

# **PUBLIC PETITIONS COMMITTEE**

Wednesday 15 November 2006

Session 2

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# **PUBLIC PETITIONS COMMITTEE**

## **18<sup>th</sup> Meeting 2006, Session 2**

### **CONVENER**

\*Michael McMahon (Hamilton North and Bellshill) (Lab)

### **DEPUTY CONVENER**

\*John Scott (Ayr) (Con)

### **COMMITTEE MEMBERS**

\*Jackie Baillie (Dumbarton) (Lab)

\*Helen Eadie (Dunfermline East) (Lab)

\*Mr Charlie Gordon (Glasgow Cathcart) (Lab)

\*Rosie Kane (Glasgow) (SSP)

\*Campbell Martin (West of Scotland) (Ind)

\*John Farquhar Munro (Ross, Skye and Inverness West) (LD)

\*Ms Sandra White (Glasgow) (SNP)

### **COMMITTEE SUBSTITUTES**

Susan Deacon (Edinburgh East and Musselburgh) (Lab)

Phil Gallie (South of Scotland) (Con)

Rob Gibson (Highlands and Islands) (SNP)

\*attended

### **THE FOLLOWING ALSO ATTENDED:**

The Rev Hugh Cartwright (Free Presbyterian Church of Scotland)

Elizabeth Chambers

Linda Fabiani (Central Scotland) (SNP)

Donald Fairgrieve

Alan Keith (Association of Dumfries and Galloway Accommodation Providers)

Alexander MacLean

Alasdair Morgan (South of Scotland) (SNP)

Andrew Nicoll

### **CLERK TO THE COMMITTEE**

David McGill

### **ASSISTANT CLERK**

Richard Hough

### **LOCATION**

Committee Room 1

## Scottish Parliament

### Public Petitions Committee

*Wednesday 15 November 2006*

[THE CONVENER *opened the meeting at 10:00*]

### New Petitions

#### **Pingat Jasa Malaysia Medal (PE991)**

**The Convener (Michael McMahon):** Good morning, everyone, and welcome to the 18<sup>th</sup> meeting of the Public Petitions Committee in 2006. I have received apologies from John Farquhar Munro, who has amendments to the Crofting Reform etc Bill that are being discussed elsewhere. He will try to join us if he gets through them, but he might not be able to attend this morning.

The first petition to be considered this morning is PE911, by Andrew Nicoll, who is calling on the Scottish Parliament to support the right of Scottish veterans to wear the pingat jasa Malaysia medal. Andrew Nicoll will make a brief statement to the committee in support of his petition, supported by Donald Fairgreave. I welcome both witnesses. You have a few minutes to speak and then we will discuss the issue.

**Andrew Nicoll:** I am holding up the pingat jasa Malaysia medal, which comes in an attractive box with the Malaysian crest on the front. Inside the box is the medal, a miniature medal and a medal ribbon. On the inside of the box lid is a metal plate with an inscription, details of which I sent in with the petition, so the members will have that in front of them. The medal also comes with a citation, which I submitted with the documents that I sent in later, so members can read that at their leisure.

The pingat jasa Malaysia medal was awarded by the supreme head of the federation of Malaysia. It was sent to me by post from the Malaysian high commission in London. The British Government has had nothing to do with it, but that has not stopped it saying publicly that it is a souvenir or trinket, or a commemorative award that is not to be worn.

The petition is not solely about the PJM; it is about an abuse of our democratic right to have our freedom restricted only by rules and laws that are properly promulgated through our elected Parliament. It is about our right not to have unelected civil servants, quangos or individual ministers of the Crown making non-statutory rules to restrict British citizens from wearing a medal. It is about our constitution and about Her Majesty

the Queen not restricting her subjects without the consent of Parliament. It is about discrimination against British citizens. Australian and New Zealand veterans have received royal assent from our Queen to accept and wear the PJM, but permission to wear it has not been given to British veterans.

The Scottish Parliament has a Commonwealth Parliamentary Association that states that it is

“united by community of interest, respect for the rule of law and individual rights and freedoms, and by pursuit of the positive ideals of parliamentary democracy”.

Malaysia is a member of the Commonwealth.

The people's Parliament of Scotland is asked in this petition to protect the “individual rights and freedoms” of Scottish veterans who are eligible for the pingat jasa Malaysia by declaring null and void the undemocratic rules made by unelected civil servants in the British Government, thereby giving Scottish veterans the right to wear with pride this honourable and well-earned medal.

I conclude with two questions. Why should British citizens be discriminated against by the withholding of the right to wear the PJM, and how can the combined efforts of the Foreign and Commonwealth Office, the Ministry of Defence, the Cabinet Office and the honours and decorations committee not reach any conclusion after almost six months of deliberation on this shameful decision?

I thank the committee for its time.

**The Convener:** Thank you. I invite members to ask questions or comment on the information that you have given us.

**John Scott (Ayr) (Con):** Good morning. I thank Andrew Nicoll for submitting the petition and for his presentation. I found it most odd that citizens of other Commonwealth countries are allowed to wear the medal, whereas British citizens are not. Why has that discrimination, as you described it, taken place?

**Andrew Nicoll:** The civil service in Whitehall has been obstructive and has not helped to find a solution to the problem, which is why I brought the petition to the Scottish Parliament. The Governments of Australia and New Zealand asked the Queen for permission for their troops to accept and wear the pingat jasa medal.

First, Baroness Symons of Vernham Dean said in the House of Lords that British citizens would not be allowed to accept or wear the medal. Then Jack Straw had a turnaround and said that the rules would be reviewed. There was then a written statement from Ian Pearson MP, who was then at the Foreign and Commonwealth Office, which said that the Queen had been asked to make an

exception to two of the rules, to allow us to accept the medal. I sent the committee a copy of the ministerial statement. However, the rules were then reinstated and permission to wear the medal was not given. On the one hand, the FCO said that there would be an exemption from the rules, to allow us to get the medal; on the other hand, we were told that we could not wear it.

The Cabinet Office was asked about people with dual nationality and responded that a British citizen in Australia who has dual nationality can wear the PJM in Australia. Such people are tax-paying British citizens, but British citizens in Britain cannot wear the medal, which is ludicrous. That is why I asked the Scottish Parliament for help. The rules that are quoted are not statutory; no law says that I cannot wear my PJM.

**John Scott:** What reason was given for the decision change that meant that you were refused permission to wear the medal, even though the rules seemed to have been relaxed to allow you to wear it?

**Andrew Nicoll:** The rules.

**John Scott:** What rules? I still do not understand the reason for the decision—I want to press you on that.

**Andrew Nicoll:** It is a bit complicated. The honours and decorations committee's 1969 regulations are in two parts: part A covers persons in the service of the Crown; and part B covers persons who are not in the service of the Crown. The first section says that it is the wish of Her Majesty the Queen that her subjects do not accept or wear a foreign medal without her permission—I stress "wish".

In November—some eight months after the offer of the pingat jasa medal was made—Jack Straw submitted rules to the House of Commons library, which changed the original rules to say that no British citizen would wear the medal without the Queen's authority. That was a direct order—it was a rule. The Government also says that it is a rule that medals cannot be issued after five years.

We have submitted a rebuttal on all those points, and I can leave a copy of the rebuttal with the committee. Unfortunately, it is 53 pages long and takes some reading.

**John Scott:** We will take your word for it.

**Andrew Nicoll:** The five-year rule has been broken many times. The 1969 regulations did not say anything about double medalling—the idea that if a person has a British medal for their part in a campaign, they are not allowed to accept a foreign medal. That is rubbish, because people who served in Korea got two medals: the United Nations medal; and the Korean medal. In Northern Ireland you must have a general service medal to

be able to get the accumulated service medal. I could give you other examples, but I will not waste your time.

The double-medalling rule was put into the rules retrospectively, after the Malaysian Government had offered the PJM. It was said that the rules would be dropped and that Her Majesty the Queen would exempt the medal from the five-year rule and the double-medalling rule to allow us to accept it. Those rules were then reintroduced, so we could not wear it. The rules, which are non-statutory—they are not the law—do not contain anything that states that the Queen can say that a person cannot wear their medal. An award can be restricted, which means that it can be worn only at events that are connected with the country that awarded it, or unrestricted, which means that it can be worn at any time. That is what the civil service's rules said, but they were changed so that people do not now have permission to wear the medal.

**John Scott:** What would happen if a person wore the medal anyway? I am not suggesting that, as ex-servicemen, you would do so, but what would the ultimate sanction be?

**Andrew Nicoll:** We have dealt with the civil service and individual ministers, who said that a person who wore the medal without having the authority to do so would be grossly discourteous to Her Majesty the Queen.

**Ms Sandra White (Glasgow) (SNP):** Good morning, gentlemen. I have read the background papers, listened to the evidence and found that quite a conundrum is involved. John Scott picked up on quite a few issues, but I would like to clarify matters. People in Australia and New Zealand, which are Commonwealth countries, are allowed to wear the medal. Our briefing paper says that the Governments of Australia and New Zealand approached the Queen to ask whether their ex-servicemen could wear it. Has the Westminster Government asked the Queen whether you should be allowed to wear the medal?

**Andrew Nicoll:** We sent a petition to Her Majesty the Queen and were told that she had read it. Indeed, she sent us a letter in which she stated that, because of her position as constitutional head of state, she must deal with matters through her ministers. She therefore sent the petition to Margaret Beckett at the Foreign and Commonwealth Office. We believe that Margaret Beckett has not yet seen it. It filtered its way down to the honours and decorations committee, which made the non-wearing rule in the first place. We submitted a rebuttal to that committee in June this year and asked whether it would reconsider the matter, but it will still not give us any answer. Nobody will tell me who made the order that we cannot wear the medal. Did the Queen or the

honours and decorations committee make it? I suspect that, because we have not been told who it was, some individual who had no right to do so made it, rather than the Queen.

**Ms White:** You mentioned a quango in your submission. Were you referring to the civil servants?

**Andrew Nicoll:** I meant the honours and decorations committee, which is an unelected quango.

**Ms White:** Obviously, you lodged the petition to find out what the Scottish Parliament could do. Do you want the committee to ask the Scottish Executive or the Scottish Parliament to approach the Parliament at Westminster on the issue?

**Andrew Nicoll:** I think so. We are simply asking for fairness, democracy and someone to approach the British Parliament so that Scottish veterans will be authorised to wear the medal. No law exists that says that we cannot wear it. The rules that have been quoted are non-statutory. Our elected Parliament in London has not considered the issue and the civil service will not answer any questions. It is obstructive and fabricates things. The situation has got to the stage where the civil service has written to us to say that it will not answer our letters any more.

10:15

**The Convener:** I will come to other members in a minute, but I want first to ask for clarification. We are trying this morning to find a way to address your concerns. You have suggested that we write to the Scottish Executive to ask it to take the matter up with Westminster. In the information that you provided us, a paragraph says that the Foreign and Commonwealth Office—the people whom we would contact—

“in the form of Ian Pearson MP, and Ian McCartney MP, the Cabinet Office and members of the Honours and Decorations Committee have all agreed that the non-wearing rule is not a legislated rule and there is no law available in our country which forbids British Civilians from wearing a medal if they are qualified to do so. Also, they stated that the wearing of the PJM will not be policed and individuals may wear it if they like without authority.”

That is already the Government's position, as you have stated in black and white.

**Andrew Nicoll:** We can wear it without authority, but that would be grossly discourteous to Her Majesty the Queen.

**The Convener:** That is the point I am trying to get at. Sandra White asked whether you wanted us to take the matter to the Government, but it has already made it clear that it has no objection to your wearing the medal. The person who has the objection is the monarch, or someone on her

behalf who has made the ruling. Therefore, taking it to the Government will not take the matter forward, and I am trying to find a way that allows us to take it forward. Have you any suggestions other than approaching the Government, which has already made it clear that it has no objection to your wearing the medal?

**Andrew Nicoll:** I came here because I believe that we have our own people's Parliament in Scotland. The rule is a breach of our democratic rights. It is also a breach of our basic human rights for someone to prevent us from wearing something. The Government told us that there are no laws to say that we cannot wear the medal only because we told it that. The Government did not say that in the beginning, when there was a strict rule that we could not wear it.

**The Convener:** Again, I understand what you are saying about the democratic process, but even if both the democratically elected Parliament of Scotland and the democratically elected Government at Westminster said that you should be able to wear the medal—which Westminster has said—the reality is that you do not want to offend the Queen, who says that you cannot. How, through our taking the petition through the democratic process, can we convince the Queen that she should allow you to wear the medal?

**Andrew Nicoll:** We are here in frustration at not being able to find out what is going on and at not being told that it was the Queen who decided that we cannot wear the medal. If someone tells me that the Queen says that we cannot wear it, we will know what we are doing. However, nobody will tell us that, so we have come to the Scottish Parliament. We are not an independent country—not yet, thank you—but I think that the Scottish Parliament should take the side of the Scottish veterans.

Like the rest of the Commonwealth, we should have official permission to wear the medal. We do not need an MP to tell us that we can wear it if we like. Of course we can wear it if we like—I can go down the street in a grass skirt and two coconuts as long as I am not breaking the law.

It is not a question of the Government saying that we can wear it. Ian Pearson's written ministerial statement, which was deposited in the House of Commons Library, says that permission to wear the medal has not been formally granted because of the two rules, which were formerly exempt but which have been brought back in. Individual ministers may say that we can wear the medal if we like—of course we can.

