there was not to have pushed for an integrated school system.

The Convener: Thank you, Mr Nixon. Do members have questions for the witness?

Christine Grahame: Are there special Jewish or Muslim schools in Scotland at the moment?

15:00

James Nixon: To the best of my knowledge, in Glasgow—where I work—there is one Jewish school. Throughout Scotland there are one or two Episcopal Church schools. Most of the other

Church schools tend to be in west central Scotland. As far as I know, there are no Muslim schools. However, I believe that Muslim groups are campaigning and petitioning for separate schools.

Christine Grahame: Is there special provision in Jewish schools for people of the Jewish faith to teach? My question is just for information—I am not taking a view on this issue.

James Nixon: The 1918 act is worded so as to give the religious authorities in denominational schools the right to administer a certificate of approval for staff working in those schools. In west central Scotland such schools tend to be for a particular religious denomination, which issues certificates. When I started teaching, posts in the primary sector for which certificates were required were promoted posts—posts with authority, where guidance was involved. Now, as members can see from the information that I have submitted, all primary school posts require a certificate, even posts that are filled on a temporary supply basis.

Christine Grahame: Are you in a teachers union?

James Nixon: Yes. I am a member of the Educational Institute of Scotland.

Christine Grahame: Has the EIS received advice on whether what you are describing contravenes the European convention on human rights?

James Nixon: As far as I know, the EIS is looking into that at the moment. Until the convention comes into effect on 2 October, the EIS believes that there are no grounds for my claiming religious discrimination, as there is no legislation that deals with that. I argue that such legislation will be in place next week.

Christine Grahame: So the EIS will take a view on this issue in the near future?

James Nixon: Yes.

Pauline McNeill: Supposing that the restrictions on the recruitment of teachers to denominational and non-denominational schools were lifted, so that a non-Catholic teacher could legitimately apply for a post in a Catholic school, would you still call for an end to separate denominational and non-denominational schools?

James Nixon: If we want our society to be totally inclusive, we must find a way of doing that. That was the second part of my petition.

Pauline McNeill: So your petition is really calling for an end to the denominational system of education. There are two separate issues here.

James Nixon: There are two separate issues. I have here an internal newsletter from the City of

Glasgow Council. I can pinpoint 20 jobs that are available for primary school teachers, but I can apply for only 12 of them. That is a personal issue.

Pauline McNeill: Supposing the restriction were removed and you could apply for those jobs, would you still call for an end to the denominational and non-denominational school system?

James Nixon: I think that the way ahead for education is to have multid denominational or multifaith schools. I do not know how that will come about, because it will take people in your esteemed position to do it. This is a matter of Scots law and it is for the Scottish Parliament, rather than a mere primary school teacher, to deal with it. However, I believe that social inclusion is the way forward.

Pauline McNeill: I am trying to pin down what your petition is about. Which article of the ECHR do you claim this policy contravenes?

James Nixon: I believe that it may be in breach of article 14, which prohibits discrimination on the grounds of religion, practice and belief.

Pauline McNeill: What do you think the Catholic community's response to your petition might be?

James Nixon: You seem to think that these are two separate issues. I did not use the word Catholic, but the word denominational.

Pauline McNeill: Is not that what you meant? I apologise if it is not.

James Nixon: I imagine that now that the denominational authorities have pushed for all primary school teachers to hold a certificate of approval, they might be uncomfortable if that power of approval were lifted. I think that they would be unhappy with that initially.

I do not know how those authorities would feel about totally integrated schools, because I believe that multid denominational schools exist outside west central Scotland and the major cities. Denominational and non-denominational schools run side by side only in certain areas of Scotland.

I have said several times that I believe that the way forward may be for all children to be educated together. In my view, that would reflect the justice and fairness of the new Scotland that we hear about.

Helen Eadie: I want to ask you about the letter that you received, via Janis Hughes, from Sam Galbraith.

In that letter, Mr Galbraith says that the matter "has not to my knowledge been tested at Strasbourg".

Have you checked that point?

James Nixon: My petition is a personal petition.