**Mr Charlie Gordon (Glasgow Cathcart) (Lab):** Have you asked your MP to take the matter up in the House of Commons?

**Andrew Nicoll:** David Mundell has been working on the issue from day one. Recently, he asked the Prime Minister a question about a document that is held in the Cabinet Office. The document is allegedly signed by the Queen and it concerns the recommendations that were made on the pingat jasa Malaysia. We asked to see the document, but our request was refused. The question that David Mundell asked was:

"To ask the Prime Minister, if he will place in the Library a copy of a Ceremonial Secretariat document dated 21st December 2005 relating to the Pingot Josa Malaysia medal."

The Prime Minister's written answer reflects the answers that we have been getting since the word go:

"Information relating to internal advice is not disclosed as to do so could harm the frankness and candour of internal discussion."—[*Official Report, House of Commons*, 7 November 2006; Vol 451, c 1174W.]

**Mr Gordon:** Is Mr Mundell aware of your petition? If so, does he support it?

**Andrew Nicoll:** Yes. We got Alex Salmond to sign it, but I did not ask Mr Mundell to sign it because he is in the Parliament in London and I was coming to the Scottish Parliament.

**The Convener:** Mr Salmond is an MP as well. Why did you ask him but not Mr Mundell?

**Andrew Nicoll:** Let me just—

**Mr Gordon:** I want to pursue the point that you made in your answer, Mr Nicoll. Is Mr Mundell continuing to pursue the matter with the appropriate ministers in the Westminster Parliament?

**Andrew Nicoll:** Yes. There are many, many people doing that, so—

**Mr Gordon:** So Mr Mundell is pursuing it.

**Andrew Nicoll:** Yes. I quoted the answer that David Mundell got for us on 7 November. He has been acting on our behalf recently.

**Campbell Martin (West of Scotland) (Ind):** First of all, I think that you are right. Like so many things that come from the Westminster Government, its position on the matter is nonsense. I doubt whether the monarch even knows about it. It is some civil servant in London who is preventing you from wearing the medal.

Why is it so important to you to be allowed to wear the medal? Clearly, you could wear it. Will you tell the committee what service personnel did to be allowed this honour from the Malaysian Government and why it is so important for you to be allowed to wear it officially?

**Andrew Nicoll:** The PJM comes with a citation, which is stamped by the high commission of

Malaysia in London. I have a copy of it here. If you had a fortnight, I would read the whole thing, but instead I will read the final paragraph. It says:

"In appreciation of the meritorious acts and supreme sacrifices made by the security forces and civilian staff from Britain, Australia, New Zealand, Fiji and Nepal to Malaysia for one decade.

The supreme head of the Federation of Malaysia wishes to award medals to all those who distinguished themselves in chivalry, gallantry and loyalty while performing their services. The medal takes the form of an award entitled Pingat Jasa Malaysia."

Does that answer your question?

**Campbell Martin:** That is what I wanted to get on the record.

**Donald Fairgrieve:** I have just come back from Malaysia. I spent two weeks there last month along with 72 other veterans who served there 50 years ago. We had a wonderful trip. Quite honestly, the fact that we are not officially allowed to wear the medal is a slight on the Malaysian Government. I accepted the medal with pride at a reception in Kuala Lumpur, as did 35 other fellows who served in Malaysia at the same time. We were met with warmth and courtesy everywhere we went. It is disgraceful that our Government is slighting the Malaysian Government by not allowing our people to wear the medal officially.

We also visited the Kranji cemetery, where we laid wreaths on the graves of some 130 Scottish soldiers who died during the emergency. We lost a lot of people over there. The Malaysian Government knows that we did a good job and it is extremely grateful. The fact that we are not allowed to wear the medal is a slight on the Malaysian Government.

**Campbell Martin:** I agree that it is a slight on the Malaysian Government, but I think that it is also a slight on the British service personnel.

**Donald Fairgrieve:** There is a civil servant in London who sat on 10,000 applications for this medal for three and a half months.

**Andrew Nicoll:** He refused to put them through to the Malaysian high commission for no reason other than that he could.

**Donald Fairgrieve:** There is great resentment in Malaysia on this matter. I do not need to remind anyone that we need all the Muslim friends that we can get.

**Jackie Baillie (Dumbarton) (Lab):** I apologise for having missed your opening statement, gentlemen. I am sorry if, in answering my question, you have to repeat something that you have already said.

I cannot imagine a set of circumstances in which anyone would want to slight anyone who has



performed services abroad for our country and other countries. However, there seems to be a convention that, if you get a British medal for services that you have performed, that takes priority over a foreign medal for those services. Have I got that convention right?

**Andrew Nicoll:** On their medal bar, someone would wear their British medal first.

**Donald Fairgrieve:** There are exceptions. There are several examples of dual medals.

**Jackie Baillie:** Sure. I see that you cite the examples of Australia and New Zealand. However, is it not the case that the PJM is the primary medal for them because they do not have an equivalent?

**Andrew Nicoll:** They have Australian medals for service in Vietnam, Malaysia and so on. I could not be 100 per cent certain about that, but I think that that is the case.

**Jackie Baillie:** So, in those countries, the convention is different from the one in this country, which says that you should wear your British medal.

**Andrew Nicoll:** In those countries, they are being led by intelligent people. Here, we are being led by idiots.

**Jackie Baillie:** I am trying to establish what the difference is rather than solicit subjective comments that do not help your case. If we understand what the problem is, we are more likely to arrive at a solution. Is it the case that, in this country, there is—and has been for decades—a convention that a British medal takes precedence over a foreign medal that has been awarded for the same service?

**Andrew Nicoll:** No. There is a five-year rule, which has been in place for a long time. We have asked for the files on the five-year rule and they refused to give us them—they told us to go to Kew and do our own research. Eventually, we found out that the files had been booked out to the Foreign and Commonwealth Office. Then, the file concerning the five-year rule disappeared. At this time, therefore, we cannot say how long the five-year rule has been in place. However, we can tell you that the double medal rule was introduced only in November 2005 when Jack Straw deposited documents in the House of Commons library. Although Her Majesty the Queen was told that that rule was a long-standing rule, it had been in place for only three weeks or so before the Queen signed her recommendation. The short answer to your question is that the relevant rule is not a long-standing one.

**Jackie Baillie:** I asked the question because I know that a member of my family could not accept an award that he was offered by a foreign country because he had received a British award. I

hesitate to give his age, but I know that the rule has been around for a considerable period.

On another issue, my understanding is that foreign Governments can ask Her Majesty's Government to recognise the honour that they wish to bestow. I understand that the Malaysian Government put in such a request and then withdrew it. I do not know whether it resubmitted that request.

**Andrew Nicoll:** Yes. It put in the request in February 2005 and withdrew it for some reason—nobody seems to know why—before resubmitting it in March 2005. Three months before that, Baroness Symons had said in the House of Lords that we were not going to get the medal.

**Jackie Baillie:** The very latest e-mail that we have suggests that, as of 3 November, the honours and decorations committee is still considering the issue.

**Andrew Nicoll:** We have been considering our rebuttal and our petition to Her Majesty the Queen since June and we are told that there might be a decision by the end of November.

10:30

**Jackie Baillie:** Excellent, so the right people are looking at it as we speak.

**Andrew Nicoll:** The wrong people are looking at it.

**Jackie Baillie:** No, the people who have the power to make the kind of decision that you want to be made—rightly or wrongly, that power belongs to them and nobody else—are looking at it.

**Andrew Nicoll:** The people who decided that we should not wear the medal are now being asked to review the decision. So the police are policing themselves.

**Jackie Baillie:** One is hopeful, though, that the strength of your argument might persuade them to make a different decision.

**The Convener:** Linda Fabiani has an interest in this matter. Do you want to make some comments, Linda?

**Linda Fabiani (Central Scotland) (SNP):** Thanks, convener. Brigadier Fairgrieve talked about the trip to Malaysia in October—

**Donald Fairgrieve:** Actually, I was a second lieutenant national serviceman. I do not profess to be a brigadier.

**Linda Fabiani:** Really? It must be because you look so distinguished sitting there.

**Donald Fairgrieve:** It is kind of you to say so.

**Linda Fabiani:** Am I right in thinking that Allan Alstead is a brigadier?

**Donald Fairgrieve:** Yes.

**Linda Fabiani:** That is where the confusion comes from, obviously. Discussing this matter with Brigadier Alstead, I was fascinated to learn of the trip in October. Seventy or so veterans travelled to Malaysia along with members of their families—I understand that your son was there, Mr Nicoll. They went to Kuala Lumpur, Malacca, Johor and Singapore. They were welcomed and shown respect by people in Malaysia, who feel that the fighting in the emergency in the 1950s gave them a democracy and made the countries what they are now and, indeed, ensured that they were friends of the United Kingdom.

The Malaysians have a huge amount of respect for the people who fought—some of whom died—in the emergency. I think that we in this country should also treat those people with respect and I feel that we are not quite doing that, given the way in which the system that we are discussing works.

I know that people such as Mr Nicoll and Mr Fairgrieve feel strongly that they were part of their regiments and did good work for their country and their Queen. However, they received a note from a Mr Coney saying:

“As a civilian you can do what you like. You are not breaking any laws if you choose to ignore the decision, but it is considered a discourtesy to The Sovereign if you do.”

That is a terribly disparaging statement. Obviously, it means a lot to people who served in Her Majesty's forces that Her Majesty gives them the right to wear that medal with pride, which is the right that has been given to Commonwealth troops in Australia and New Zealand. I find it bizarre that British soldiers are not allowed that same right.

It is true that the matter is being considered by the honours and decorations committee and that David Mundell is working on the veterans' behalf. However, while the discussion is on-going, I would like this committee, on behalf of the Parliament, to write in support of this cause in the interests of the Scots who died in the emergency and the veterans, who want to wear that medal with full honour. I hope that the committee will consider adding its voice to that cause.

**Donald Fairgrieve:** If I may add one small point, 95 per cent of the people who have been presented with this medal are national servicemen.

**The Convener:** On that point, my father served in Singapore and Malaya with the King's Own Scottish Borderers and would be entitled to receive this medal if he were still alive. I fully appreciate exactly where you are coming from.

**Andrew Nicoll:** This medal is available to the next of kin of people who have died since the emergency or who died during it. You would be able to get it for your father, if he served after 31 August 1957, when Malaya was made independent.

**The Convener:** Thanks for that information.

**Helen Eadie (Dunfermline East) (Lab):** I, too, apologise for arriving late and missing the petitioner's statement. I notice in the papers that you have kindly supplied to us that the then Minister for Trade, Ian Pearson, said:

“Her Majesty's Government welcome, and believe it is important to recognise, the generous gesture by the King and Government of Malaysia, and their wish to acknowledge the service given by veterans and others in the years immediately after Malaysian independence. The exception recommended reflects this and our strong and important relationship with Malaysia.”—[*Official Report, House of Commons*, 31 January 2006; Vol 442, c 11WS.]

He seems to be recommending to a committee that your medals should be given an exception to be worn. The Government has clearly stated that it will recommend to that committee—it is mentioned in your papers, but I have lost its name, which is to do with honours and decorations—that an exception should be made. As the convener said, the Government has said clearly that the exception should be allowed.

My suggested recommendation to the convener—other members might want to speak—is that we should send the *Official Report* of our discussion to that committee. We can pick up on the point that the Government's will, as expressed by the Minister for Trade, seems to be that the exception should be granted and we can say that the Parliament supports that exception.

**The Convener:** I would endorse that.

**Ms White:** I endorse Helen Eadie's suggestion. She laid out what Mr Pearson said. The letter from Mr Coney, from which Linda Fabiani quoted, was sent on 7 August 2006. It makes it clear that wearing the medal without the Queen's permission would be discourteous. We need clarification on that, so I support sending the petition and the *Official Report* of the meeting to the committee on the grant of honours, decorations and medals and to the Foreign and Commonwealth Office. We will await their replies for the petitioners, who need an answer.

**Mr Gordon:** My late uncle served in the Malayan emergency but, personal considerations aside, I think that the petitioners have made a powerful case. I am always wary of people asking the Scottish Parliament to express a view on something that is clearly being pursued at Westminster. That is not because I have constitutional misgivings but because I take the

practical view that if every piece of work that was being pursued at Westminster were duplicated here, that could clog up the system.

I will put that argument to one side. A more fundamental point is about the accountability of civil servants. The parliamentary culture of Westminster has been replicated in this relatively young Parliament in the notion that civil servants' advice to ministers or to the sovereign should always be given in private and in secret. I come from the different background of local government, in which chief officers are compelled by law to give the same advice to all councillors of all parties and they usually have to give it in public and in a document. A fundamental issue for the future course of the Scottish Parliament and the Executive is whether we should continue the British home civil service tradition of always keeping advice secret.

An unnecessary fiasco has arisen over the matter that the petition raises. To be frank, people are entitled to know not just the Government's decisions but the reasoning behind the decisions. The petitioners have unnecessarily been given the runaround between the sovereign, the ministers and a shadowy committee. The Malaysian Government is rightly upset, you are rightly upset and here we are, taking quite a bit of time in the Scottish Parliament to discuss the issue. That all strikes me as totally unnecessary. The situation could have been sorted out correctly and swiftly without giving offence and without the need for you gentlemen to start your admirable campaign.