Your colleague, Janis Hughes, who represents the Glasgow Rutherglen constituency, referred me to the Public Petitions Committee when I referred the matter to her.

I went through various MPs, when Westminster was in charge of this area, and various councillors and Church people. Up to date, the response has been that the Education (Scotland) Act 1980 is a pre-eminent act, within which religious discrimination is permitted. No other legislation outlaws religious discrimination and therefore the Education (Scotland) Act 1980 takes precedence.

I understand that Scotland and the United Kingdom have signed up to the European convention on human rights and are putting in place its provisions. Glasgow City Council, which employs me, is a public body, yet it discriminates against me and thousands of others on the ground of religion by insisting that a certificate of approval is necessary for many of the jobs it advertises.

I wish to raise that point with the Parliament and to clarify whether such action falls within the remit of the European convention, which outlaws religious discrimination, and whether it should not happen in future.

Helen Eadie: You have placed a heavy reliance on article 14 of the ECHR. Have you placed any reliance on other articles that might relate to the artificial barriers to free movement of occupation in the European Union?

James Nixon: I have not, but if you think that that might be a way ahead, I would be glad to take advice on your suggestion.

Ms White: You mentioned the other denominations, including the Jewish school in Glasgow. Is that a private school or is it state funded?

James Nixon: I understand that it is state funded and that it is a Glasgow City Council school. There are one or two other denominational schools in the country.

Ms McNeill was quite correct when she suggested that most of the denominational schools are Roman Catholic. The Education (Scotland) Act 1918 intended to bring what was then a disadvantaged minority into mainstream education. However, we are now faced with a situation in which other so-called disadvantaged minorities, such as Muslims, Sikhs or Hindus, are seeking to fund schools of their own in the same way—perhaps not in Scotland, but certainly in other parts of the UK.

The Convener: It is clear that, as of next week, any individual will be able to use the courts in this country to challenge existing legislation on the ground of discrimination.

James Nixon: That is my understanding. I sought legal advice of a sort, in that I saw that the European convention was causing all sorts of upsets in the law of Scotland in relation to temporary sheriffs and so on. I sought advice from a well-known Glasgow lawyer; I submitted some documentation from him and he feels that the case might be worth pursuing. I hoped that the Scottish Parliament would feel that that would not be necessary because it was on top of the situation and would make the legislative changes.

The Convener: Thanks very much for answering our questions. We move on to consideration of this petition. It is interesting that discrimination on the ground of religion becomes challengeable in the courts next week and that legislation will pass through the Scottish Parliament to bring Scottish law into conformity with the European convention on human rights. It would be best for us to pass this petition to the Minister for Children and Education, asking him to comment specifically on whether the Executive intends to do anything about the issue, in relation to the European convention on human rights.

Helen Eadie: Is this not an area in which there might be an overlap with the Westminster Parliament, as equality issues are reserved to that Parliament? Might it be worth asking the Westminster Parliament for its view on the discrimination aspects? Although there are a variety of policy issues in the UK about discrimination on the grounds of sex, disability and race, I do not know whether discrimination on the ground of religion is recognised in law.

Pauline McNeill: There are two distinct issues in this petition, one of which questions a possible breach of the ECHR in the recruitment of teachers—that is the issue that needs to be examined. The second part of the petition simply calls for an end to separate denominational and non-denominational schools: an argument that has been put forward in debate for many years. The bit that is worth sending to Sam Galbraith is the bit about the recruitment of teachers, which raises the issue of a potential breach of the ECHR.

John Scott: As there is agreement that there might be an implied breach of the ECHR, should the petition not be referred to the Justice and Home Affairs Committee?

The Convener: This committee is taking on the role of gathering information before we refer petitions to other committees. Our asking for information does not mean that we have finished with the petition; when we receive that information, we can decide whether to pass the petition on to the Justice and Home Affairs Committee.

It would be better to get the Minister for Children and Education's view on the matter before we

decide whether to approach Westminster. The Equal Opportunities Committee might also want to comment on the petition before we do that. Can we refer the specific issue of certificates of approval to Sam Galbraith, asking him whether the Executive intends to address the situation, given the likelihood of challenge under the ECHR in courts in this country?