Although I support the recommendations that the convener has outlined, I simply want to put on record my strong feeling that this is another example of why it is wrong for officers' advice to be given in secret.

**The Convener:** I entirely endorse that well-made point.

**Donald Fairgrieve:** I should also point out that a documentary made by the BBC team that accompanied us on our expedition to Malaysia and Singapore will be shown on BBC2 at 8 pm on 27 November. It might embarrass the honours, decorations and medals committee in London somewhat.

**The Convener:** Let us hope so.

**John Scott:** Perhaps we should broaden things out by writing to the Commonwealth Parliamentary Association, which might be interested in this matter. If it notes the anomalous position in which you find yourselves, it might—if it sees fit—be able to contribute to the debate by letting the committee on the grant of honours, decorations and medals know its view.

**The Convener:** That is another good suggestion.

**Campbell Martin:** I support the recommendations made by Helen Eadie and other members and Charlie Gordon's comments. However, I hope that when we forward the petition to Westminster we do not get back a letter that says simply, "Thanks very much. The matter has been noted." Instead, I hope that, by submitting the *Official Report* of this evidence and showing our support for the petitioners, we can get across to the Westminster Government that we want a constructive response.

**The Convener:** I am more than happy to include in our request for information a note that we are seeking a full response, not just an acknowledgement. As we will also send a copy of the *Official Report*, the honours, decorations and medals committee will be aware of how we arrived at our decision to write to it and should take cognisance of the fact that we are doing so on behalf of British ex-servicemen. If it does not consider the Scottish Parliament worthy of a reply, it should at least show some courtesy to the people who served their country.

We will write back to you with any responses that we receive, and I wish you good luck on your campaign.

**Donald Fairgrieve:** Thank you. You have been very helpful.

**Andrew Nicoll:** Thank you for listening to us. The rest have not listened to us, but you have.

### Christian Sabbath (PE992)

**The Convener:** Our next new petition is PE992, by Hugh M Cartwright on behalf of the synod of the Free Presbyterian Church of Scotland, which calls on the Scottish Parliament to urge the Scottish Executive to consider and debate the need for a weekly day of rest from work throughout Scotland and to encourage business and commerce to close on that day, which would be appointed the Christian Sabbath. I welcome to the committee the Reverend Hugh Cartwright, who is supported by Alexander MacLean. You have a couple of minutes to make a brief statement to the committee, after which we will discuss the petition.

**The Rev Hugh Cartwright (Free Presbyterian Church of Scotland):** We are grateful to the committee for agreeing to hear the case presented in this petition, which has been submitted on behalf of the synod of the Free Presbyterian Church of Scotland. Initially, the synod had hoped to ask the Scottish Parliament to legislate in favour of the first day of the week, the Christian Sabbath, being a weekly day of rest on which business and commerce would close. On being advised that that

is a reserved matter on which the Scottish Parliament cannot legislate, the synod agreed to petition the Parliament to debate the need for such a day and to urge business and commerce to close down on it. We even hope that the Parliament will be minded to recommend that the Westminster Parliament legislate to that effect.

We make no bones about the fact that our primary motivation is religious. We believe that the Sabbath day is divinely ordained; that its observance is part of the moral law that is fundamental to human society; and that its observance by a constitutionally Christian nation is a recognition of the claims of God that would honour God and enjoy his blessing. However, our aim is also philanthropic in the widest sense, because we seek to benefit body, mind and human relationships as well as soul.

As our petition points out, it is necessary to carry out certain works every day of the week, but we believe that observing a day on which everybody, except those who are engaged in works of necessity or mercy, is free from the lawful activities of other days would be economically, socially, morally and spiritually highly beneficial. We suggest that one factor that significantly contributed to the stability of family life and the social cohesion of communities in the past was people's shared freedom on the Sabbath from their routines on other days. It is no wonder to us that so many complaints are made about the breakdown of order, respect, morality and happiness when such a pillar of society, created by God, is so widely disregarded and disused. That the Christian Sabbath should be the day of rest that is recognised throughout the nation follows logically from its being the day that is appointed in the Bible, which is fundamental to our nation's Christian identity. Even if people in our society do not recognise Sunday as a day of worship, it is recognised as being different from other days.

We hope that the committee and the Parliament will agree that the subject is worth discussing in depth and will urge the Scottish Executive to recognise the desirability of doing whatever can be done to promote the recognition of a weekly day of rest.

10:45

**Alexander MacLean:** Our parents and grandparents worked hard to grasp the many benefits and comforts that we now enjoy. They experienced many hardships—the 1930s depression, two world wars and rationing, for example—but endured their trials with fortitude. In the past decade or so, stress has been one of the main causes of absenteeism from work. It affects many employments and has a detrimental knock-

on effect on family relationships. We do not believe that it is mere coincidence that stress, which was not a significant factor or diagnosis in past generations, has affected today's society to such an extent. Previous generations enjoyed a weekly day of rest, which people now lack. Nowadays, people are very busy; one day follows another with relentless pressure and there are few opportunities for rest, relaxation or time to stop and think clearly. One effect of stress is that people do not think rationally; they lose their perspective on and purpose in life.

Our Creator appointed for us one day of rest from work in every seven days. If we keep to that pattern, we will benefit from the rest that we need. Those of us who use the appointed day of rest to take time to worship our Lord obtain a double benefit. We not only rest our minds and bodies from the pressures of work and our worldly callings, but revive and strengthen our spirits as we worship and contemplate the Lord who rules over all. We obtain relief from stress by committing ourselves to him.

To an extent, large stores and supermarkets are responsible for seven-day trading, which has brought about many of the problems that are accumulating in our society. We respectfully request that members consider the petition and that what it craves be granted.

**The Convener:** Thank you very much.

I think that the committee would endorse much of what has been said about people needing to have appropriate time in the working week to rest; indeed, I think that that would be widely endorsed. However, I am concerned about the practical implications of setting aside one day for rest. I go to church and try to take as much rest as I can on Sundays, but I relax and de-stress by going to football matches or playing golf. Other people are required to work when I do such things. Will you say something about the practicalities that are involved? The ways in which some people relax on Sundays mean that other people are required to work.

**The Rev Hugh Cartwright:** That underlines the fundamental problem, which is that departing from the original creation mandate leads to all sorts of complications and means that one person's enjoyment causes another person to work. The biblical position—and our position—is that the six days that people have provide ample opportunity for working and recreation.

On the human level, one major reason for having one specific day of rest is that when everyone is off at the same time, that helps family and social cohesion and brings a sense of order that has largely gone from society. If we traced many of the ills of society back, we would find that

their origin is the departure from a well-regulated life that has a place for work, recreation and worship. If people have to go to a football match, they should not do so on the Lord's day. The fact that doing so causes many other people to work is one reason not to go.

**John Scott:** I come from a farming background. Animals must be fed, so I would appreciate your views on how the welfare of animals would be addressed.

You note a correlation between increasing stress and working on a Sunday. Other than the biblical context on which you base much of your proposal, does any research substantiate your view that not working on a Sunday would redress stress?

**The Rev Hugh Cartwright:** Mr MacLean will speak about stress; he brought that up.

My first 21 years in a ministry were spent in a farming community in the Black Isle. I am married to a farmer and I am well aware that the welfare of animals must be attended to. That would come under works of necessity. There is no problem with things that are necessary and beneficial to the well-being of others. We are really speaking about unnecessary labours.

**Alexander MacLean:** I have a printout that is to do with a report that was prepared for Channel 4. It says:

"Remember when Sunday was a day of rest? ... But has the 24-hour society—dubbed the 24/7 lifestyle—really improved our quality of life? Or are we just chasing our tails even more than we ever were?"

Stress is clearly a feature of the 24/7 experience".

That is just some of what is available to allow us to understand that stress and the 24/7 lifestyle are inseparable.

**Campbell Martin:** I say from the start that although I do not share your beliefs, I fully respect your right to hold and articulate them and to petition the Parliament in support of them.

If your petition reached its logical conclusion, it would deny me as a relatively free individual the right to determine what I did on any particular day of the week. Do you seek to deny individuals the right to determine their lifestyles?

**The Rev Hugh Cartwright:** We believe that only necessary work should be done, so no one would do unnecessary work. We would not regard that as a hardship. However, it is important to have a specific day—although it might be difficult for you, with your way of life, as it is for me with mine, to have any day off. Apart from any religious consideration, having a single recognised day on which people are not involved in work or disturbing

others with their work helps families and communities.

I have a congregation in Edinburgh that is made up largely of younger people and I know that it is becoming increasingly difficult for them to get jobs if they are not prepared to say that they will work on the Sabbath day, at least on occasion. The liberty to work of people who have the convictions that we have is being restricted. That affects many more lines of work than one might think. No one would reject a person because of their views on the Sabbath, but they would find other ways of ensuring that they did not get the job.

**Campbell Martin:** As politicians, we must deal with the practicalities of any legislation that is introduced. You ask that legislation be introduced to ensure that the Sabbath is held as a day of rest. If such legislation were introduced, what would be the sanction for not adhering to it?

**The Rev Hugh Cartwright:** We are obviously referring to bodies that provide shop work and other work of that nature. We would not want to go down the line of imposing sanctions on individuals. It is clear that the Parliaments here and at Westminster are willing to pass legislation that many people find increasingly intrusive in their lives. We believe that we have divine authority behind the legislation that we propose, which would be beneficial to everyone. Many bills are being passed here and at Westminster that, in the opinion of many people, intrude on their lives, in that they place restrictions on them. We are opposed to the imposition of any restrictions that do not come from a higher authority, by which we mean the word of God. We unashamedly base our proposal on divine and biblical authority. Our aim is to point out that, in general, society's experience is that following the lines that are laid out in the Bible is beneficial to individuals, families and society.

**Ms White:** It is true that we live in a 24/7 society, but there was a great deal of stress around many years before society was modernised. You mentioned having a day of rest on a Sunday but, if I am not working, my Sundays are spent visiting family and friends. If it were to come about that no one could work on Sunday, how would that affect the economy of Scotland at large? Would the prohibition on working mean that people would not have transport services, for example?

**Alexander MacLean:** A total close-down would have advantages for the economy. First, it costs a lot more to keep a business running for seven days than it does to keep it running for six days. An added advantage is that power savings would be made, although that is not one of our objectives. If people lived their lives recognising one day in seven as a day of rest, they would not

need to be involved in work on that day or to have other people do things that we might not consider to be work but which might be considered to be required. Campbell Martin and the convener both said that there are certain things that they would want to do on a Sunday. We think that the activities that people could do on a Sunday should be heavily limited. If there were limits on what people could do, there would be rest for other people. If everyone wants to do their own thing, there will be no rest. For example, if Sunday is used as a day for social activities rather than as a day for working, for example, there will be no rest. That is why we advocate having a day of rest throughout the country.

11:00

**Ms White:** You mentioned power, but sometimes shutting something down and having to build it back up again costs more, so I do not agree with that part of your argument.

What about people who want to go visiting but cannot because they do not have a car and no buses are running? If people were unable to travel to visit relatives, that aspect of family life would be stopped. Even if people had a car to get about in, the petrol station would be closed and they could not fill their cars with petrol. I am thinking about the practicalities of having a complete shutdown on one day.

**The Rev Hugh Cartwright:** We are asking for a shutdown in trade and industry. The petition does not go further than that; it just deals with people who work for their living and are required to work on the Sabbath day.

**Helen Eadie:** I have two questions. Given that employment is reserved to Westminster, have you made representations to Westminster parliamentarians and what was their response? Who else have you raised your petition with?

**The Rev Hugh Cartwright:** The petition has not been raised with anyone outside this Parliament. Our synod makes representations to the Westminster Government on various matters including Sabbath observance, but we made no specific request to others because we thought that the Scottish Parliament could deal with the matter. It was only when one of your officials pointed out that the Parliament could not deal with it and suggested another avenue that we decided to submit a petition. It would be helpful for the Scottish Parliament to discuss the situation in Scotland even though only Westminster could legislate. However, we are not asking for legislation in the petition.

**Helen Eadie:** I was interested in the European dimension in your submission. You mentioned that there has been legislation in mainland Europe to

keep a day of rest. I have travelled in most countries in Europe and I have not noticed such legislation; shops and businesses throughout Europe are open on Sunday. What is the legislation in mainland Europe that makes the situation there different from the one here?

**Alexander MacLean:** I was in Rome a year ago and it was very noticeable in the area around our hotel that there was little activity on the Sabbath. Many of the shops were closed and it was obvious that the shops that were open were not Italian shops.

I did not witness this but I understand that, for many years, there was a total closedown on the Sabbath in Germany. I do not know whether that happens currently. People were not allowed to make a noise or mow the grass, no heavy vehicles were allowed on the roads and if any of that happened, people were immediately fined. Members of my family have been to France and have said that it was noticeable that there was not nearly the same activity on the Sabbath in France.

**Jackie Baillie:** I accept entirely your acknowledgement that we live in a multicultural society and your recognition that although you would prefer Sunday to be the day of rest, you are open to the possibility of making it another day. I will press you slightly on that.

I see the absolute attraction of boxing off one day and I have little problem with it in principle. However, the reality is that many families choose to do things slightly differently—for example, meal times might be important for them and might enable the same coming-together of families, people and society and shared time that you argue for so robustly. Does there need to be a day of rest, or should we just ensure that we box off time to be with others and our families?

**The Rev Hugh Cartwright:** From a social and family point of view, the importance of having one day of rest is that if everything were to more or less shut down, people would be liberated from their various duties on other days.

In my limited contact with people of other religions, I have found that they are surprised when they come to this country, which I think is a Christian country, because they can find scarcely any signs of Christianity. One Muslim girl—a PhD student—came to our church several times with some fellow students. She also came to our house. What struck her about her time in Scotland was that she could hardly find a person who would say that they were Christian. She also found the whole ethos of the society to be quite different from what she thought a Christian society would be like.

I do not think that people would raise objections to the Christian Sabbath being recognised as the day of rest in this country.

11:00

**Jackie Baillie:** Surely being Christian is about more than just respecting the Sabbath.

**The Rev Hugh Cartwright:** It is, yes, but that is one of the planks of it.

**Jackie Baillie:** I have a final point. I hear what you say about exceptions and I know that you are talking only about trade and industry, but the reality is that people working in all the emergency services—police, the fire service, the ambulance service and hospitals—would require to work, so a quite substantial chunk of people who do a job for our greater good could not take the Sabbath off.

**The Rev Hugh Cartwright:** Yes, those people would have to work, but they would have to do less work than they do at present if, in general, society was resting from its everyday activities. If there were no football matches or work going on, the police and others would face less strain on that day. It is obvious that the police, firefighters and other medical people would have to work, but currently we make them work more than they should have to because of our seven-day society.

**The Convener:** As has been mentioned, the ability to legislate on the matter is reserved to Westminster. Although a bill that seeks to restrict the opening of shops on Christmas day and new year's day will come before the Scottish Parliament shortly, there is a fine distinction to be made, because the bill is about restrictions on shops opening and not about the regulation of work, per se, which is what the petition addresses, which means that the matter is reserved to Westminster. When members make recommendations, they should bear that in mind.

**Helen Eadie:** I suggest that we copy the petition and the *Official Report* of the meeting to Westminster and thereafter close the petition. We cannot legislate on this and it is simply a matter of ensuring that the petition gets to the inbox of the appropriate people at Westminster.

**Campbell Martin:** As I said, I do not support the petition but perhaps the committee should pursue it a wee bit further and not close it at this point. I accept that the matter is reserved to Westminster and that the petition should be forwarded there. However, would it be possible to ask the Scottish Executive what its position is on encouraging business and commerce to close for one day per week? Surely the Executive, as the Government of Scotland, would have a view on that.

**The Convener:** That thought occurred to me; we should establish the Executive's position if nothing else.

I would like to get some responses from Westminster and the Executive. We could then let the petitioners know about the responses and comment on them. I would like to keep the petition open to allow that to happen. We should take the issue to the Department of Trade and Industry and the Scottish Executive. We will give them the *Official Report* of this discussion and ask for their views. Are members happy that we do that?

**Members indicated agreement.**

**The Convener:** We will then write to the petitioners with the responses and seek their comments.

**The Rev Hugh Cartwright:** If on any occasion the Scottish Parliament debates a subject that is reserved, do those views get passed on to Westminster? That is really what we were asking.

**The Convener:** That does happen, and that is why the present wording of the petition was suggested.

**The Rev Hugh Cartwright:** I just wanted to check that it was possible constitutionally—

**The Convener:** It is possible for the issue to be discussed.

**Alexander MacLean:** If our additional information is to be passed on, I should perhaps point out that it contains a couple of typing errors. First, the title of the document refers to "THE SCOTTISH PALIAMENT" instead of "THE SCOTTISH PARLIAMENT"; and secondly, the first sentence under the heading "ECONOMICALLY" begins

"There no is benefit to business"

instead of "There is no benefit to business".

**The Convener:** We will clarify that. Thank you very much.

### **National Tourism Website (Public Ownership) (PE1015)**

**The Convener:** The next new petition is PE1015, by Alan F Keith, on behalf of the Association of Dumfries and Galloway Accommodation Providers. The petition calls on the Scottish Parliament to urge the Scottish Executive to return the national tourism website, call centre and booking system to public ownership. Before it was lodged formally, the petition was hosted on the e-petitions system, where it gathered 693 signatures and 20 discussion comments, 19 of which supported the petition.

I invite Alan Keith, who is supported by Elizabeth Chambers, to make a brief statement on the petition.

**Alan Keith (Association of Dumfries and Galloway Accommodation Providers):** On behalf of the organisation that I represent, I thank the Scottish Parliament for establishing its petitioning facility, without which it would have been much more difficult to bring the matter to its attention.

We believe that this petition provides an opportunity for the Parliament to hear the direct views of a sector of the tourism industry that has lacked effective representation, perhaps from the very beginning. Our campaign has received 693 signatures, mostly from accommodation providers throughout Scotland—they account for approximately 10 per cent of providers registered with VisitScotland.com. Small accommodation providers have been most seriously affected by the introduction of the public-private partnership eTourism Ltd.

As we have more fully detailed in evidence that was submitted earlier, our contention is that under the present regime the national website fails to encourage tourists to holiday in Scotland because it allocates excessive space to accommodation searches, deals and offers. The principal function of the website must be to sell Scotland—that is, to motivate people to holiday here. At that point, they are already committed to purchasing accommodation.

By trying to sell accommodation to people who have not yet made any decisions about their holiday, eTourism Ltd is putting the cart before the horse. In fact, the company has no interest in increasing tourism; instead, it wants to precipitate bookings from people already intending to holiday here who are in the process of choosing where they want to stay. That approach is incompatible with the need to increase tourism.

Many providers feel that eTourism Ltd is simply displacing business that would previously have come direct to them. Partly as a result of that, only a minority of providers have ever actively participated in the booking system, while many others have been alienated by this and other features of the scheme.

The solution is to take the national website back into public ownership, after which it can be redesigned to perform its proper functions successfully and to give all Scotland's tourism businesses a fair and effective platform at reasonable cost. Provision of booking systems can be left to the private sector, which will save greatly on costs. Moreover, the national call centre can be scaled down and much of the information provision work delegated to regional centres

where the staff are more knowledgeable about their locality and can provide a better quality of response.

The details of the proposal have been circulated for comment to almost 400 tourism businesses on a database that our campaign has generated, and we have received almost no contrary feedback. As a consequence, we urge the Scottish Parliament to investigate ways in which the necessary changes can be made.

**The Convener:** Thank you. Do members have any comments?

**Mr Gordon:** If the website is in effect nationalised, the Scottish taxpayer would be landed with a loss-making operation. Would that be wise?

11:15

**Alan Keith:** The fact that the scheme is making a loss has to be seen in the context that it incorporates a website, booking system and call centre. If the website, which is what we are most concerned with, were separated out, that would not in itself be a high-cost operation. The booking technology could readily be left to the private sector, given that many private sector businesses have such facilities. The cost of taking the website back would not necessarily be high.

**Mr Gordon:** Your petition is not really about the concerns of accommodation providers that have not bought into the national system, with its attendant commission charges. You are saying that there is a flaw in how we market Scotland as a destination, which is why you want to break up the company.

**Alan Keith:** Our petition is about both those issues. As accommodation providers, we are concerned that the system has harmful effects, particularly on small accommodation providers, but we also believe that it has a general impact on tourism throughout Scotland.

**Mr Gordon:** The Minister for Tourism, Culture and Sport announced up-to-date figures a few weeks ago during stage 3 of the Tourist Boards (Scotland) Bill, which was a tidying-up exercise that took account of the operational situation that has been in place for about 18 months. Given that those figures were encouraging, do they not counter at least one of your arguments?

**Alan Keith:** You are probably referring to the percentage increases in bookings, which are not meaningful unless the base is also expressed. There is no information about the levels of bookings; there is only information on the percentage increases. We do not believe that the amount of business, particularly from online bookings, is significant.



**Mr Gordon:** Do you have information about the cash value of the sales that lie behind the figures?

**Alan Keith:** We have figures for the overall value of business that has been contracted. For 2005, VisitScotland.com quoted £12 million. Although the money is claimed to be generated, there is no evidence that it is new to Scotland. It is in effect displaced; it would have come to Scotland but it was routed through a sales operation that precipitated much of it.

**John Scott:** I pass on Alex Fergusson's regrets for not being here, for family reasons—he would otherwise have been here to support you.

I am concerned about what you say in the petition about contact details being deliberately obscured or hidden behind advertising or hyperlink text. You also say that the company was putting the cart before the horse by trying to get bookings before people decided to come here. The suggestion has been made that the website could be nationalised, as Charlie Gordon put it. Is it not the case that the website could just be managed differently or improved, thereby delivering a better service? Would that be a reasonable way to proceed, instead of taking the website back into national ownership?

**Alan Keith:** Perhaps, if that could be done. However, because the company in question has been given the job of producing bookings—that is how it earns its revenue, as a profit-making company—the way that the website is set up leans towards the company's need to generate bookings to acquire business, so I do not think that any change to the website could be imposed on the company without its business suffering.

The basic problem is the concealment of contact details. It is correct to say that those details are accessible but, on the internet, everything is geared towards ease. Internet users are notoriously lazy, generally have short attention spans and go to the nearest and most obvious buttons. To find the contact details of a specific business, a user who carries out an accommodation search has to scroll down and click other links. It is a longer process, during which the user has to bypass many times information on the call centre booking number, which encourages them to call the number to book. They have to be quite determined or knowledgeable about how the website works to bypass the number, as the impression is clearly given that one ought to book through the call centre. That is entirely against the wishes of most of the providers who are listed on the website, who would prefer that the consumer is brought directly to their entries, websites, e-mail addresses and telephone numbers.

**John Scott:** How do we reconcile that fact with the survey by ORC International in June 2005? VisitScotland commissioned ORC International, an independent market research agency, to conduct customer satisfaction research, which said that 88 per cent of customers were content. We want you to discuss or refute that.

**Alan Keith:** I would not refute it, but 12 per cent were dissatisfied, which is an extraordinarily high level of complaint. If 12 per cent of my guests were dissatisfied with my service, I would be out of business as an accommodation provider.

**John Scott:** Fair comment.

**Helen Eadie:** More than 15 years ago, I ran a small business as an accommodation provider, so I understand your frustrations about wanting to ensure that small accommodation providers get a share of the business. Anything that we can do to help direct more business towards small accommodation providers will be good not only for you but for Scotland.

When I was a provider, I used to get complaints from people who said that they had had to queue eight deep for accommodation in Edinburgh at festival time and were frustrated at having to travel 50, 60 or 70 miles out of Edinburgh. That shows that there is a real need for the technology, and it is great that things have moved on.

Do we need to be terribly concerned about VisitScotland.com's provision? Given the technology that is available, could we perhaps think differently about how we assist small businesses in setting up their own websites? When I search for accommodation, I do not go to VisitScotland.com; I search on the area to which I want to go and then trawl through all the accommodation in that area. Is the issue perhaps more to do with how we can provide support and assistance to enable every small business to promote their own website in the best way possible? What I like about the technology is that I can identify whether a provider has accommodation available on the dates that I want to book it. It is wonderful to be able to sit at my desk, type in all the information and have an answer instantly.

**Alan Keith:** Most providers already involve themselves in e-commerce. Very few do not have at least e-mail, and a large percentage have their own websites. Of course, e-commerce works when a booking is enabled by an e-mail—

**Helen Eadie:** I apologise for interrupting, but I do not want an e-mail address; I want each provider to have a website, so that customers can see what the place and its rooms look like and what facilities there are. I am thinking in particular of a couple of superb websites for places in the Aberfeldy area, which give users a virtual reality

tour of the accommodation. Could we not get support to expand that technology for small businesses across the board?

**Alan Keith:** I agree. Many providers already have those facilities—it would be unusual for them to have an e-mail address without a website—but I fully support anything that encourages more businesses to develop their websites. However, it is frustrating to a provider who has spent money and, in some cases, obtained Scottish Enterprise grants to provide the technology that the national website does not easily link customers to their website.

**Helen Eadie:** That is perhaps an argument for improving the VisitScotland linkages rather than for nationalising the system. There are aspects that could be explored more readily.

**Alan Keith:** In the past four years, we have made every possible approach to our local tourist board network and to VisitScotland.com to seek better links, but VisitScotland.com steadfastly refuses because, as it says, it is a commercial business and needs to drive customers to its booking centre. It admits that, in effect, it needs to divert customers from direct contact with providers.

We would be happy with a level playing field. If a consumer wants to book online via an agency, that is fine, but they are not given a fair choice. It is made to appear as if their only booking route is via the call centre, which is wrong. Many small accommodation providers, and probably some larger ones, do not like online booking because it is anonymous and prevents contact with the customer before they stay. Small businesses are not like hotels, which have multiple rooms of the same specification, and people may have many issues to resolve before booking. That cannot be done with an online system.

Let me say that we have absolutely nothing against the development of online booking. The market for it will develop naturally, as more people and providers use it. We are not against that—we are not in any sense luddites—but there is also a market for traditional booking. Particularly with small businesses, customers want to book on a personal basis. A high percentage of customers actually want to discuss their booking beforehand by telephone or e-mail. We are not giving them that facility, and in doing so, we are damaging a sector of the market—traditional booking—in an attempt to react to what is perceived to be a growing section of the market—online booking.