John Scott: We should ask him whether he has satisfied himself that he is working within the likely constraints of the ECHR as it is understood by his department.

The Convener: Okay. We can do that. Is that course of action agreed?

Members indicated agreement.

The Convener: The next petition is from Mr Andy Gibb, on behalf of Westfield community council, calling on the Parliament to investigate and make recommendations to upgrade and complete the A801. Mr Gibb is here, and Fiona Hyslop would also like to address the committee briefly.

Mr Andy Gibb (Westfield Community Council): Westfield community council has a road in its area called the A801 Avon gorge road. It is a major link between the M8 and the M9. It has been due for repair since 1920, but nothing has happened. There have been a number of serious accidents on the road; I shall leave a copy of the up-to-date accident and traffic figures for the committee to read.

The traffic on the road has risen from 8,000 vehicles a day in 1988 to 12,000 vehicles a day in 1999. The problem occurs when the Avon gorge road is closed and the traffic is diverted through three small villages—two in Falkirk and one in West Lothian—Standburn, Avonbridge and Westfield. Our roads were not designed for the amount of traffic that uses them at those times; if the A801 is closed for a day, that can be more than 12,000 vehicles.

My main concern—the concern of the villagers and the community councillors in the area—is safety. We approached Fiona Hyslop, Mary Mulligan, Tommy Sheridan and two or three other MSPs about the issue, as we wanted a multi-party approach to be made to the Scottish Executive, asking it to upgrade and finish the A801. The West Lothian side has been semi-finished for approximately 20 years. It stops at Wallhouse roundabout and is all bottomed and drained until it hits the River Avon, where it stops. That is the section that we require to be finished.

The price of the work ranges from £5 million to £12 million. The bridge spans two council areas—Falkirk and West Lothian—and the problem is that that burden would be put on those councils, which

would take the road budget away for the next six years. It is as simple as that.

I cannot say much more, except that I have a letter verifying the situation that has developed. I will close there, convener.

The Convener: Thank you very much. If everyone was like you, we would get through our business much more quickly.

15:15

Fiona Hyslop (Lothians) (SNP): As Andy Gibb indicated, the campaign to improve the A801 goes back to the days when Manny Shinwell was elected locally. There have been improvements in recent years, but the geographic heart of Scotland has almost become a forgotten part of Scotland. The area suffered because of the reorganisation of local government, before which the old Central Region and Lothian Region would have been able to deal with the improvement.

Grangemouth is at the other end of the link. The only other way to get between the north and the south of Scotland is via the Glasgow or Edinburgh areas, or through the Avon gorge. There is a single track bridge with a 1 in 5 incline, and the number of accidents there is of great concern. This petition is, of course, about resources, but it links a genuine community concern about the safety of some small villages in West Lothian and in the Falkirk area to the national strategic impact of linking the north and south of Scotland. It would be one of the few environmentally friendly road completions, as it would prevent heavy haulage traffic going via Glasgow or Edinburgh—it could go through the middle. We have to address the environmental side.

The support that the petitioner has had from haulage companies, as well as from the local community, is significant. I therefore speak in support of the petition.

Helen Eadie: Does the A801 still have the status of being a designated trunk road?

Mr Gibb: The A801 is not a trunk road.

John Scott: That is why it is a local authority responsibility.

Mr Gibb: That is correct. It should be a trunk road, because it is a major link in the road system. It was first designed to be the M8-M9 link.

John Scott: What other routes of lobbying have you undertaken, apart from this petition?

Mr Gibb: It has just been the petition. We have spoken to MSPs. I hope that members have seen our video, showing the Avon gorge.

The Convener: It is available to members of the committee if they want to see it. They have not yet

seen it, but they can if they wish.

Mr Gibb: Seeing that video is the only way to arrive at a decision on this. The road is a death trap. There was one serious accident on it. The road is used in the summer by coach parties on tour buses. Ten years ago, a cattle truck and a diesel truck were involved in an accident. It was lucky that that was not a busload of old folk, kids or tourists. I believe that there has been one fatality in the gorge, but I cannot prove it. People can mind o it, but they cannae mind when it happened. The lorry went right across, and the driver was killed.