We have nothing against online booking, but it is more appropriate for hotels. Indeed, they are enjoying a much higher level of online booking, although not via VisitScotland.com, which has a low penetration of hotels, but via other agencies

such as Expedia, or their own websites—I refer to Travelodge, for example. They obtain a lot of online bookings because that suits their business and customers. For smaller businesses, it is different.

**Ms White:** Thank you for your explanation and the papers that you have provided. I have a couple of questions, but I think that we should clarify how VisitScotland.com is made up. It might just be me, but I find it confusing.

VisitScotland is a public-private partnership to promote tourism in Scotland and provide an online booking facility. The website is run as a commercial venture by eTourism Ltd, the shareholders of which are VisitScotland, Tiscover, Partnerships UK and Atos Origin. In 2004, eTourism made a loss of £5.6 million. In November 2005, the Minister for Tourism, Culture and Sport, Patricia Ferguson, said that it has been envisaged that VisitScotland.com would make losses initially. In December 2005, VisitScotland.com announced a loss of slightly more than £2 million. I want to put the record straight on that. Although it is a commercial venture, I wonder who is making up the losses.

You say that the website does not concentrate on what Scotland has to offer, but on booking fees. Is it competing with services that are already up and running, such as accommodation booking services? Have services for accommodation providers declined since the website started, or have they improved?

11:30

**Elizabeth Chambers:** I am a self-catering accommodation provider. In my experience and in that of other self-catering providers in Dumfries and Galloway, the number of bookings that have come via VisitScotland has decreased hugely since the inception of the new website. I am the area tourism partnership representative for self-catering—sorry, that is a bit of a mouthful—and I have had feedback from people who say that they are getting no bookings or very few indeed, whereas in the past they got a lot of bookings and referrals via the tourist information centres and the old Scottish Tourist Board website.

**Alan Keith:** The feedback that we are getting is that the number of referrals—which are not bookings, but links to a provider's website—and of resulting inquiries from the VisitScotland.com website has dropped considerably.

**Ms White:** Can you give a reason for that? Is it the reason that I cited—that there is competition—or is there another reason for the decline since the VisitScotland.com website was set up?

**Alan Keith:** I believe that the principal reason for the reduction in referrals is that the contact details are not conspicuous. The reason for the reduction in bookings is a bit more difficult to identify. Prior to the setting up of the PPP, the bookings that providers received were virtually all on-tour bookings from TICs. Advance booking was never promoted by the tourist board and never sought. The system was there, but it was rarely used—advance booking was not pushed or sold. The TICs were the source of bookings. People who were travelling would go to a TIC to get a bed for the night. The level of that kind of business appears to be dropping, although that may be because of the increased use of mobile phones, which means that people make direct calls using their phones and information from the internet. That could be why some of the sources are drying up.

Of course, VisitScotland.com targets advance bookings and has reported increases in the number of such bookings, but that does not seem to translate to a high level when spread among all the accommodation providers. The disadvantage is that the bookings now carry 10 per cent commission whereas, previously, they did not, as they came direct.

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** I am interested in the petition and your presentation. I will pose a few questions for clarification. I have been hearing criticisms of VisitScotland.com for a long time. I myself have been criticised for raising issues about the new contract that VisitScotland entered into with another provider.

I would like you to clarify one issue. Recently, VisitScotland produced statistics saying that there were more foreign visitors to the United Kingdom last year than there had ever been. However, having spoken to people in the tourism industry, that is not the impression that I have gathered. How does VisitScotland correlate the hits on its website to customers at the end of the day?

**Alan Keith:** I do not believe that it can correlate that.

**John Farquhar Munro:** So 500 hits does not equate to 500 customers coming to the UK.

**Alan Keith:** That is correct.

**John Farquhar Munro:** How does VisitScotland.com ensure that your business can be easily located from its website?

**Alan Keith:** I do not think that there is a record-taking process that tracks someone going to my website from VisitScotland.com. I have heard of no such statistics being produced.

**Elizabeth Chambers:** Providers can determine how many referrals have come to their websites

via VisitScotland.com, but I do not think that VisitScotland can track that information.

**John Farquhar Munro:** Many visitors complain about the difficulty that they have in finding individual properties' websites when they go on to VisitScotland.com to find properties in Ayr, Dumfries or wherever. It is difficult to go through the process to get to the locality that they are looking for.

**Elizabeth Chambers:** Typically, people who call me to seek accommodation will say something like, "At long last, I've managed to find your telephone number. It has taken me a good half a dozen tries to find it via the VisitScotland.com website."

**John Farquhar Munro:** If, at the end of the day, there is an agreement that there should be more local control of VisitScotland or some other, similar, agency, how will we ensure that the standards are adhered to? There is a vetting system and accommodation inspection by the tourism industry. Who would do that if we disposed of VisitScotland?

**Alan Keith:** We are not proposing to dispose of VisitScotland. We are concerned with VisitScotland.com and the company that runs the website, eTourism, which has no remit with regard to quality control. The petition has no axe to grind in relation to quality control.

**John Farquhar Munro:** Does your petition suggest that owners of properties should be members of VisitScotland as well as the new organisation that you propose?

**Alan Keith:** There are no members of VisitScotland. Since the area tourist boards were dismantled, businesses simply buy products from their local network. They participate in quality assurance work, which is delivered by the same organisation. At the moment, to be listed on the website, you have to be quality assured. That is a separate argument and is not one that I wish to take up at the moment.

**John Farquhar Munro:** There is a difficulty looming there.

**Alan Keith:** If the website is simply transferred to public ownership and run by VisitScotland, the database would not change. The same businesses would be shown on the website. However, the way in which the website is run could be altered so that consumers could readily find details of the businesses. After all, that is what the consumer wants. We know, from anecdotal evidence and common sense—from speaking to our guests and to other businesses who have spoken to their guests—that many consumers want to contact the businesses directly. They do not want to go through an intermediary. It is

difficult to quantify the degree to which small businesses—rather than big hotels—are being harmed because of the present arrangement, but it is significant.

**John Farquhar Munro:** I agree that most customers would want direct contact with the provider, but VisitScotland has an interest in not allowing that to happen because of the fee structure that exists.

**Alan Keith:** Yes.

**Jackie Baillie:** I have been listening with great interest, because constituents of mine have raised concerns that are similar to yours. I get a sense that you are concerned less with the form of ownership of the website and more with getting the booking system right. Would that be a fair comment?

**Alan Keith:** From our understanding of the way the website is set up, we cannot see how it could be got right without its being taken out of the control of the company in question, because of the profit motive. The website is designed to collect profits from making bookings. Therefore, the company wishes to channel business through its call centre. It is not interested in transferring an inquiry to the business unless it goes through the process by which the company can extract a payment. If the customer is simply put in touch with the business, that is a loss-making call. Sometimes, the call centre does that, but only if it perceives that a booking is of low value and will be time consuming and difficult to deal with. In such circumstances, it will pass it on to get rid of it—but it will try to keep any high value bookings.

The call centre uses sales techniques that in some cases might not be beneficial to the consumer. It might try to upsell a product or offer a destination that might not be what the consumer wants. Because it is driven by the profit motive, it is interested only in making the booking. The accommodation provider carries the can afterwards.

**Jackie Baillie:** I understand that. Equally, however, as accommodation providers, you are making a profit in the process. The key for me is to do with whether you are maximising that profit because of the system. Have your bookings gone up? Are you experiencing more trade than you normally would at this time of year? Like others, I have received press releases saying that the bookings in my area are up 50 per cent, which is good news for the industry. Is that rise coming through in the form of bookings?

**Alan Keith:** Like similar businesses in my region, my business has experienced a drop in occupancy levels. Not all businesses have suffered, but my experience appears to be general. I have not taken any business via

visitscotland.com, nor am I on the website, because of the terms and conditions it imposed on accommodation providers at the outset.

**Jackie Baillie:** Have you looked at comparable businesses that have used the booking facility? Have they experienced an upsurge in business as a consequence of having the one gateway?

**Elizabeth Chambers:** My business takes bookings from VisitScotland.com and we have experienced a decline. The statistics that were gathered by Taylor Nelson Sofres show a small drop in the occupancy figures in Scotland this year, contrary to the statement that you have mentioned.

I will give you an example of some of the misleading statements that have been made. A press release from VisitScotland.com talked about an increase of 222 per cent in self-catering bookings in Dumfries and Galloway. That figure was lauded in all the newspapers. However, on examination, it emerged that the total number of bookings was just 44. A 222 per cent increase in a figure like that is still not a lot.

Being a mathematician, I would always advise caution when dealing with statistics. As Mr Keith said, percentage increases are always a problem. Today's paper says that there has been a 166 per cent increase in bookings in Dumfries and Galloway, but no figure has been given. Unless we know the figure represented by the percentage increase, the statistics can be very misleading. In fact, there were only 39 bookings this year for self-catering in Dumfries and Galloway. If I was getting that level of bookings I would not be in business.

11:45

**The Convener:** Alasdair Morgan has joined us and has indicated an interest in the petition.

**Alasdair Morgan (South of Scotland) (SNP):** I congratulate Alan Keith, who has been a thorn in the flesh of VisitScotland.com for some time. More positively, he has brought together a disparate, geographically wide-flung group of people. I would not have gone as far as he has in the wording of the petition because there might be substantial contractual penalties in seeking to terminate a contract early. Also, it is easy to forget how unsuccessful the Scottish Tourist Board was at getting any national system together for a substantial period.

The substantive point here is that there is significant dissatisfaction among accommodation providers with what is going on. The jury is out as to whether the problem is fundamental flaws in how the system has been set up and structured or whether—this is what VisitScotland would say—

some tweaking is needed. Helen Eadie's and Jackie Baillie's questions were instructive on that.

The fundamental question is whether there is, at the heart of the system, a conflict of interest between the structure of VisitScotland.com and the interests of accommodation providers. That should be considered, before the contract comes up for renewal, in much greater depth than it ever has been or could be in parliamentary debate. I am sorry to say that I do not know when the contract comes up for renewal. Perhaps the Enterprise and Culture Committee might be able to take the issue on board after the next election. There is certainly an issue here that needs to be investigated in much greater detail.

**The Convener:** I ask members for suggestions about how we can take the petition forward, given the amount of evidence we have received.

**Helen Eadie:** It is a worthwhile petition. As I have a background as an accommodation provider, I support the issues the petitioner has raised. We could get views on what the petitioners have said from VisitScotland, the Association of Scotland's Self-Caterers, the British Hospitality Association, the Federation of Small Businesses in Scotland, the Scottish Tourism Forum and the Scottish Executive. It would be good to let the petitioners see the responses from those bodies, then get feedback for the committee.

**John Scott:** I agree with Helen Eadie. As I was in the industry once upon a time when we had the old STB, I am disappointed to hear that the situation has not improved. We never had bookings through the STB and I thought that the problem had been sorted. In honesty, I am affronted to read in the submission that a loss of £7.6 million has been created by VisitScotland. As Alasdair Morgan said, there is an underlying issue here that needs to be looked into. It may be that a committee inquiry should be undertaken into the matter.

**Alan Keith:** I would like to comment on what Alasdair Morgan said. Regarding possible penalties, the company in question—the major partner, Atos Origins—effectively bailed out recently, having let its shares go at nil value. In the accounts it is stated as having written off—I believe that that is the correct interpretation of what it said—£4.4 million plus £1.25 million interest. That is what it classes as restructuring. That is private sector money, which it has lost. The loan to VisitScotland—or Tourco—of about £2.4 million is still outstanding.

I cannot see where any penalties would accrue if the company simply went out of business, which effectively it did at the end of 2005, having lost £7.6 million against an initial loan of £7.4 million. There was an opportunity at that time simply to

take back what was leased or given to the company under a concession agreement. In January, we made an application under the Freedom of Information (Scotland) Act 2002 for information on the nature of the concession agreement. That request is still with the information commissioner for his decision. We do not know what the terms of the concession agreement were. They would cast some light on what is happening.

**The Convener:** That is all valuable information. We will send that, as part of the *Official Report*, when we write our letters to all those organisations. We will let you know what the responses are from those bodies, and we will welcome your comments on them. We will consider the matter again in due course.

**Alan Keith:** I have one final point, if you will bear with me. You have referred to organisations such as the ASSC. We are a member of the Scottish Tourism Forum. I attended a meeting of the forum as a delegate. Small providers are poorly represented in any organisation. Because they are small and widely spread, there are a limited number of representatives in any organisation who will stand up and speak for them. That is why we have had such a good response—via e-mail or our database—to the petition, which has engaged so many of them. The responses that we have received in e-mails all sing the same tune.

With all due respect, the STF and the ASSC have many members who are not accommodation providers and who do not appreciate the problems that the sector is suffering as a result of the scheme. We have tried hard to get the STF to appreciate that but, as a minority group, we have not been successful in getting the message across.

**The Convener:** Is there an association that would represent you more accurately, which we have not yet identified?

**Alan Keith:** We are a member of the STF.

**The Convener:** I was wondering whether there is another organisation, as we have already agreed to write to the STF. You can comment on any response that we get from the STF, which might indicate that it has not represented the minority group to which you refer. Is there another organisation to which we should write, which we have not identified but which is more representative of the types of provider you represent? If you can tell us of such an organisation, we will write to it.

**Alan Keith:** A bed-and-breakfast organisation has been set up, but it is at a very early stage and it has only a small number of members—around 100. There are many local organisations in

different regions that have been set up separately and are working to support accommodation providers in general or just bed and breakfasts, but most providers are not members of any of those organisations.

**The Convener:** Okay. We will wait for responses from the organisations to which we have agreed to write and it will then be for you to comment on those responses. We will take your comments on board when we receive them, in due course. Thank you for bringing your petition this morning.

**Alan Keith:** Thank you.

### **Succession (Scotland) Act 1964 (PE994)**

**The Convener:** Petition PE994, by Margaret McCabe, calls on the Scottish Parliament to review the Succession (Scotland) Act 1964 in relation to the statutory right of surviving children to part of the deceased's moveable estate. Campbell Martin has indicated that he is interested in the petition.

**Campbell Martin:** Yes, convener. The petitioner, Mrs McCabe, is in the public gallery today, supported by Sandra Denholm. The situation in which Mrs McCabe found herself because of the Succession (Scotland) Act 1964 was traumatic for her. She did not take lightly the decision to petition the Parliament; she did so in the knowledge that, whatever the outcome might be, it will not benefit her. Her situation—albeit that it was traumatic for her—has been resolved.

The petition calls for a review of the Succession (Scotland) Act 1964 in relation to the statutory right of surviving children to part of the deceased's moveable estate. The vast majority of people in Scotland do not know that that right exists; in fact, they think that the position is completely the opposite.

The overwhelming belief of people in Scotland is that, if they make a legal will, they have the right to disinherit or exclude anyone—even a family member. That belief is wrong. The law makes it clear that children have a statutory right. Irrespective of the legal will left by a deceased person, a child can still petition a court and claim part of the moveable estate.

While researching her submission to the committee, Mrs McCabe spoke to 100 people, 98 of whom argued that they had the right to exclude people from their wills. The fact is that the law overrules the wishes of a deceased person, even if those wishes are constituted in a legally binding will. Even if the will contains express instructions that someone be excluded, those instructions will not be upheld by a court under the current law.

It is important to be aware of why Mrs McCabe was driven to lodge this petition. I will not go into too much detail, but Mrs McCabe's husband left a legal will making it very clear that he wished his wife to inherit in total his heritable and moveable estate. He specifically excluded a son from whom he and Mrs McCabe had become estranged. However, under the law as it stands, Mr McCabe's wishes were completely ignored. As if that were not bad enough, the law then allowed Mrs McCabe to be dragged to the brink of a court appearance; it allowed sheriff officers to descend on her home, apparently on the instructions of the legal representatives of her estranged son; and it allowed those sheriff officers to serve an inhibition order that prevented her from selling her own home, which she was in the process of doing. Apparently, that tactic is regularly used by representatives of pursuers in such cases, to apply pressure on defendants to pay up. That can be done under the Succession (Scotland) Act 1964.

I have spoken to Mrs McCabe and I know that this has been a traumatic experience for her. What she has endured is the very last thing her husband would have wanted. That is why he left a will and made his wishes clear. However, the Succession (Scotland) Act 1964 ignored those wishes. As it stands, the law ignores the properly and legally recorded wishes of a person of sound mind. That cannot be a good law, which is why Mrs McCabe's petition asks for a review.

I understand people who say that children have to be protected and have to have rights, but there would be scope in any review of the law for provisions to protect children. There will always be situations in which protection is required. For example, someone might die intestate and not leave a will, and there will always be silly old men who believe that attractive young women really do find them the most attractive thing in the world, and who get married to them and leave their estate to them. Any review could consider such situations and give scope for children to petition a court. I am no lawyer but, for example, there might be grounds for suspicion that pressure had been applied on someone who was making a will. That could be taken into account.

In 1990—which, obviously, was before the creation of the Scottish Parliament—there was a review of the law. In the main, its recommendations were not acted on. However, even then the recommendations were based on the status quo—in other words, on protecting the child from disinheritance. A discussion paper from the Scottish Law Commission will be published towards the end of this year, so I hope that we will see it very soon.

12:00

The bottom line is that the Succession (Scotland) Act 1964 is more than 40 years old. No one would argue that society has not moved on considerably in those 40 years, so now is perhaps an appropriate time to bring Scotland's succession laws into the 21<sup>st</sup> century. Things are done differently in some other countries, where it is legally permissible, by means of a will, for people to exclude named individuals from their estate in a way that is respected by the courts.

In bringing the petition to Parliament, Mrs McCabe is looking for a review of the law that, this time, deals with the issue from the perspective not only of the rights of the children, but the wishes of the deceased person as recorded in a legally binding will, and the rights of surviving spouses—such as Mrs McCabe. She should not have had to go through the situation in which she found herself. That is what has driven her, a very private woman, to petition her Parliament to ask for assistance in reviewing a law that completely ignores the wishes of the deceased person.

**The Convener:** Do members have views on how we should respond to the petition?

**Helen Eadie:** I have a lot of sympathy with the petitioner, but the issue raises questions about the legal advice she and her now deceased husband received when they made the will. Why were they not advised about what the law says? It is worrying if a member of the legal profession does not give appropriate advice.

I think that we should take the petition seriously. We should seek the views of the Scottish Law Commission, the Law Society of Scotland, the Scottish Child Law Centre and the Scottish Executive. We should then send those responses to the petitioner and ask her for her views on the responses that we have received. We can then consider further what action we might take.

**John Scott:** I agree with Helen Eadie. I am dismayed at the apparent lack of quality in the legal advice that was given. The 1964 act is very clear. It has been well known for many years that the law distinguishes between heritable and moveable assets. I would have thought that that was common knowledge rather than knowledge that only the legal fraternity can impart. If the lawyers have failed to make that clear, they have singularly failed the family.

I will be disappointed if the Family Law (Scotland) Bill does not deal with the issue. If it does not, that was perhaps a missed opportunity as I agree with Campbell Martin that the 1964 act needs to be updated. We have a unique approach in Scotland in the way in which we differentiate between heritable and moveable assets. The differentiation exists for a good reason, but there

are ways of circumventing it—as I am sure Campbell Martin is aware. The solicitors should have advised the family of that differentiation when the will was being made if it was indeed the family's absolute intention not to have any moveable assets.

I support Helen Eadie's suggestion. We should seek the views of other organisations, particularly the Law Society of Scotland.

### **Accountant in Bankruptcy (PE1008)**

**The Convener:** Our next petition is PE1008, by James Ward, who calls on the Scottish Parliament to urge the Scottish Executive to review the operation of the Accountant in Bankruptcy, particularly in relation to the implementation of section 187(1) of the Social Security Administration Act 1992.

Although social security, including benefits and child support, are reserved to the UK Parliament, the Accountant in Bankruptcy is an executive agency of the Scottish ministers. Section 187 of the Social Security Administration Act 1992 provides that certain benefits are inalienable, but statutory protection appears to be lost once benefit has been paid into a bank account. That appears to be the issue with which the petitioner is concerned.

**Jackie Baillie:** The issue has excited much debate in the Enterprise and Culture Committee, which is considering the Bankruptcy and Diligence etc (Scotland) Bill. Michael Matheson and I lodged amendments on bank arrestments; his amendments covered all benefits, whereas mine covered housing benefit because I was concerned about the threat of homelessness.

Because of members' activity on the matter, the Deputy Minister for Enterprise and Lifelong Learning, Allan Wilson, lodged some helpful Executive amendments at stage 2 to give additional protection to people who face the arrestment of benefits. We managed to convince the minister that sheriffs should have the opportunity to determine that a bank arrestment would be unduly harsh, and we clarified that the arrestment of benefits would be deemed unduly harsh. We therefore got to the nub of the petition through a different mechanism.

That said, I recommend that we get everything in writing, so we should write to the minister to confirm that that interpretation is correct and invite the Executive to set out its position. It is the Executive, rather than the Accountant in Bankruptcy, that makes the decisions.

**The Convener:** Are members happy for us to do that?

**Members indicated agreement.**

## Referendum on Self-determination (PE1014)

**The Convener:** Our next petition is PE1014, by Neil Caple, on behalf of Independence First. It calls on the Scottish Parliament to consider and debate what moves it could make to ensure the early presentation to the people of Scotland of a referendum on self-determination. Before being formally lodged, the petition was hosted on the e-petition system, where it gathered 1,333 signatures and 132 discussion comments.

Do members have any suggestions on how we should deal with this petition?

**Ms White:** First, I ask whether there is anyone here to present the petition. I note that Neil Caple wanted to make a statement to the committee. Did he subsequently say that he did not want to come along?

**The Convener:** No. I did not ask him. The petition is straightforward and there was no requirement for him to come along and give additional information. The petition speaks for itself.

**Ms White:** I am not challenging that. I am just asking the question because Mr Caple ticked the box on the form to show that he wanted to come and make a statement to the committee. I thought that perhaps he was ill. I did not know whether he was here.

**The Convener:** Almost all petitioners tick the box, but I have to decide whether they are required to come and give additional information. Because Mr Caple's petition is fairly straightforward, there is no requirement for him to come and give additional information.

**Ms White:** I was just asking for clarification. The situation has arisen on numerous occasions and I always ask why there is no one here. I accept your explanation. I might not agree with it, but it has clarified the matter for me.

As the petition states, independence would be down to the Westminster Government, but the Scottish Parliament has the power to consider the matter and, in particular, to set up a referendum. Professor Munro, professor of constitutional law at the University of Edinburgh, said:

"You have to make the distinction between the reserved powers and what parliament can debate and discuss ... there is nothing to stop the parliament arranging to hold a referendum, because that would not involve a change in the law."

That view was confirmed by the Labour-dominated House of Commons Scottish Affairs Committee, which reported:

"constitutional matters are reserved but it is hard to see how the Scottish Parliament could be prevented from holding a referendum on independence".

I recommend that we ask the Scottish Executive for its view on the petition.

**The Convener:** I will make my position clear, Sandra, as you made yours clear. Starting next April, we will have a debate called an election. Political parties will stand for election and some of them will stand on their proposal to hold a referendum on independence. If the outcome is that those parties win, they will be able to take up the issue and debate it where it requires to be debated. However, the present Scottish Executive does not support independence. I do not see why the Parliament should use time to debate something that will be debated next April. The petition is about publicising an event that the petitioner wants to take place after the election. I think that we should let the election take place and debate the matter after that.

**Campbell Martin:** This might come as a surprise to you, convener, but I do not agree with you. I agree to a certain extent—I hope that the matter will be settled next May, but I hope that we will have a pro-independence majority in the Parliament at that time. With the greatest respect, you are being a wee bit disingenuous in that people do not vote only on the constitutional issue. We know that they vote on a range of issues rather than on a single issue. The petitioners are asking for all the other issues to be stripped out, leaving a simple question.

The referendum would not be only on independence; it would also be on Scotland's continuation in the British union. In the 300 years of the British union, the people of Scotland—supposedly the sovereign power in Scotland—have never been asked the question, "Do you want Scotland to remain within the British union, or would you like independence?"

It would be a two-way thing. You would think that if both sides were confident of winning, both would be happy to hold such a referendum, but at the moment only the pro-independence side wants to have a referendum. The pro-British union side does not seem to want one. People will draw their own conclusions about why those on the pro-British union side do not want a referendum.

The petition asks the Scottish Executive to consider and debate what it could do

"to ensure the early presentation of a referendum".

We could at least, as we did with an earlier petition, seek the Scottish Executive's view on whether it can do anything with regard to such a referendum. Let us bear in mind the fact that Strathclyde Regional Council held a consultative referendum to determine what the people of Strathclyde wanted to do with Scotland's water.



If we are not scared of democracy and people power, I do not see why we should not ask people the question, and I do not see why the Scottish Parliament, the democratically elected Parliament of Scotland, should not play a part in doing that. Let us therefore do as the petitioners request and ask the Executive whether it considers that it can do anything to facilitate such a referendum, and what its position would be.

**Jackie Baillie:** I have always believed that clarity and transparency are essential in politics, so to hear some of the disingenuous comments that have been made is quite amusing. I do not intend to debate the terms of the petition. I simply say that, at the most recent, and very democratic, opportunity that people had to voice an opinion on the matter—the general election—the share of the vote for parties supporting independence dropped substantially. That might be an uncomfortable fact, but it is a fact nonetheless. I think that we should await May with interest. In the meantime, I recommend that, as legislation in this area is reserved, and as people had an opportunity at the general election to do something about it and chose not to, we should agree to note and close the petition.

**Helen Eadie:** I second that. Clearly, the petitioners could lobby Westminster parliamentarians. I am never surprised—because it is the usual suspects who bring such petitions to the Parliament—that, although such people know that they could lobby Westminster members, they simply refuse to do so. Instead, they choose to use the option of petitioning the Scottish Parliament. This Parliament has powers to hold referendums on devolved matters but, as Jackie Baillie has pointed out, self-determination could be regarded as requiring a change in the constitution, so it is a matter for the United Kingdom Parliament. I whole-heartedly support what Jackie Baillie and the convener have said.

**Mr Gordon:** I have always supported Scotland's right to self-determination. It might well be that some kind of referendum will be held one day. The petition is quite interestingly worded, as it refers to "the early presentation of a referendum".