We do not want that to happen, especially given that half the road is technically finished. It is just the bridge span and the link back to the A801 on the other side that remain to be done. The police get involved in incidents on the road approximately twice or three times a week, as they will verify. According to the royal or Scottish—I am not sure of the name—accident association, the average cost of an accident is £33,000. There can be 29 of them in a year in Avon gorge.

I mentioned that there have been no fatalities—it is said locally that, if there were fatalities, the work would get done. That is right, but who the devil would want someone to get killed for something to get done? I do not, and I do not think that the Scottish Executive does either.

Helen Eadie: Do you know whether this matter has appeared as an item on the agenda of the south-east Scotland sustainable transport partnership, which embraces Falkirk, West Lothian, Edinburgh, Midlothian, East Lothian, Fife and Stirling?

Mr Gibb: That I do not know. Fiona Hyslop could maybe tell you.

Fiona Hyslop: The three local authorities—North Lanarkshire, Falkirk and West Lothian—are pursuing the matter. The point is that the problem arises because the road is not a designated trunk road, despite the fact that it has almost the same usage as the A1. The local authorities do not have the necessary level of resourcing.

Ms White: I was going to pick up on the point that the road is under local authority control and so that is where the money has to go. It is only a two-mile length. The petitioner is basically saying that if it was redesignated as a trunk road, the Executive could put the money towards it.

Mr Gibb: That is right.

Ms White: The petitioner will be aware that the Transport (Scotland) Bill is going through Parliament. I presume that he would be quite happy if someone raised the matter in debate or in writing to the Transport and the Environment Committee, pointing out that the road could be

redesignated as a trunk road in an amendment while the bill is going through.

Mr Gibb: To be honest with you, I do not care how it is done; my only concern is that it gets done. We have been fighting for this for ages. We have letters and petitions from Orkney and Shetland. Every driver who goes on the road will tell you that the road is a death trap. It is as simple as that. I will leave the video for the clerk.

The Convener: Thank you. That was excellent. The video is available and can be obtained from the clerks on request. A number of letters from those who support the upgrading of the road, including MSPs, councillors, community councillors, hauliers, the Automobile Association and others are also available. Not being a trunk road, the road is not the direct responsibility of the Executive, but part of the issue raised in the petition is that it should be. The suggestion is that we should refer the petition initially to the Minister for Transport and the Environment, asking her to respond to the points made by the petitioners and to tell us whether the Executive has any proposals to have the road upgraded in line with what the petitioners are asking. That would be the most sensible thing to do. Is that agreed?

John Scott: On a point of information, how many petitioners were there for this petition?

The Convener: We do not have the signatures.

Mr Gibb: There were approximately 6,000.

The Convener: From the back benches.

Ms White: Given that stage 2 of the Transport (Scotland) Bill is coming up, could we pass the petition to the Transport and the Environment Committee for it to note?

The Convener: We will send it to the Transport and the Environment Committee for its information and tell members that we are taking the matter up with the minister.

Members indicated agreement.

The Convener: That is the last of the petitions that has someone to speak to it. I thank Fiona Hyslop.

The next petition is from Mr Frank Harvey and is on general anaesthetics in dental surgeries. He calls on the Scottish Parliament to take immediate action to ban the use of general anaesthetics in Scottish dental surgeries. The suggested action is that we pass the petition to the Scottish Executive with a request that officials respond directly to the petitioner on the issues raised. Is anyone minded to do otherwise? Is that agreed?

Members indicated agreement.

The Convener: We have another petition from

Mr Frank Harvey, this time on Kingston bridge. It calls on the Parliament to order a public inquiry into the Kingston bridge, highlighting all the aspects of design and construction that have necessitated the repairs and suggesting what could be done to avoid future disruptions to the traffic flow across the bridge. Questions along the same lines as the issues raised in the petition have already been asked by Kenny Gibson and Kenny MacAskill and are under active political consideration. It is suggested that the committee agree to note the petition and take no further action.

John Scott: He may have a valid point even if it is in addition to the questions asked by Kenny Gibson and Kenny MacAskill.

The Convener: It is a valid point, but it is actively being pursued by the Parliament, so there is no need for the petition to be acted upon in any other way.

The next petition is from Mr Frank Harvey again, this time on the Western infirmary, calling on the Scottish Parliament to order a public inquiry into the findings of a report by Pat Grant, an accident and emergency consultant at the Western infirmary in Glasgow, on discrimination against elderly patients in the national health service. The petition is based on a report carried in the *Scottish Mirror* newspaper. Given the circumstances, it is suggested that the committee should note the petition and take no further action.

Ms White: Questions are being asked on that point.

The Convener: The matter is under political consideration.

The next petition is from Mrs Kirsty Dickson on telecommunications masts. It calls on the Scottish Parliament to urge the Executive to take immediate action to stop the erection of telecommunications masts of 15 m and under in residential and environmentally sensitive areas until full planning powers can be established.

We know that the Transport and the Environment Committee already has conducted an inquiry into the Executive's proposals to introduce a prior approval planning regime for this kind of mast. In fact, the Executive proposes to take action on the committee's report in the near future, so it would appear to be unlikely that it will introduce any interim measures before it responds to that report. However, it is suggested that the committee write to the Minister for Transport and the Environment, asking her to comment on the issues that are raised in this petition, so that we can tell the petitioner what the Executive intends to do.

John Scott: We should urge the minister to

make the speediest possible decision on this, or get the implementation done as quickly as possible, because there is no question but that this is an issue in my constituency, and in others.

The Convener: We could ask her to comment on the likely time scale.

John Scott: I would be grateful if you would.

Ms White: I go along with John. There should be a moratorium until the decision is made, because everyone is suffering.

The Convener: We will ask the minister to respond quickly on the time scale for acting on the Transport and the Environment Committee's report. Is that agreed?

Members indicated agreement.

The Convener: The next petition is from Mr George Anderson and calls on the Scottish Parliament to urge the Scottish Executive to appeal to the Government of Israel to grant Mordechai Vanunu's release from prison. This is a foreign policy matter and therefore reserved to the Westminster Parliament, so it is suggested that the clerk writes to the petitioner and explains the reserved nature of the matter that he has raised. It could be suggested that he raise it with his local MP or write to the Secretary of State for Foreign and Commonwealth Affairs. Is that agreed?

Members indicated agreement.

The Convener: The next petition is from Alex O'Kane and is about the north Glasgow community forum. It calls on the Scottish Parliament to urge the north Glasgow community forum to answer in writing the correspondence and questions that have been sent to it by the petitioner. It is clearly not for the Parliament to become involved in disputes involving the actions and activities of community groups. It is suggested that the clerk write to the petitioners explaining that and urging them to continue to pursue this matter at the local level, and that we should take no further action. Is that agreed?

Members indicated agreement.

The Convener: The next petition is from Joseph and Hilary Currie, and is on vehicle fumes. It calls on the Parliament to pass legislation, preferably at national level, to ensure that all vehicle engines be switched off after two minutes at rest, in order to protect the environment. That would have to be done by amending road traffic legislation, which is reserved to Westminster.

It is suggested either that the clerk write to the petitioners explaining the reserved nature of road traffic issues—and that we take no further action—or that we raise the matter with the relevant UK Government minister or, if we are attracted by the environmental aims of the petition, we could seek

the views of the Minister for Transport and the Environment as well. All those avenues are open to us.

Pauline McNeill: I tend to the view that if petitions are on reserved matters, we should not deal with them. If the area is a grey area, we should consider it. This is a grey area, because it relates to the environment. I would go for the second option, which is to raise the issue with the relevant UK Government minister.

John Scott: There are human rights implications. There will be people whose engines switch off when traffic lights change. You can easily be held in a traffic lights queue for two minutes. Your engine could switch off and someone could drive into the back of you. While I do not dispute that the petition has a worthy environmental aim, it is impractical.