If that scenario were to unfold, a referendum ought to be held sooner rather than later. It is interesting to note that the Scottish National Party has been careful to say in Parliament that it might take quite a while to have a referendum on self-determination. The reason why I would support an early referendum, if such a scenario were to unfold, is that the uncertainty that would result if it took a number of years to get to that stage could damage our nation's economy. I worry about the example of Quebec. I have seen the economic damage that was done to Quebec by having what was, in effect, a never-ending referendum.

I am certainly not afraid of democracy and I do not oppose self-determination, but I am above all a practical person and I came to this Parliament to do things, not to indulge in grandstanding. The wishes of the petitioner could easily be met. We could have a debate about a referendum if the SNP used some of its parliamentary time for that. I support the recommendation.

12:15

**The Convener:** We know Sandra White's position. Is she going to tell us something startling—that she does not support independence?

**Ms White:** I was going to speak to the petition. I thought that we were here to do that, rather than to grandstand. The issue will be decided at the election. I am not talking about the SNP, Labour or any other party—I am speaking to the petition. I do not even know Mr Caple. The comments of Helen Eadie and others were pretty disingenuous. The Scottish Parliament has a Public Petitions Committee and people are within their rights to bring any petition before it.

**The Convener:** That is why we are discussing the petition.

**Ms White:** That is why I am speaking to it. I am not grandstanding on any political issue. As Campbell Martin said, the petitioner is calling on the Parliament to

"debate what moves it could make to ensure the early presentation of a referendum on self determination to the people of Scotland."

The outcome of that early referendum could be that the people of Scotland want or do not want independence. The petitioner is asking only for the issue to be determined by the people of Scotland—there is nothing in the petition about what the outcome should be. As I have already mentioned, the professor of constitutional law at the University of Edinburgh and the Scottish Affairs Select Committee have said that there is no legal reason that would prevent the Scottish Parliament from setting the format for a referendum. That is the issue that the petition addresses. I recommend that we write to the Scottish Executive and seek its views on the mechanism that it would use. That is a sensible suggestion that does what the petition asks for. I have no doubt that it will not be accepted, but I will make it anyway.

**The Convener:** The organisation that submitted the petition is called Independence First, which hardly indicates that it takes a neutral position on the outcome of the referendum that it seeks. If it seeks a referendum, there is an opportunity for that referendum to take place following next year's election. Different political parties will have

different platforms. Some will argue that a vote for them amounts to a vote for independence in a referendum and that the question of independence should be decided by the outcome of the election. The platform of some parties will be that there should be a referendum at some point in the distant future, whereas others will take the position that they are totally opposed to a referendum. At the moment, it is the will of the Parliament not to have a referendum—that has been clearly stated.

**Mr Gordon:** The petition is asking us to debate how we might have a referendum. I am making the practical point that Sandra White could give effect to the petitioner's wishes by having her party group request such a debate in its allocation of parliamentary time. The SNP can do that tomorrow, if it wants. The petitioner is asking us not to hold a referendum but to have a debate.

**The Convener:** I was going to conclude on that point. At the moment, the Executive has clearly ruled out holding a referendum. Regardless of whether it is legally permissible for the Scottish Parliament to hold a referendum, the Executive has said clearly that it will not happen while it is in government.

**Ms White:** Does that mean that we cannot get an answer on the petition?

**The Convener:** No. Political parties in the Parliament that wish to hold a referendum could have the matter debated, but it has been made absolutely clear that the Scottish Executive will not have it debated. There is no point in our writing to the Executive in order that the Executive may tell us exactly what we already know.

**Campbell Martin:** I refer to the wording of the petition. It calls on the Scottish Parliament

“to consider and debate what moves it could make to ensure the early presentation of a referendum”.

It says “could”, not “would”. The petition is asking us to ask the Scottish Executive what the legal position on holding a referendum is. It is not asking what the Executive's position is.

**Jackie Baillie:** Irrespective of the merits of any petition, the Public Petitions Committee is not a posting box that passes petitions on to others without first considering them substantially. I have made a recommendation. We should now decide what we want to do, irrespective of the Scottish Executive's view.

**The Convener:** Jackie Baillie has recommended that we note and close the petition. I do not think that we will get any further by continuing to debate it. If we vote on Jackie's proposal, Sandra White can choose to support or not to support it. We do not need amendments to a straightforward proposal.

**Ms White:** I do not have an amendment. What about the recommendation that I made? You could vote against that—I presume you will, anyway.

**The Convener:** What is your recommendation?

**Ms White:** My recommendation is to write to the Scottish Executive and ask what its legal position is on a referendum.

**The Convener:** Okay. I think that we should deal with Jackie Baillie's proposal. If her proposal to note and close the petition has the support of the majority of the committee, that will be the committee's decision on the petition. If Jackie Baillie's proposal is not agreed to, I will then take Sandra White's proposal and we can decide whether to take the matter to the Executive.

The question is, that the Public Petitions Committee notes and closes consideration of petition PE1014. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
Eadie, Helen (Dunfermline East) (Lab)  
Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
McMahon, Michael (Hamilton North and Bellshill) (Lab)  
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
Scott, John (Ayr) (Con)

#### AGAINST

Kane, Rosie (Glasgow) (SSP)  
Martin, Campbell (West of Scotland) (Ind)  
White, Ms Sandra (Glasgow) (SNP)

**The Convener:** The result of the division is: For 6, Against 3, Abstentions 0.

It is agreed that we will note and close consideration of petition PE1014.

## Current Petitions

### Trust Law (PE817)

12:21

**The Convener:** The first current petition today is PE817, from Elaine Black and Ewan Kennedy, calling on the Scottish Parliament to reform the law of trust to ensure that, where a trust has been set up for the benefit of any local community, that local community is formally consulted by any party seeking to change the operation of the trust and the view of each member of that community is accountably considered before any change is made.

At its meeting on 8 March, the committee agreed to write to the Scottish Executive and the Office of the Scottish Charity Regulator. Responses have now been received and circulated to members, together with comments from the petitioners on those responses. In addition, members should by now have received correspondence from sportscotland dated 9 November 2006.

**Ms White:** I do not think that we can take the petition any further. That is a shame. Pauline McNeill and I and other members supported the petition and the efforts of Ewan Kennedy and Elaine Black over a long period. I note the response from the petitioners. They are absolutely right, in a way. The law does not work in their favour; it works in favour of developers. As things stand, given what the law is at the moment, we can only close the petition, unfortunately.

**The Convener:** Are members agreed?

*Members indicated agreement.*

### Railway Infrastructure and Services (Inverness, Thurso and Wick) (PE894)

**The Convener:** Petition PE894, from the association of Caithness community councils, calls on the Scottish Parliament to consider investment in infrastructure, rolling stock and timetabling as part of a strategic root-and-branch review of the provision of rail services between Inverness, Thurso and Wick, with unrestricted thinking on how best to shorten journey times and ensure the continuing future of the railway to those destinations. Thought should also be given to ensuring that the communities of the Lairg loop are provided for.

At its meeting on 8 March, the committee agreed to invite the views of the petitioner on the responses received. That response is now with us and has been circulated. Should we write back to the Executive, asking for its views on the specific needs of the far north rail line and on how it will

consider those as part of the work that is continuing? Once we get that response, we can pass it to the petitioner and ask for a comment. Are members happy with that?

*Members indicated agreement.*

### Skin Cancer (PE931)

**The Convener:** PE931, from Helen Irons, on behalf of Skin Care Campaign Scotland, calls on the Scottish Parliament to urge the Scottish Executive to review its policy on tackling the skin cancer epidemic in Scotland. At its meeting on 8 February, the Committee agreed to write to NHS Health Scotland, Cancer Research UK, CancerBACUP Scotland, the Sunbed Association, the Scottish Trades Union Congress, the Scottish Dermatology Society, the Convention of Scottish Local Authorities and the Scottish Executive. Responses have now been received and circulated. Do members have any suggestions?

**Helen Eadie:** It would be useful to get the views of the petitioner on the responses that have been received. I am particularly interested in the response from Cancer Research UK, which has stated:

"Scotland is experiencing a skin cancer epidemic."

Cancer Research UK strongly supports the petition.

**The Convener:** Should we write back to the petitioner, asking for comments?

*Members indicated agreement.*

### Swords (Ban on Sale or Possession) (PE893)

**The Convener:** Petition PE893, from Paul Macdonald, on behalf of the Save Our Swords campaign, calls on the Scottish Parliament to oppose the introduction of any ban on the sale or possession of swords that are used for legitimate historical, cultural, artistic, sporting, economic or religious purposes.

At its meeting on 22 March, the committee agreed to invite the views of the petitioner on the responses that had been received. The petitioner's response has now been received and circulated. Do members have any ideas about how to take the matter forward?

**Mr Gordon:** We should refer the petition to the Justice 2 Committee, which is considering the Custodial Sentences and Weapons (Scotland) Bill, on which I recently made a submission. The Executive has proposed, in effect, to ban the sale of swords but to have exemptions in cultural and historical situations, which may meet the petitioner's requirements. The Justice 2

Committee is the appropriate arena for the petition.

**John Scott:** It was certainly worth while for the petitioner to lodge the petition. If the Executive takes his points on board, I hope that he will regard it as a success.

**The Convener:** Do members agree that we should refer the petition to the Justice 2 Committee?

*Members indicated agreement.*

### **Information Literacy (PE902)**

**The Convener:** Petition PE902, from Dr John Crawford, calls on the Scottish Parliament to urge the Scottish Executive to ensure that the national school curriculum recognises the importance of information literacy as a key lifelong learning skill.

At its meeting on 31 May, the committee agreed to invite the views of the petitioner on the responses that had been received, which have been circulated. Do members have any suggestions on how we should progress the petition?

**Helen Eadie:** All the responses seem to support the petitioner. The responses from the Scottish Executive, Her Majesty's Inspectorate of Education, the Educational Institute of Scotland and the Scottish Qualifications Authority in particular clearly support "A Curriculum for Excellence" as the way forward. The petitioner has therefore been pushing at an open door and no further action on the petition is needed.

**The Convener:** Are members happy with that proposal?

*Members indicated agreement.*

### **Fish Farms (Protection of Rivers, Streams and Lochs) (PE941)**

**The Convener:** Petition PE941, from Frank M Buckley, on behalf of the Society for the Protection of Salmon and Sea Trout, calls on the Scottish Parliament to urge the Scottish Executive to ensure greater protection for the rivers, streams and lochs of Scotland, such as Loch Broom and Gruinard river, from fish farm developments.

At its meeting on 22 March, the committee agreed to write to the Scottish Salmon Producers Association, the Scottish Anglers National Association, the Fisheries Research Services, the Scottish Association for Marine Science, the institute of aquaculture at the University of Stirling and the Scottish Executive. Responses have been received and further correspondence from the petitioner has been circulated.

**John Scott:** We have received many positive and helpful responses. In the light of those responses, it would be entirely appropriate to send the petition to the Environment and Rural Development Committee for consideration during its scrutiny of the Aquaculture and Fisheries (Scotland) Bill. The issue has been an on-going problem for many years and it has still not been addressed. I hope that the most up-to-date information that has been received from the respondents will help consideration of that bill.

**The Convener:** Are members happy with that proposal?

*Members indicated agreement.*

### **Judicial Proceedings (PE759)**

**The Convener:** Petition PE759, from Robbie the Pict, on behalf of the Scottish Peoples Mission, calls on the Scottish Parliament to take the necessary steps to ensure that the names of judges who serve on a judicial bench are displayed and that a full tape recording or shorthand record is kept of court proceedings and made available to any party involved.

At its meeting on 22 March, the committee agreed to invite the views of the petitioner on the response from the Minister for Justice. Those views have been received and circulated. Perhaps we can consider the two issues separately. The first issue is the display of judges' names.

**John Scott:** The request appears to have been successful. I am sure that Robbie the Pict will be pleased that at least part of his petition has been successful and that it has been agreed that judges on the bench should be named.

On the second issue, we should note the current statutory provision and agree that no further action should be taken.

**The Convener:** Are members happy with that proposal?

*Members indicated agreement.*

### **Roads, Pavements and Footpaths (Maintenance) (PE855)**

**The Convener:** Petition PE855, from Leslie Morrison, on behalf of Kirkside area residents, calls on the Scottish Parliament to urge the Scottish Executive to review the performance of all local authorities in Scotland in maintaining and repairing roads, pavements and footpaths.

At its meeting on 22 March, the committee agreed to write to the Convention of Scottish Local Authorities and to invite the views of the petitioner on the responses that had been received.

12:30

**John Scott:** We should now seek the views of the petitioner on the responses received. Everyone is well aware that one of the big problems facing Scotland is the lack of road maintenance. We probably need to send the petition to be considered elsewhere, but in the first instance we should seek the views of the petitioner.

**The Convener:** I am informed that the petitioner's views were sought and he had nothing to add. That is why there is no response from him. He has had the opportunity to see the comments that have been made on the petition. We cannot do much more.

**Helen Eadie:** I am surprised and disappointed that no response came in from COSLA. I beg your pardon if I am wrong.

**The Convener:** You are perhaps referring to an earlier briefing. The response from COSLA was made available and the petitioner did not comment on it; he did not want to add anything.

**David McGill (Clerk):** We got a response from COSLA, but the petitioner did not have anything further to say.

**Helen Eadie:** I have sympathy with the petitioners, particularly about pavements and footpaths. In both transportation policy and health policy, there is a hierarchy. The hierarchy as far as transportation is concerned is that pedestrians should be number 1, cyclists should be number 2, public transport should be number 3 and so on down the line. If we do not provide first-class footpaths, we are in some difficulty as a nation when it comes to promoting the health message.

I mention that because I am sympathetic to the petitioner. Whether people can do more is another matter, but clearly the evidence that we got from the Scottish Executive on the performance of Scottish councils showed that in 2003-04 around 45 per cent of the road network either was in need of repair or required further investigation. It is important to have that information. We ought to pass it on to the Local Government and Transport Committee.

**Mr Gordon:** The Local Government and Transport Committee needs to investigate the issue in depth. I know that historically there has been underspending on road and footway maintenance. The petitioner could perhaps argue that elected councillors have made choices to spend money that might have gone into such maintenance on other services, such as education or social work.

COSLA rightly highlights the arguably unsatisfactory situation with regard to the activities of what we usually call the public utilities, most of

which are now privatised. COSLA will also point to what it regards as historical underfunding of this element of local government funding. The most appropriate course of action is to refer the matter to the Local Government and Transport Committee.

**John Scott:** I agree.

**The Convener:** I have no difficulty with that suggestion. As I am a member of the Local Government and Transport Committee, I know that this issue comes up. We have had regular meetings with the Society of Chief Officers of Transportation in Scotland, so there is an on-going discussion. It would do no harm for that committee to get sight of the petition and the information that is contained in it.

**Helen Eadie:** At the Local Government and Transport Committee, could you make the important linkage with the health aspect, especially in relation to footpaths? If a number 1 priority for the Executive is that we get out of our cars and get on to our bikes, take public transport or walk, it will obviously be more encouraging if people have good footpaths to walk on.

**The Convener:** We will send the petition to the Local Government and Transport Committee and see what happens from there.

## Proposed Petition

12:34

**The Convener:** Item 3 is consideration of the admissibility of a proposed petition. Members have before them a draft petition in the name of Aela Boyd and William Boyd in the following terms:

"The petitioner requests that the Scottish Parliament recommends a full judicial inquiry and criminal investigation into the abduction of Aela Boyd and the abuse of both children's and human rights at the hands of various officials within the Scottish Authorities with specific regard to the malicious and oppressive treatment suffered by both parties by the Justices."

The clerks have contacted Mr Boyd to discuss the wording of his proposed petition and have advised him that it appears to breach our criteria for the admissibility of petitions in that

"Petitions may not ask the Committee to adjudicate on personal or commercial interests which should be determined by a court or other tribunal."

The custody of Aela Boyd appears to be a matter for the courts and dialogue between the potential petitioner and Highland Council appears to be continuing. Members will be aware that the rules on admissibility also say:

"The Committee has no remit to intervene in the operational decisions or actions of other public bodies in Scotland".

Mr Boyd has not accepted the advice that the clerks offered and the proposed petition is therefore before us for a decision on its admissibility. I think that the committee has much sympathy for anyone who is in such a situation, but the clerks try to work with petitioners to produce petitions in a manner that allows us to address them. If a potential petitioner refuses to accept the clerks' advice and insists that he will lodge his petition only with his wording, we must make a decision—it is not a nice one, but we must stick by the rules.

**Rosie Kane (Glasgow) (SSP):** I have known Billy Boyd for some time and I know that he has used every tool at his disposal to try to resolve the issue for his daughter's well-being. I sympathise totally with him and I share his concerns, given that I know him quite well. I respect the clerk's attempt to achieve appropriate wording. I presume that Mr Boyd is concerned about diluting the issue. I do not know whether we can find any way to assist him.

**The Convener:** I have described what the clerks do. Often, petitioners propose petitions whose wording is inadmissible. The clerks have worked well with most petitioners to find a form of words that allows a petition to be lodged. As members know, once a petition has been lodged, a

petitioner has the opportunity to put their case to highlight the general issue that their petition addresses. However, as I have said often enough, we can never consider an individual case. We are not a court of appeal and we cannot judge decisions that other bodies have made.

Unfortunately, Mr Boyd would not allow his proposed petition to be changed and the fact that it would ask us to make a judgment on a decision makes it inadmissible. I know that the clerks worked closely with Mr Boyd to try to allow us to consider the petition, but that has not been possible. The committee is required to determine that the petition is inadmissible.

**Helen Eadie:** I can vouch for the fact that all the committee clerks have bent over backwards to help several petitioners from my area with wording. No one could ask for more from our clerks. We have no option but to accept the clerks' advice.

**The Convener:** Do members accept that the proposed petition must be ruled inadmissible?

**John Scott:** The matter is for the courts, so it is sub judice. That is a powerful reason not to consider it. Our standing orders say that we cannot consider anything that is sub judice.

**Rosie Kane:** I take that on board and share the concerns about the matter being sub judice. The problem for Mr Boyd is getting anywhere with the issue. Can any member suggest any way in which the Parliament can assist Billy? I know that that might not be the committee's job, but he has met many barriers over many years. Quite a lot of us are desperate to assist him for his sake and for his daughter's sake.

**The Convener:** You have answered your own question. You are an MSP and you know Mr Boyd; perhaps you could offer advice or put him in contact with a local MSP who could look into the situation. The difficulty is that the matter is sub judice, but there is no reason why people cannot approach a local elected member and seek their support. That is about all that we can do to offer assistance. Is that okay?

**Members indicated agreement.**

## Work Programme

12:39

**The Convener:** The next item is the committee's work programme until dissolution next spring. The clerks have produced a paper that sets out the position in relation to several petitions that are still active and the rate at which new petitions are being received. David McGill will take us through the paper, so that we can understand why it was produced.

**David McGill:** Richard Hough and I were thinking about the committee's workload between now and dissolution. We felt that there will come a point beyond which there will probably not be much benefit in the committee looking at any more new petitions. At the same time, we recognised that there are about 160 current petitions that are still open, on which the committee still has work to do. We felt that there is probably benefit to be gained from the committee, before dissolution, focusing on the petitions that are still outstanding, rather than accumulating more. That will reduce the amount of work that we hand over to the session 3 committee.

Taking everything into account, we have suggested that the date beyond which the committee might consider not looking at any new petitions is the end of January. We felt that no reasonable petitioner would be upset at being told in February that their petition will not be looked at for a couple of months because the Parliament is about to be dissolved. In coming to that recommendation, we also felt that it is worth emphasising that petitions do not fall at dissolution as bills do. We also have the e-petitions system, which will enable petitioners either to maintain or to build up momentum behind their issue in the last few weeks of the current session and then capitalise on that in the next session.

I hope that the committee's paper is self-explanatory, but I am happy to take members' comments or suggestions.

**The Convener:** Do members have any questions for David McGill?

**John Scott:** I think that what has been suggested is absolutely right. It is incumbent on us to reduce the backlog of work for our successor committee, if we possibly can. I agree with the cut-off date that has been chosen; in fact, I might have suggested an earlier date with a view to reducing the backlog further. Backlogs are building up all over. I am happy to go with the recommendation.

**The Convener:** Are members happy to accept the recommendation in the paper and to work on that basis?

**Members indicated agreement.**

## Berlin Visit

12:42

**The Convener:** The last item on our agenda is on the very successful visit to Berlin that was undertaken by me, the deputy convener and Rosie Kane. We were accompanied by our assistant clerk, Richard Hough, whom we thank for his hard work in organising the programme and ensuring that the visit was so successful. I also thank the members and officials of the German Bundestag for the hospitality that they extended to us.

Before I ask members for comments or questions, members may wish to say something about the proposal to have an annual chamber debate on the work of the committee and about the importance of continuing to share ideas and good practice. John Scott and Rosie Kane, who were on the visit, may comment first.

**John Scott:** I echo your thanks for Richard Hough's hard work, which made for a good trip, and I thank the German Bundestag for its hospitality.

The worthwhile report reflects accurately all that we did. In discussion over dinner one evening, we took the view that it might be a good idea to instigate a debate in the chamber such as the convener described. We thought that another innovative thing that the committee could do would be to notice and be aware of good practice elsewhere. That is what happens in Germany, where a report is laid before Parliament and is debated thereafter. It struck me that that would increase the accountability of the committee to Parliament and that it might be a model that other parliamentary committees would wish to follow. There could be an annual 40-minute debate that would be opened by the convener and closed by the deputy convener, with questions in between. It would put the committee in front, in terms of innovation, if we were to instigate that.

**Rosie Kane:** For a change, I am not going to be awkward. I, too, thank Richard Hough. I think that looking after us was, at times, like trying to herd kittens. It was very well done and it was a worthwhile trip on which we learned a lot. The members and officials in Germany were interested in, and complimentary about, what we do and how we do it. They were keen to learn from us, which made me feel very proud of the work that we do and how we do it.

12:45

We discussed having an annual debate in the chamber, which we decided was a great idea. Although the committee serves an extremely useful purpose, I am not sure that everyone is

aware of its work. It is not seen as a joke, but some people out there—excepting those who have enjoyed using the facility—do not take it all that seriously. An annual debate would be an excellent way of dealing with that.

The report is very accurate about our visit, which was a very good experience. I felt very proud of the committee, the clerks and the work that we carry out.

**Helen Eadie:** Earlier in the week, I read newspaper stories about how the Bundestag is developing its own international teledemocracy centre. I was encouraged to see in the report that, although the Bundestag has experienced a few minor difficulties with

“server congestion, causing slow server response times during peak periods, and a high volume of spam and offensive comments”,

it is still enthusiastic about e-petitioning. Scotland is still in the vanguard on this matter, and it is great to see other people interacting and working on the basis on which we have been working for a while.

I was also interested to see that, as in Scotland, petitions on health and community care and law and home affairs matters appear most regularly on the German petitions committee’s agenda. That, of course, will come as no surprise to MSPs—it reflects the content of our mailbags.

**Mr Gordon:** I do not subscribe to the view that a junket is a trip that I am not going on.

**Helen Eadie:** I do.

**Mr Gordon:** I am confident that you all worked hard in Berlin.

An annual debate on the committee’s work and publication of an annual report are excellent ideas. However, the findings of recent academic research into the committee’s work raise many broad issues, have many implications and provide an excellent catalyst for a wider parliamentary debate.

I am not saying that a successor committee should not focus its debate on its own annual report, but this independent third-party research into the effectiveness of our work brings a whole new dimension to the question of what such a debate might cover. In any case, I am very keen for that debate to happen sooner rather than later.

**Ms White:** Charlie Gordon’s idea for a debate on the independent third-party research is excellent. Of course, I was unable to go on the visit, because I was at the Communities Committee pushing for a third-party right of appeal in the Planning etc (Scotland) Bill.

**Mr Gordon:** That is the weakest link I have ever heard.

**Ms White:** Having read the report, I am sure that the trip was worthwhile.

**The Convener:** I was struck by the importance that is placed on the petitions system in the Bundestag. Indeed, it is the only committee that gives a leather-bound edition of its annual report to the President of the Parliament.

However, the committee operates in a somewhat different way to ours. For a start, it acts as the ombudsman for the whole of Germany and, each year, considers in private about 20,000 petitions. Basically, the staff of 80 clerks do all the work on the petitions, and committee members simply rubber-stamp the process to conclude consideration. The only aspect that is considered public is the e-petitions system, which is absolutely identical to ours. The only difference is that the language is German.

On the proposal for an annual debate, I have to say that I always feel that, when the Conveners Group considers the timetabling of committee debates, we have never really taken part in that side of things. In eight years, we have held one debate, which was on a very serious issue that was raised with us. The committee should not have to sit and wait for such issues to arise before we get time in Parliament to discuss what we do. The other committees have the opportunity to have their inquiries debated in plenary meetings. It is absolutely right that all members should be able to comment on committee inquiries. I do not see why the same opportunity should not be afforded to the Public Petitions Committee.

There is always a lot of interest in what goes on in the committee but, unless members physically come to our meetings, they get no opportunity to take part in the debates. In our legacy paper, we should say that our successor committee should host parliamentary debates on its work to allow other members of Parliament to comment on it. If a slot is still available in the timetable, we could put in a bid for such a debate in this session.

**John Scott:** I endorse that utterly. I point out that we use Scottish technology from Napier University and that the Bundestag now uses it, too. That is a real tribute to the technology that Napier University developed on our behalf.

I want to develop the corporate governance issues that the convener talked about. There are no ombudsmen in Germany, and the Westminster system has many ombudsmen but no petitions committee. Those two completely different but long-established systems have completely different ways of dealing with public complaints. In Scotland, our system is somewhere in between—it is a mixture of both. In the broader context of the



corporate governance of the Parliament, it may be worth our while to consider certain issues in the very long term, such as whether the work of the Public Petitions Committee should be expanded to deal with complaints with which ombudsmen currently deal. That is just a question; I am not saying what the answer is. There is more than one way to skin a cat. We were privileged to see a different way in Germany, from which we could learn lessons.

**Rosie Kane:** I have a tiny point to make about the convener's comments. He said that we should show what the committee has done, but the issue is also about openness and accountability, which is an important part of what we do. For that reason, I hope that the committee will be allowed to have an annual debate in Parliament on its annual report.

**The Convener:** On that point, I close the meeting. I thank everyone for attending.

*Meeting closed at 12:52.*



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