The Convener: Would it be sensible to take Pauline McNeill's suggestion and write to the responsible UK minister and ask them to give the Government's view, because the Government would be able to explain the detail?

Members indicated agreement.

The Convener: The next petition is from J R Thomson, on solar panels, and calls on the Scottish Parliament to amend the planning and building regulations to ensure that all new buildings in which hot water is required are fitted with solar panels. I understand that pilot projects using solar panels have been carried out by the Executive with Glasgow City Council. It is suggested that the clerk obtain details of current and proposed Scottish Executive policy on the use of solar panels in new buildings. We could then consider whether any further action should be taken. Is that agreed?

Members indicated agreement.

The Convener: The next petition is from Frank Harvey again, this time on organ removal. It calls on the Scottish Parliament to order a public inquiry into the reasons why organs were removed from dead children and stored at the royal hospital for sick children at Yorkhill without parental consent.

Members will know that since this briefing was sent out, the Minister for Health and Community Care, Susan Deacon, has announced that she is to set up an independent review group to review matters arising from the retention of organs at post mortem without valid parental consent. I understand also that the parents may have a petition in the pipeline, which will eventually come before this committee. Given the high-profile nature of the issue raised in the petition and the fact that appropriate action is being considered, it is suggested that in this instance the committee notes the petition and takes no further action. Is

that agreed?

Members indicated agreement.

Ms White: There is no point duplicating what has already been done.

The Convener: The next petition—PE270—is from Andrew Baker, on behalf of the A1 East Linton steering group, on the A1 expressway. It calls on Parliament to consider reviewing the proposals for the A1 expressway between Haddington and Dunbar to ensure that it provides direct access to and from East Linton.

It is suggested that the Minister for Transport and the Environment should be asked to comment on the issues that are raised in the petition before the committee takes any action. The local MSP, John Home Robertson, has intimated to me that the draft trunk road orders, which will give the go-ahead for the project, will be published next month. The petitioners will be able to object at that stage. It would, in any case, be useful to get the minister's views before we consider the petition further.

Are members agreed?

Members indicated agreement.

15:30

The Convener: The next petition—PE272—is from the National Farmers Union of Scotland, on the Diseases of Fish (Control) Regulations 1994. It calls on Parliament to amend the regulations to include compensation payments, rights of appeal and access to scientific data. All the background information is provided, but it is felt that some fish farms have been put out of business simply because of suspicion that some fish might be diseased. Unnecessarily large flocks of fish—if that is what you call them—are being wiped out by the Executive. It seems reasonable that we pass the petition to the Rural Affairs Committee for further consideration. It is an important issue, which that committee should deal with.

John Scott: Should it be passed ultimately to the minister?

The Convener: It would be for the Executive to pursue the matter—I think that it would be interested in it.

John Scott: It is an important issue. Those who are affected by the regulation have incurred huge losses.

The Convener: The Rural Affairs Committee can process the petition then come back to us on it.

The last of the current petitions—PE273—is from the Friends of Durrus Forests. It calls on the Scottish Parliament to ensure that four-by-four off-

road driving does not take place in any public forest that is managed by the Forestry Commission. It is suggested that we should seek the views of the Forestry Commission before deciding what to do with the petition.

John Scott: I agree. It is entirely up to the Forestry Commission what it does on its property.

The Convener: Let us see what the commission has to say first.

Is that agreed?

Members indicated agreement.

Current Petitions

The Convener: We move to the additional papers that have been given to members, which are petitions that have been before the committee previously. The first is petition PE148 from William Brian Anderson on behalf of the Organophosphate Information Network. The petition calls on the Scottish Parliament to investigate various issues that relate to specialist referral and diagnosis of exposure to organophosphate chemicals.

Members will recall that, at our meeting on 12 September, the committee considered a response to the clerk's letter of 12 May to the Minister for Health and Community Care. The response was an explanation from Scottish Executive officials about why correspondence from the petitioner that was directed to the minister had not been responded to. The letter was copied to the Health and Community Care Committee to be taken into account as part of its on-going consideration of the petition.

The petitioner has been sent a copy of the response from the Scottish Executive and has written another letter to the committee, in which he disagrees with the Executive's explanation of events. More important, he points out that he has developed a good relationship with Department of Health officials in London, which in his view contrasts sharply with the approach that has been taken by Executive officials in Edinburgh. It is suggested that his letter should be copied to the Health and Community Care Committee to be taken into account as part of its consideration of the petition. We should flag up the contrasting approaches to the petitioner of Scottish Executive and Department of Health officials. The petitioner should be advised of that action.

Ms White: I am concerned—this is the second petitioner who has written back to say that they have received no reply from the Executive.

The Convener: It is worrying that the letters that we receive in response to petitions are, apparently, inaccurate. We have referred the

petition to the Health and Community Care Committee, so that committee should take up the matter. We can flag the problem up to the committee and ask it to pursue the matter.

John Scott: I take some exception to a letter that was written to the petitioner by Jill Wylie. In the interests of fairness, I would like to see a copy of the letter from Jill Wylie, if that is possible. The petitioner makes a lot of allegations.

The Convener: The letter to which the petitioner responded was available at our meeting of 12 September.

John Scott: Sorry, I beg your pardon.

The Convener: It might be useful to see both letters together to compare them.

Helen Eadie: I am concerned that, although we asked for the views of the Health and Community Care Committee and of the Scottish Executive, we have not asked for the views of the Health and Safety Executive. That we should have done so has become apparent only since a documentary about organophosphates was shown on television. I know that work is being done, but is it too late to get the HSE's views?

The Convener: That is a matter for the Health and Community Care Committee, which is pursuing the substance of the petition. We are merely ensuring that that committee has all the information that it needs.

John Scott: I must declare an interest in the matter, as I have been exposed to organophosphates. I know that the Health and Safety Executive has strong views on such substances, so it would be worth asking for its views.

The Convener: Perhaps we should draw that to the attention of the Health and Community Care Committee and ask it to take evidence from the Health and Safety Executive.

Helen Eadie: I know that I may be going off at a tangent, but similar points have been raised in the context of gulf war veterans.

The Convener: We shall refer the correspondence to the Health and Community Care Committee, to draw its attention to the substance of the petitioner's letter and to the fact that the Health and Safety Executive has strong views on the matter.

The next letter concerns petition PE188, which is about Caledonian MacBrayne Ltd. We have received a response from the Scotland Office, which sets out the Government's position on the matter. It would appear that steps are being taken by the Scotland Office—as the ferry route in question is a reserved matter—to seek European Community approval for a public service

obligation. The letter indicates that, if such approval were secured, public subsidy of the route would not breach state aid requirements. Ministers expect the availability of subsidy to make the route more attractive to potential operators.

The response seems to be very positive, given the circumstances that surround the operation of the route. I suggest that the letter should be copied to the petitioner, to the Transport and the Environment Committee and to the Rural Affairs Committee for information. We could suggest to the petitioner that any further representation should be made to the Scotland Office, because the matter is reserved. It is recommended that the committee take no further action.

John Scott: I have written to the chairman of Sea Containers Ltd to invite him to re-establish the link using Troon, Campbeltown and Ballycastle. That way, a ship would not need to be dedicated to that link. I am afraid to say that he did not respond favourably, but that would be a way of delivering a service to Campbeltown and Northern Ireland without having to dedicate a boat to the route full time.

The Convener: Now that the Scotland Office is pursuing the matter at European Union level, subsidies might be made available, which should make the route attractive.

Helen Eadie: I also wrote to some Scottish MEPs to flag up the important matter of peripherality—from which many island communities in Europe suffer—and to ask them to argue for a special case to be made.

John Scott: There is also an issue about interconnection. An interconnector is being built between Scotland and Northern Ireland—again I am declaring an interest—to unite the two countries. However, the ferry route would be a more practical and tangible way of demonstrating interconnection than the one that we are about to embark on.

The Convener: Maybe we should not bring the Irish question into our discussions at the moment. Are we agreed that we should pass the letter to the committees and the petitioner for information, tell the petitioner to make any further representations to the Scotland Office and to take no further action?

Members indicated agreement.

The Convener: The next letter concerns petition PE137, which called on Parliament to ensure that the relevant authorities provide a 24-hour police presence at the accident and emergency department of Glasgow royal infirmary. The North Glasgow University Hospitals NHS Trust has sent a letter detailing the measures that it is now taking to respond to the petitioner's concerns.

The suggested action is that the committee should consider whether that response addresses satisfactorily the issues that are raised in the petition and whether the petition and response should be passed to the Health and Community Care Committee. I suggest that we should forward the response to the petitioner—who has not yet seen it—and ask whether she is satisfied. We will take further action if she thinks that that is necessary.

Ms White: That raises many questions.

The Convener: We should pass the response to the petitioner, as I see that it is addressed to the committee.

The next petition—PE223—from Mr and Mrs A McQuire, is on beta interferon. Members will recall that we wrote to the Minister for Health and Community Care and to Lothian Health Board, from both of whom we have received detailed responses. The minister's response is a bit more positive than that from Lothian Health Board. We need to decide whether the petition should be passed for further consideration to the Health and Community Care Committee, along with the responses that we have received.

John Scott: An issue arises from the letter of 19 July to the clerk. There might be a duplication of effort in evaluation of who are the most suitable patients to receive beta interferon. It should be relatively easy to set guidelines and to carry out evaluations nationally, rather than having each health board in Scotland doing that work.

The Convener: The substance of the minister's reply is that she expects the new Health Technology Board for Scotland to set national guidelines on access to beta interferon, although the board has not yet done so. The matter is for the Health and Community Care Committee to pursue with the Health Technology Board for Scotland. Lothian Health Board's response shows that access to beta interferon is haphazard.

John Scott: It is prescription by postcode. I know that beta interferon is prescribed in my area. I commend the local health board for doing that. It is criminal that people in Lothian who need beta interferon do not receive it.

The Convener: As the minister's response points out, she intends to have a national source of national advice on beta interferon, which should help to sort out the problem.

Petition PE229, from Lawrence Stewart, calls on the Parliament to introduce legislation to require financial institutions to place investors' money in the highest interest bearing account when account types are changed by financial institutions. That is a reserved matter. We wrote to the UK Government minister and have received a

response. I suggest that the response should be copied to the petitioner and that the committee should take no further action—it is a matter for the UK Government.

Members indicated agreement.

Convener's Report

The Convener: The final item on the agenda is the convener's report. Members should have received a paper that sets out the arrangements for our Glencoe visit, which will take place on 2 October. A map and location details will be provided to members who are going to Glencoe. Any member who has concerns about the visit should contact the clerk.

The conveners liaison group is still operating a pilot scheme to hold committee meetings in Stirling and Glasgow and would like as many committees as possible to meet there between now and Christmas. It is possible that we could meet in Glasgow on Monday. We could seek approval from the conveners liaison group to hold the meeting that is scheduled for Tuesday 5 December in Glasgow on Monday 4 December. That would give people in Glasgow access to the committee, which they do not usually have. If members think that that is a good idea, we can submit a paper on the proposal to the conveners liaison group.

Helen Eadie: Is there any reason why you have chosen Glasgow in preference to Stirling? I declare an interest in that I like Stirling.

The Convener: The reason is simply that we receive more petitions from Glasgow. We can hold back the petitions that we receive from people in Glasgow until that meeting and deal with them then. We tend to receive fewer petitions from people in Stirling.

John Scott: Is this a way of inviting more people to address the Public Petitions Committee?

The Convener: Not really. It merely gives people in Glasgow the chance to see the committee in operation. Under the pilot scheme—which will run until Christmas—as many committees as possible will meet outside Edinburgh. We have not left Edinburgh except for specific purposes, such as the meeting in the Borders or the visit to Glencoe.

Ms White: Will we extend a special invitation to Mr Frank Harvey?

The Convener: I suspect that Frank Harvey might turn up—you never know.

Meeting closed at 15:44.

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 10 October 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 CF12BZ
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